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# Local, Federal & Veterans Affairs Subcommittee

January 10, 2018  
3:30 PM – 6:30 PM  
12 HOB

## Meeting Packet

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Local, Federal & Veterans Affairs Subcommittee

**Start Date and Time:** Wednesday, January 10, 2018 03:30 pm  
**End Date and Time:** Wednesday, January 10, 2018 06:30 pm  
**Location:** 12 HOB  
**Duration:** 3.00 hrs

**Consideration of the following bill(s):**

HR 319 Gulf of Mexico Range Complex by Ponder, Rodrigues  
HB 575 Metropolitan Planning Organizations by Beshears  
HB 603 Taxes and Fees for Veterans and Low-income Persons by Gonzalez  
HB 617 Covenants and Restrictions by Edwards-Walpole  
HB 697 Impact Fees by Miller, M.  
HB 725 Permit Fees by Williamson  
HB 765 Truth in Millage Notices by Ingoglia  
HB 815 County and Municipal Public Officers and Employees by Avila  
HM 817 Renewal of Title IV-E Waivers for Child Welfare Services by Harrell  
HB 869 Ranger Drainage District, Orange County by Plasencia  
HB 889 West Palm Beach Police Pension Fund of the City of West Palm Beach, Palm Beach County by Willhite  
HB 891 St. Lucie County by Harrell  
HB 1015 Florida Keys Mosquito Control District, Monroe County by Raschein  
HB 1017 Seminole County by Cortes, B.  
HR 1027 Capital of Israel by Moskowitz, Fine

**NOTICE FINALIZED on 01/08/2018 4:11PM by Herndon.Angela**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HR 319 Gulf of Mexico Range Complex

**SPONSOR(S):** Ponder

**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Renner <i>JR</i>	Miller <i>E H/M</i>
2) Government Accountability Committee			

### SUMMARY ANALYSIS

The Gulf of Mexico Range Complex (GOMEX Range Complex) stretches from the Florida Panhandle (commonly referred to as the Military Mission Line) south to Key West and is the largest military testing and training range in the United States. Surrounding the GOMEX Range Complex are numerous Department of Defense joint installations and multiple live-fire bombing ranges. Additionally, Florida's military bases, which help account for an \$80 billion state economic impact in defense-related spending, are dependent on the access to the air and sea space the GOMEX Range Complex provides. Due to its capabilities of offering joint training exercises, access to sea and land, and close proximity to Florida's bases, the GOMEX Range Complex serves as a vital part to the Department of Defense's training strategies.

While offshore drilling and oil exploration have taken place in the Gulf of Mexico since the 1930's, the interest in new exploration and drilling technologies has caused drilling to increase over the last few decades. To ensure that drilling platforms and activities would not encroach on the GOMEX Range Complex, and thus jeopardize military training, the Gulf of Mexico Security Act (GOMESA) was signed into law on December 20, 2006. Among other things, the GOMESA implemented a moratorium on oil exploration in the eastern Gulf of Mexico east of the Military Mission Line until 2022.

HR 319 pronounces that:

- The State of Florida must maintain a unified front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line;
- Drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas; and
- The Florida House of Representatives supports an indefinite extension of the restriction, specified in the GOMESA, on oil and gas leasing in all areas east of the Military Mission Line established at 86°41' west longitude and indefinite extension of the GOMESA's ban on oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Gulf of Mexico Range Complex**

Florida's 20 major military installations and defense business presence provide a nearly \$80 billion annual economic impact and account for 774,000 jobs in Florida.<sup>1</sup> Additionally, Florida houses 10 unified combatant commands, hosts two of only four Navy deep water ports in the United States with adjacent airfields, the military's only east coast space launch facility, the Marine Corps' only maritime prepositioning force facility, and one of only three Navy Fleet Readiness Centers, as well as several critical research, development, training and evaluation centers.<sup>2</sup>

Joint basing, joint usage and joint training areas are vital to assessing the future of a military base. The Gulf of Mexico Range Complex (GOMEX Range Complex) is larger than all other training ranges inside the continental United States combined and has been in use for over 60 years. The GOMEX Range Complex stretches from the Florida Panhandle (commonly referred to as the Military Mission Line) south to Key West and encompasses 180,000 square miles in the eastern Gulf of Mexico.<sup>3</sup> The GOMEX Range Complex "supports NAS Pensacola, NAS Whiting Field, Hurlburt Air Force Base, Duke Field, Eglin Air Force Base, NSA Panama City, Tyndall Air Force Base, MacDill Air Force Base, and NAS Key West missions, while also supporting joint live fire weapons and operational testing for the Air Force, Navy and Marine units from around the world."<sup>4</sup> The GOMEX Range Complex also contains multiple live-fire bombing ranges, including Pinecastle Range, Avon Park Air Force Range, and Eglin Bombing Range, that allow for simultaneous maritime, air, and land training exercises.<sup>5</sup>

New technology and the need for more integrated realistic training missions are constantly changing in order to keep up with ever changing global threats. Consequently, Air Force and Navy ranges within the GOMEX Range Complex must keep pace to ensure they will be capable of handling the new aircraft and weapons requirements.<sup>6</sup> Due to its capabilities of offering joint training exercises, access to sea and land, and close proximity to Florida's bases, the GOMEX Range Complex serves as a vital part to the Department of Defense's training strategies.

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<sup>1</sup> Enterprise Florida, *Florida's Military Profile Map*, available at [http://www.enterpriseflorida.com/wp-content/uploads/Military\\_Install\\_Map.pdf](http://www.enterpriseflorida.com/wp-content/uploads/Military_Install_Map.pdf). (last viewed October 23, 2017).

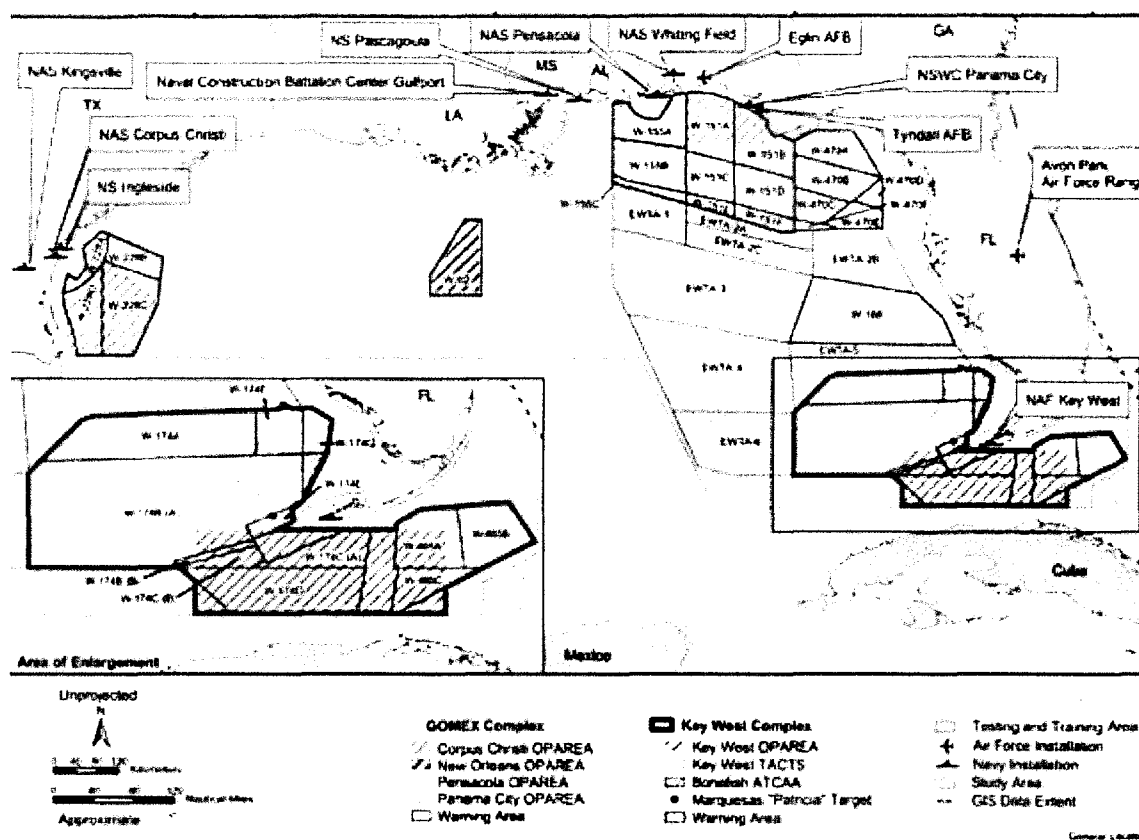
<sup>2</sup> Florida Defense Factbook, 5 (September 2015), available at <http://www.coj.net/departments/military-and-veterans-affairs/docs/2015-fl-defense-factbook-sept-2015.aspx> (last viewed 10/26/2017).

<sup>3</sup> Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 1 (January 2017), available at <https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatibility.pdf> (last viewed 10/23/2017).

<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Supra* note 2

<sup>6</sup> *Supra* note 3, at 3



## Oil Production in the Gulf of Mexico

Offshore drilling and oil exploration in the Gulf of Mexico began in the 1930s. Gulf of Mexico offshore production accounts for seventeen percent of total U.S. crude oil production and five percent of total U.S. dry natural gas production.<sup>7</sup>

The federal government administers the submerged lands, subsoil, and seabed lying between the seaward extent of the state's jurisdiction and the seaward extent of federal jurisdiction. Florida's jurisdiction extends nine nautical miles seaward off the Gulf coast.<sup>8</sup> The Department of Interior's Bureau of Ocean Energy Management is responsible for administering the National Outer Continental Shelf Oil and Gas Leasing Program for oil and gas lease sales proposed for planning areas of the U.S. Outer Continental Shelf. The program specifies the size, timing, and location of potential leasing activity that the Secretary of the Interior determines will best meet national energy needs.<sup>9</sup>

After the OPEC crisis in the 1970's and the September 11, 2001 attacks, an interest in energy production, particularly domestic oil and natural gas, grew. The Department of Defense was concerned about the possibility of an unchecked expansion of oil drilling platforms in the eastern Gulf of Mexico conflicting with military training and weapons testing in the GOMEX Range Complex. In 2005, the Secretary of Defense sent a memo to the United States Senate Armed Services Committee stating the concern and said the Department of Defense would work with the Department of Interior to strike a balance between energy needs and national security goals.<sup>10</sup>

<sup>7</sup> U.S. Energy Information Administration website, *Gulf of Mexico Fact Sheet*, available at [https://www.eia.gov/special/gulf\\_of\\_mexico/](https://www.eia.gov/special/gulf_of_mexico/) (last viewed 10/25/2017).

<sup>8</sup> Department of the Interior Bureau of Ocean Energy Management website, *Outer Continental Shelf*, available at <https://www.boem.gov/Outer-Continental-Shelf/> (last viewed 10/25/2017).

<sup>9</sup> Department of the Interior Bureau of Ocean Energy Management website, *National OCS Oil and Gas Leasing Program*, available at <https://www.boem.gov/National-OCS-Program/> (last viewed 10/25/2017).

<sup>10</sup> *Supra* note 2, at 4

## Gulf of Mexico Energy Security Act of 2006

The Secretary of Defense's memo led to legislation limiting oil and gas production in the Gulf of Mexico. On December 20, 2006, the Gulf of Mexico Energy Security Act of 2006 (GOMESA)<sup>11</sup> was signed into law. GOMESA enhances Outer Continental Shelf oil and gas leasing activities and revenue sharing in the Gulf of Mexico by doing the following:

- Shares leasing revenues with Gulf producing states and the Land & Water Conservation Fund for coastal restoration projects;
- Bans oil and gas leasing within 125 miles off the Florida coastline in the Eastern Gulf of Mexico Planning Area, and a portion of the Central Planning Area until 2022; and
- Allows companies to exchange certain existing leases in moratorium areas for bonus and royalty credits to be used on other Gulf of Mexico leases.

Specifically, GOMESA restricts leasing activities that include portions of the Eastern Planning Area within 125 miles of Florida, all areas in the Gulf of Mexico east of the Military Mission Line (86° 41' west longitude), and the area within the Central Planning Area that is within 100 miles of Florida.<sup>12</sup>

### Efforts to Revise the Moratorium

In 2013, the "Offshore Energy and Jobs Act was introduced to remove limits imposed by the GOMESA, including shortening the duration of the moratorium from 2022 to 2017. The bill passed the House of Representatives; however, it was never taken up in the Senate.<sup>13</sup>

Two years later a similar bill, the "Offshore Energy Jobs Act of 2015, was filed. Among other things, the bill reduced the exclusion area east of the Military Mission Line from 125 miles to 50 miles off shore and reduced the area subject to the moratorium in the Central Planning Area off the coastline of Florida. The bill was never heard in the Senate.<sup>14</sup>

On April 28, 2017, President Trump signed an executive order with the intent to expand offshore drilling in the Arctic and Atlantic Oceans, in addition to assessing whether energy exploration can take place in marine sanctuaries in the Pacific and Atlantic.<sup>15</sup> The order also directs the Secretary of the Interior, in consultation with the Secretary of Defense, to review "the schedule of proposed oil and gas lease sales...in the Western Gulf of Mexico, Central Gulf of Mexico, Chukchi Sea, Beaufort Sea, Cook Inlet, Mid-Atlanta, and the South Atlantic."<sup>16</sup> The executive order does not require a review of oil and gas lease sales in the eastern Gulf of Mexico; however, the oil industry is pushing to drill in the region.<sup>17</sup>

Subsequently, in October, 2017, Department of the Interior Secretary Zinke announced that the department is proposing "the largest oil and gas lease sale ever held in the United States, 76,967,935 acres in federal waters of the Gulf of Mexico, offshore Texas, Louisiana, Mississippi, Alabama and

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<sup>11</sup> Gulf of Mexico Energy Security Act of 2006, Pub. L. No. 109-432, S. 3711, 109<sup>th</sup> Cong. (Dec. 20, 2006), available at <https://www.congress.gov/bill/109th-congress/senate-bill/3711> (last viewed 10/23/2017).

<sup>12</sup> Department of the Interior Bureau of Ocean Energy Management website, *Gulf of Mexico Energy Security Act*, available at <https://www.boem.gov/Revenue-Sharing/> (last viewed 10/25/2017).

<sup>13</sup> H.R. 2231, 113<sup>th</sup> Cong. (June 4, 2013). See <https://www.congress.gov/bill/113th-congress/house-bill/2231> (last viewed 10/23/2017).

<sup>14</sup> S. 1276, 114<sup>th</sup> Cong. (May 11, 2015). See <https://www.congress.gov/bill/114th-congress/senate-bill/1276> (last viewed 10/23/2017).

<sup>15</sup> Executive Order 13795, available at <https://www.whitehouse.gov/the-press-office/2017/04/28/presidential-executive-order-implementing-america-first-offshore-energy> (last viewed 10/24/2017).

<sup>16</sup> *Id.*

<sup>17</sup> Timothy Cama, *Pentagon wants offshore drilling ban maintained in eastern Gulf*, THE HILL (May 2, 2017), <http://thehill.com/policy/energy-environment/331520-pentagon-wants-offshore-drilling-ban-maintained-in-eastern-gulf> (last viewed 10/24/2017).

Florida.”<sup>18</sup> The proposed lease sale is scheduled for March 2018. The lease sale appears to exclude all portions of the Eastern Gulf of Mexico east of the Military Mission Line, including the GOMEX Range Complex due to the GOMESA moratorium.

### **Expanding the Current Moratorium**

Senator Bill Nelson (D-FL) filed the “Marine Oil Spill Prevention Act” in January, 2017. The bill, among other things, expands the GOMESA to 2027. The bill has been referred to committees but has not received a hearing.<sup>19</sup>

In May, 2017, Acting Under Secretary of Defense, A.M. Kurta, sent a letter to Representative Matt Gaetz (R-FL) stating that military training and related exercises in the Eastern Gulf necessitate a continuation of the GOMESA. Kurta also stated the following:

Emerging technologies such as hypersonics, autonomous systems, and advanced sub-surface systems will require enlarged testing and training footprints and increased Department of Defense reliance on the Gulf of Mexico Energy Security Act’s moratorium beyond 2022. The moratorium is essential for developing and sustaining our nation’s future combat capabilities.<sup>20</sup>

Additionally, county commissions, chambers of commerce, local economic development councils, and military affairs committees from the counties bordering the Gulf of Mexico have provided resolutions in support of the GOMESA to the Florida Legislature.<sup>21</sup>

### **Effect of Proposed Changes**

The resolution pronounces that:

- The State of Florida must maintain a unified front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line;
- Drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas; and
- The Florida House of Representatives supports an indefinite extension of the restriction, specified in the GOMESA, oil and gas leasing in all areas east of the Military Mission Line established at 86°41’ west longitude and indefinite extension of the GOMESA’s ban on oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

### **B. SECTION DIRECTORY:**

Not applicable.

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<sup>18</sup> Department of the Interior Press Release, October 24, 2017, available at <https://www.doi.gov/pressreleases/secretary-zinke-announces-largest-oil-gas-lease-sale-us-history> (last viewed 10/25/2017).

<sup>19</sup> S. 74, 115<sup>th</sup> Cong. (January 9, 2017). See <https://www.congress.gov/bill/115th-congress/senate-bill/74?q=%7B%22search%22%3A%5B%22oil+drilling+moratorium%22%5D%7D&r=1> (last viewed 10/24/2017).

<sup>20</sup> Congressional Record on *Gulf of Mexico Oil Drilling Moratorium*, Senator Bill Nelson remarks, May 1, 2017, available at <https://www.congress.gov/congressional-record/2017/05/01/senate-section/article/S2654-4> (last viewed 10/24/2017).

<sup>21</sup> *Supra* note 3, at 5.



## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

House Resolution

A resolution supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line.

WHEREAS, the Florida Legislature represents the military bases and personnel that maintain, manage, and use the Gulf of Mexico Range Complex (GOMEX Range Complex) which provides for the common defense of this state and the nation, and

WHEREAS, defense is the State of Florida's fourth largest industry, accounting for more than 775,000 jobs, \$80 billion in economic impact, and 65 percent of the regional economy of Northwest Florida, and

WHEREAS, testing and training activities conducted from Florida's air and sea bases are considerably dependent on unconstrained access to the Eastern Gulf of Mexico airspace and seaspace, and

WHEREAS, the GOMEX Range Complex is a unique national resource, and

WHEREAS, the range is larger than all other training ranges inside the continental United States combined, stretching from the Florida Panhandle south to Key West and encompassing the Eastern Gulf of Mexico, and

WHEREAS, surrounding the GOMEX Range Complex are numerous United States Department of Defense installations, ranges, and

26 | airspaces, which make the complex unique, and

27 |       WHEREAS, originally a place to practice air-to-air  
28 | engagements and air-to-surface bombing and strafing, the GOMEX  
29 | Range Complex has served the nation for over 60 years, and

30 |       WHEREAS, after World War II, the GOMEX Range Complex was  
31 | used to test surface-to-air rockets against drones and, with the  
32 | advent of fifth-generation aircraft at Tyndall and Eglin Air  
33 | Force Bases, has been used extensively to test future weapons  
34 | systems, and

35 |       WHEREAS, the military missions require day and night access  
36 | to the airspace, from the surface up to 60,000 feet, for high-  
37 | speed flying and maneuvering, as well as day and night access to  
38 | the seaspace, from the sea surface to the subsurface areas, for  
39 | use by ships and submarines, and

40 |       WHEREAS, the military uses live ammunition and missiles  
41 | against remotely piloted full-scale targets and drones,  
42 | resulting in large debris fields of dangerous objects, and

43 |       WHEREAS, for well over a decade and through two  
44 | presidential administrations, the United States Department of  
45 | Defense policy has been to keep the Eastern Gulf of Mexico free  
46 | from obstruction, and

47 |       WHEREAS, oil exploration and offshore platforms placed in  
48 | the Eastern Gulf of Mexico could jeopardize military missions  
49 | and severely reduce the state's appeal in keeping military  
50 | installations, and

51 WHEREAS, without access to airspace in order to test modern  
52 and emerging weapons systems and train the aircrews that support  
53 such systems, Florida would lose its primary reason for hosting  
54 the GOMEX Range Complex, and

55 WHEREAS, the Gulf of Mexico Energy Security Act (GOMESA) of  
56 2006 restricts oil and gas leasing in all areas east of the  
57 Military Mission Line established at 86°41' W. longitude and  
58 bans oil and gas leasing within 125 miles of the Florida  
59 coastline in the Eastern Planning Area and in a portion of the  
60 Central Planning Area until 2022, and

61 WHEREAS, attempts to reduce restrictions on oil and gas  
62 exploration and production arose in 2013 and 2015, when the  
63 members of the United States Senate and the United States House  
64 of Representatives developed and introduced bills to change  
65 GOMESA without addressing the military need to maintain the  
66 GOMEX Range Complex, and

67 WHEREAS, in 2013, the Offshore Energy and Jobs Act was  
68 introduced by United States Representative Doc Hastings of  
69 Washington to propose changes in oil and gas drilling and  
70 exploration locations, and

71 WHEREAS, the Offshore Energy and Jobs Act of 2015 was  
72 introduced by United States Senator Bill Cassidy of Louisiana,  
73 to increase oil and gas exploration and production, most notably  
74 through reducing the exclusion area east of the Military Mission  
75 Line from 125 miles to 50 miles offshore and through shortening

76 the time limit of the moratorium from 2022 to 2017, but the bill  
 77 ultimately did not advance past committee, and GOMESA remained  
 78 intact for the time being, and

79 WHEREAS, the United States Secretary of Defense, the Chief  
 80 of Staff of the United States Air Force, and fifteen members of  
 81 the United States Congress from Florida have written letters  
 82 requesting an extension to the moratorium, which is essential  
 83 for developing and sustaining the military's future capabilities  
 84 and for guaranteeing long-term capabilities for future test  
 85 missions that may enable new technologies such as hypersonic  
 86 fifth-generation fighters, advanced subsurface weapons systems,  
 87 and other projects that require enlarged testing and training  
 88 footprints well beyond 2022, and

89 WHEREAS, without the certainty of an extension to the  
 90 moratorium, investment in upgrades in telemetry, tracking, and  
 91 other important improvements are at risk, and

92 WHEREAS, in March 2017, twenty local county commissions,  
 93 chambers of commerce, local economic development councils, and  
 94 military affairs committees drafted resolutions in support of  
 95 the moratorium and submitted them to the Florida Legislature,  
 96 NOW, THEREFORE,

97

98 Be It Resolved by the House of Representatives of the State of  
 99 Florida:

100

101           That State of Florida must maintain a united front in  
 102 supporting an extension of the current moratorium on drilling in  
 103 the Gulf of Mexico east of the Military Mission Line.

104           BE IT FURTHER RESOLVED that to allow drilling east of the  
 105 Military Mission Line would mean loss of range areas and  
 106 possible relocation of aircraft and bases to other unrestricted  
 107 range areas.

108           BE IT FURTHER RESOLVED that the Florida House of  
 109 Representatives supports an indefinite extension of the  
 110 restriction, specified in the Gulf of Mexico Energy Security Act  
 111 of 2006, oil and gas leasing in all areas east of the Military  
 112 Mission Line established at 86°41' W. longitude and indefinite  
 113 extension of the Act's ban oil and gas leasing within 125 miles  
 114 of the Florida coastline in the Eastern Planning Area and in a  
 115 portion of the Central Planning Area.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 575 Metropolitan Planning Organizations

**SPONSOR(S):** Beshears

**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N	Johnson	Vickers
2) Local, Federal & Veterans Affairs Subcommittee		Darden 	Miller 
3) Government Accountability Committee			

### SUMMARY ANALYSIS

Metropolitan Planning Organizations (MPOs) are federally-mandated transportation planning organizations designated to develop and maintain transportation plans and to ensure that federal funds support local transportation priorities. Federal law requires the designation of MPOs in urbanized areas with populations of greater than 50,000. Section 316.175, F.S., provides state requirements regarding MPOs, including requirements for membership of an MPO governing board.

The bill reduces the maximum number of members on an MPO governing board and limits the number of members based on the metropolitan area's population. The bill also prohibits an entire county commission from serving as members of an MPO governing board, requires by-laws for MPOs, and prohibits MPOs from adopting a weighted voting structure.

The bill also limits membership on an MPO's governing board to two 4-year terms.

The bill requires MPOs, by July 1, 2019, to update their membership, interlocal agreements, governing documents, and other relevant information to reflect changes made by the bill.

This bill is not expected to have a fiscal impact on state or local governments.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Federal Law

Metropolitan Planning Organizations (MPOs) are federally-mandated transportation planning organizations comprised of representatives from local governments and transportation authorities. The MPO's role is to develop and maintain the required transportation plans for a metropolitan area and to ensure that federal funds support local priorities. Federal law requires MPOs in urbanized areas with a population of more than 50,000 individuals.<sup>1</sup>

##### State Law

Section 339.175, F.S., provides state law regarding MPOs and generally mirrors applicable federal law.

##### *Role and Responsibilities*

MPOs carry out four primary activities:

- Developing and maintaining a Long-Range Transportation Plan, addressing no less than a 20-year planning horizon.
- Updating and approving a Transportation Improvement Program, a four-year program for highway and transit improvements.
- Developing and adopting a Unified Planning Work Program, identifying the MPO's budget and planning activities to be undertaken in the metropolitan planning area.
- Preparing a Public Participation Plan, describing how the MPO involves the public and stakeholder communities in transportation planning.

##### *Florida MPO Board Composition*

Florida has 27 MPOs<sup>2</sup> ranging in size from six to 29 members, including both voting and nonvoting members. In Florida, the average size of an MPO's governing board is approximately 16 members, with 14 voting members and two nonvoting members. MPOs serving areas with a population greater than one million people generally have larger boards with an average of 18 voting members and four nonvoting advisors. MPOs serving populations below 200,000 people generally have the smallest boards with an average of 11 voting members and two nonvoting members.<sup>3</sup>

Federal law allows the state and units of local government to largely determine the MPO's composition.<sup>4</sup> Florida law refers to this process as "apportionment."<sup>5</sup> The Governor apportions the membership of the MPO with the agreement of the affected local governments.<sup>6</sup> Each MPO reviews the composition of its membership in conjunction with each decennial census. Each existing and emerging MPO must submit a Membership Apportionment Plan meeting federal and state requirements.<sup>7</sup>

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<sup>1</sup> 23 U.S.C. s. 134

<sup>2</sup> A list of Florida's MPOs and links to each specific MPOs website is available at <https://www.mpoac.org/> (last visited Dec. 13, 2017).

<sup>3</sup> Florida Department of Transportation *MPO Program Management Handbook*. Chapter 1.3.2. Available at: <http://www.fdot.gov/planning/policy/metrosupport/FDOT%202017%20MPO%20Handbook.pdf> (last visited Dec. 13, 2017).

<sup>4</sup> 23 U.S.C. s. 134(d), 23 C.F.R. 450.310

<sup>5</sup> Section 339.175(4), F.S.

<sup>6</sup> Section 339.175(4)(a), F.S.

<sup>7</sup> These requirements are contained in s. 339.175(3), F.S., s. 339.175(4), F.S., and 23 C.F.R. 450.310.

The MPO voting membership, as reflected in the Membership Apportionment Plan, must consist of at least five, but no more than 25 apportioned members. The exact number of members is determined on an equitable geographic-population ratio basis by the Governor, based on an agreement among the affected units of general-purpose local government, as required by federal rules and regulations.<sup>8</sup> In determining the composition of the MPO board:

- With the exception of instances in which all of the county commissioners in a single-county MPO are members of the MPO governing board, county commissioners must compose at least one-third of the MPO governing board membership. A multicounty MPO may satisfy this requirement by any combination of county commissioners from each of the counties constituting the MPO. In cases where the MPO has more than 15 voting members with a 5-member county commission, or the MPO comprises 19 members with a 6-member county commission, the county commissioners can comprise less than one-third of the voting members.
- All voting members must be elected officials<sup>9</sup> of general purpose local governments, except that an MPO may include as part of its apportioned voting members a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, and/or an official of Space Florida.
- County commissioners must compose not less than 20 percent of the voting membership of the MPO governing board if an official of an agency that operates or administers a major mode of transportation has been appointed to the MPO.<sup>10</sup>
- Any authority or agency created by law to perform transportation functions that is not under the jurisdiction of a local government represented on the MPO may be provided voting membership on the MPO.<sup>11</sup>
- Any county operating under a charter adopted pursuant to ss. 9, 10, 11, and 24, art. VIII, Fla. Const. (1885), as preserved by art. VIII, s. 6(e), Fla. Const. (1968),<sup>12</sup> may elect to have its county commission serve as the MPO board if the MPO jurisdiction is wholly contained within the county. In addition, the voting membership of any MPO, whose geographical boundaries include any “county,” as defined in s.125.011(1), F.S., must include an additional voting member appointed by that city’s governing body for each city with a population of 50,000 or more residents.<sup>13</sup>
- Florida law requires Department of Transportation (DOT) representatives to serve as nonvoting advisors to MPO governing boards. DOT is represented by the District Secretary or his or designee. The MPO may appoint additional nonvoting advisors as deemed necessary.

#### *Membership Apportionment Plan Review and Governor Action*

The MPO submits its Membership Apportionment Plan to DOT’s MPO Statewide Coordinator. The MPO at the same time provides copies of the plan to the appropriate DOT District Planning Manager or designee. Within 14 calendar days after the end of the 30-day review period, DOT provides a recommendation to the Executive Office of the Governor. The recommendation will be for the Governor to either approve or disapprove the proposed Membership Apportionment Plan.<sup>14</sup> The Governor’s approval of the Membership Apportionment Plan constitutes official designation of the MPO as required by federal and state law. The MPO must appoint representatives to serve on the board within 60 days after the Governor has approved the proposed Membership Apportionment Plan. If a governmental

<sup>8</sup> Section 339.175(3)(a), F.S.

<sup>9</sup> As used in s.339.175(3)(a), F.S., the term “elected official” excludes constitutional officers.

<sup>10</sup> Section 339.175(3)(a), F.S.

<sup>11</sup> Section 339.175(3)(b), F.S.

<sup>12</sup> Section 339.175(3)(d), F.S. The statute refers to counties “chartered under s. 6(e), art. VII of the State Constitution” but that subsection only incorporates ss. 9, 10, 11, 24, art. VIII, Fla. Const. (1885). Those four sections apply to Duval, Monroe, Miami-Dade, and Hillsborough Counties.

<sup>13</sup> Section 339.176, F.S. Section 125.011(1), F.S., defines “county” as “any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the (county home rule powers under ch. 125, F.S.). Use of the word “county” (in s. 125.011, F.S.) shall include “board of county commissioners” of such county.” This definition of county currently only applies to Miami-Dade County.

<sup>14</sup> *MPO Program Management Handbook*. Chapter 2.

entity fails to fill an assigned appointment to an MPO within 60 days after notification by the Governor of its duty to appoint, that appointment must be made by the Governor from the eligible representatives of that governmental entity.<sup>15</sup>

#### *Redesignation and Reapportionment*

An existing MPO may be redesignated only by agreement between the Governor and units of local government that together represent at least 75 percent of population of the service area of the existing MPO, including the largest incorporated city.<sup>16</sup> Redesignation of an existing MPO is required whenever the MPO proposes to make a substantial change in the proportion of its voting members, or a substantial change in the decision-making authority or responsibility of the MPO or in decision-making procedures established in the MPO's bylaws.<sup>17</sup>

#### *Interlocal Agreements*

The interlocal agreement is a standard document drafted specifically to address the metropolitan transportation planning requirements identified in federal and state law and regulations. The parties to this interlocal agreement are DOT and the governmental entities designated by the Governor for MPO membership, including nonvoting members.<sup>18</sup> After a new MPO has been designated by the Governor, or modifications to an existing MPO have been approved by the Governor, the DOT District meets with the responsible MPO staff to discuss the execution of a new or updated interlocal agreement.<sup>19</sup>

### **Effect of Proposed Changes**

The bill amends s. 339.175(3) and (4), F.S., relating to MPO membership.

The bill provides that MPOs serving designated urbanized areas with populations of 500,000 or fewer will consist of at least 5 but not more than 11 apportioned members. For MPOs in urbanized areas with populations of more than 500,000, its membership will be at least five but no more than 15 apportioned members. The remainder of the statute regarding the number of members on an MPO board remains the same.

The bill prohibits the entire county commission from being members of an MPO's governing board.

The bill also requires MPOs to adopt bylaws governing its operation, including voting privileges. However, an MPO may not adopt a weighted voting structure. The bill retains the requirement that MPO membership is appointed on an equitable geographic-population basis.

The bill also establishes term limits for MPO members, providing that members serve 4-year terms and may be reappointed for one additional 4-year term. Currently, there are not term limits for MPO members.

The bill provides that notwithstanding any other provision of law to the contrary, by July 1, 2019, each MPO must update its membership, interlocal agreements, governing documents, and other relevant information to comply with changes made by the bill.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 339.175, F.S., relating to metropolitan planning organizations.

Section 2: Requires MPOs to comply with changes made by the act by July 1, 2019.

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<sup>15</sup> Section 339.175(4)(c), F.S.

<sup>16</sup> 23 C.F.R. 450.310(h)

<sup>17</sup> 23 C.F.R. 450.310(j)

<sup>18</sup> Section 339.175(2)(b), F.S.

<sup>19</sup> *MPO Program Management Handbook*. Chapter 2.

Section 3: Provides an effective date of July 1, 2018.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

There may be costs associated with MPOs revising their governing documents to reflect changes made by the bill. However, the costs are expected to be minimal.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

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A bill to be entitled  
An act relating to metropolitan planning organizations; amending s. 339.175, F.S.; revising voting membership requirements for metropolitan planning organizations according to population; prohibiting an entire county commission from being members of a governing board; revising the percentage of membership which may be composed of county commissioners; requiring metropolitan planning organizations to adopt certain bylaws; revising provisions relating to reappointment of members; requiring metropolitan planning organizations to comply with certain provisions by a specified date; providing an effective date.

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

Section 1. Subsection (3) and paragraph (b) of subsection (4) of section 339.175, Florida Statutes, are amended to read:

339.175 Metropolitan planning organization.—

(3) VOTING MEMBERSHIP.—

(a)1. The voting membership of an M.P.O. designated in an urbanized area with a population of 500,000 or fewer shall consist of at least 5 but not more than 11 ~~25~~ apportioned members, with the exact number determined on an equitable

26 geographic-population ratio basis, based on an agreement among  
27 the affected units of general-purpose local government and the  
28 Governor, as required by federal regulations.

29 2. The voting membership of an M.P.O. designated in an  
30 urbanized area with a population of more than 500,000 shall  
31 consist of at least 5 but not more than 15 apportioned members,  
32 with the exact number determined on an equitable geographic-  
33 population ratio basis, based on an agreement among the affected  
34 units of general-purpose local government and the Governor, as  
35 required by federal regulations.

36 3. In accordance with 23 U.S.C. s. 134, the Governor may  
37 also allow M.P.O. members who represent municipalities to  
38 alternate with representatives from other municipalities within  
39 the metropolitan planning area which do not have members on the  
40 M.P.O. ~~With the exception of instances in which all of the~~  
41 ~~county commissioners in a single county M.P.O. are members of~~  
42 ~~the M.P.O. governing board,~~ County commissioners shall compose  
43 at least one-third of the M.P.O. governing board membership;  
44 however, the entire county commission may not be members of the  
45 M.P.O. governing board. A multicounty M.P.O. may satisfy this  
46 requirement by any combination of county commissioners from each  
47 of the counties constituting the M.P.O. Voting members shall be  
48 elected officials of general-purpose local governments, one of  
49 whom may represent a group of general-purpose local governments  
50 through an entity created by an M.P.O. for that purpose. An

51 M.P.O. may include, as part of its apportioned voting members, a  
 52 member of a statutorily authorized planning board, an official  
 53 of an agency that operates or administers a major mode of  
 54 transportation, or an official of Space Florida. ~~As used in this~~  
 55 ~~section, the term "elected officials of a general-purpose local~~  
 56 ~~government" excludes constitutional officers, including~~  
 57 ~~sheriffs, tax collectors, supervisors of elections, property~~  
 58 ~~appraisers, clerks of the court, and similar types of officials.~~  
 59 County commissioners shall compose not less than 30 ~~20~~ percent  
 60 of the M.P.O. membership if an official of an agency that  
 61 operates or administers a major mode of transportation has been  
 62 appointed to an M.P.O. Each M.P.O. shall adopt bylaws governing  
 63 the operation of the M.P.O., including voting privileges. An  
 64 M.P.O. may not adopt a weighted voting structure.

65  
 66 For purposes of this section, the term "elected officials of a  
 67 general-purpose local government" excludes constitutional  
 68 officers, including sheriffs, tax collectors, supervisors of  
 69 elections, property appraisers, clerks of the court, and similar  
 70 types of officials.

71 (b) In metropolitan areas in which authorities or other  
 72 agencies have been or may be created by law to perform  
 73 transportation functions and are or will be performing  
 74 transportation functions that are not under the jurisdiction of  
 75 a general-purpose local government represented on the M.P.O.,



76 such authorities or other agencies may be provided voting  
 77 membership on the M.P.O. In all other M.P.O.'s in which  
 78 transportation authorities or agencies are to be represented by  
 79 elected officials of ~~from~~ general-purpose local governments, the  
 80 M.P.O. shall establish a process by which the collective  
 81 interests of such authorities or other agencies are expressed  
 82 and conveyed.

83 (c) Any other provision of this section to the contrary  
 84 notwithstanding, a charter ~~chartered~~ county with a population of  
 85 over 1 million ~~population~~ may elect to reapportion the  
 86 membership of an M.P.O. if the M.P.O. ~~whose~~ jurisdiction is  
 87 wholly contained within the county. The charter county may  
 88 exercise the provisions of this paragraph if:

89 1. The M.P.O. approves the reapportionment plan by a  
 90 three-fourths vote of its membership;

91 2. The M.P.O. and the charter county determine that the  
 92 reapportionment plan is needed to fulfill specific goals and  
 93 policies applicable to that metropolitan planning area; and

94 3. The charter county determines the reapportionment plan  
 95 otherwise complies with all federal requirements pertaining to  
 96 M.P.O. membership.

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98 A ~~Any~~ charter county that elects to exercise the provisions of  
 99 this paragraph shall notify the Governor in writing.

100 (d) Any other provision of this section to the contrary

101 notwithstanding, a ~~any~~ county as defined in s. 125.011(1)  
 102 ~~chartered under s. 6(e), Art. VIII of the State Constitution~~ may  
 103 elect to have its county commission serve as the M.P.O., if the  
 104 M.P.O. jurisdiction is wholly contained within the county. A ~~Any~~  
 105 ~~charter~~ county that elects to exercise the provisions of this  
 106 paragraph shall ~~se~~ notify the Governor in writing. Upon receipt  
 107 of such notification, the Governor must designate the county  
 108 commission as the M.P.O. The Governor must appoint four  
 109 additional voting members to the M.P.O., one of whom must be an  
 110 elected official representing a municipality within the county,  
 111 one of whom must be an expressway authority member, one of whom  
 112 must be a person who does not hold elected public office and who  
 113 resides in the unincorporated portion of the county, and one of  
 114 whom must be a school board member.

115 (4) APPORTIONMENT.—

116 (b) Except for members who represent municipalities on the  
 117 basis of alternating with representatives from other  
 118 municipalities that do not have members on the M.P.O. as  
 119 provided in paragraph (3)(a), the members of an M.P.O. shall  
 120 serve 4-year terms. Members who represent municipalities on the  
 121 basis of alternating with representatives from other  
 122 municipalities that do not have members on the M.P.O. as  
 123 provided in paragraph (3)(a) may serve terms of up to 4 years as  
 124 further provided in the interlocal agreement described in  
 125 paragraph (2)(b). The membership of a member who is a public

126 official automatically terminates upon the member's leaving his  
 127 or her elective or appointive office for any reason, or may be  
 128 terminated by a majority vote of the total membership of the  
 129 entity's governing board represented by the member. A vacancy  
 130 shall be filled by the original appointing entity. A member may  
 131 be reappointed for one ~~or more~~ additional 4-year term ~~terms~~.

132 Section 2. Notwithstanding any other provision of law to  
 133 the contrary, by July 1, 2019, each metropolitan planning  
 134 organization shall update its membership, interlocal agreement,  
 135 governing documents, and any other relevant information to  
 136 comply with changes made by this act to s. 339.175, Florida  
 137 Statutes.

138 Section 3. This act shall take effect July 1, 2018.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 603 Taxes and Fees for Veterans and Low-income Persons

**SPONSOR(S):** Gonzalez

**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Renner 	Miller 
2) Ways & Means Committee			
3) Government Accountability Committee			

### SUMMARY ANALYSIS

The bill creates an exemption from local business taxes for honorably discharged veterans and their spouses, unmarried surviving spouses of such veterans, spouses of certain active duty military servicemembers, and low-income persons who engage in or manage a business, profession or occupation. For low-income persons, the individual claiming the exemption must receive public assistance or have a household income less than 130 percent of the federal poverty level. A business with fewer than 100 people may be exempt from the business tax if an individual to whom an exemption would apply owns a majority interest in the business. The bill also specifies the procedure required to receive such exemption.

The bill allows any municipality that imposes a business tax on merchants measured by gross receipts from the sale of merchandise, services, or both, to continue imposing such tax.

Additionally, the bill removes the \$1 or \$2 fee a veteran must pay to have the word "Veteran" displayed on an identification card or driver license issued by the Department of Highway Safety and Motor Vehicles (DHSMV). The bill also provides the following two additional forms of identification a veteran may present to the DHSMV as proof of veteran status for the purpose of receiving the "Veteran" designation on an identification card or driver license:

- Veteran health identification card, issued by the U.S. Department of Veterans Affairs; or a
- Veteran identification card, issued by the U.S. Department of Veterans Affairs pursuant to the Veterans Identification Card Act of 2015.

Lastly, the bill prohibits county tax collectors from charging a veteran the \$6.25 service fee for driver license services upon presentation of specified documentation proving an individual is a veteran.

The Revenue Estimating Conference (REC) estimates that the elimination of the \$1 and \$2 fee for the "Veteran" designation on identification cards and driver licenses will reduce the Highway Safety Operating Trust Fund by \$100,000 annually beginning in Fiscal Year 2018-19. The REC estimates the elimination of the \$6.25 service charge for veterans will reduce local governments' revenues by \$400,000 in Fiscal Years 2018-19 through 2021-22, and by \$300,000 in Fiscal Years 2021-22 through 2022-23. The DHSMV estimates a cost of \$10,275 is required for programming and implementation.

The REC also estimates the exemption from local business taxes for certain individuals will have a negative \$19.1 million impact on local government revenues for Fiscal Year 2018-19, growing to a negative \$21.2 million impact for Fiscal Year 2021-22.

**The bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Local Business Taxes

###### Present Situation

###### *Background*

In 1972, the Florida Legislature elected to stop administering occupational license taxes at the state level and gave the authority to local governments. Local governments were then authorized to levy occupational license taxes according to the provisions of the “Local Occupational License Act.”<sup>1</sup>

In 2006, 368 of the then – incorporated 404 municipalities and 52 of the 67 counties in Florida had some sort of local occupational license tax in place. Although the local occupational license tax was designed to be purely revenue producing in nature, it had become, unintentionally, a measure of profession and business qualifications to engage in a specific activity. Chapter 2006-152, L.O.F., renamed the act as the “Local Business Tax Act” to reflect that the business or individual has merely paid a tax and it alone does not authenticate the qualifications of a business or individual. The legislation removed the term “occupational license” and added the terms “local business tax” and “local business tax receipt.”

###### *Administrative Procedures*

Under current law, a county or municipality, by appropriate resolution or ordinance, may impose a local business tax for the privilege of engaging in or managing a business, profession, or occupation within its jurisdiction.<sup>2</sup> This differs from fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection. Unless otherwise provided by law, these fees or licenses are deemed to be regulatory and in addition to, but not in lieu of, any local business tax imposed under the provisions of ch. 205, F.S.<sup>3</sup> “Business,” “profession,” and “occupation” do not include the customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions in this state.<sup>4</sup>

Currently, the method for adopting a local business tax ordinance, revising the rate structure of such a tax, or reclassifying occupations within the tax structure is dependent on both the date of the adoption of the tax and the statute under which it was adopted.<sup>5</sup> Municipalities wishing to revise their rate structure and classification must do so under s. 205.043, F.S., or adopt a new ordinance under s. 205.0315, F.S.

Local business taxes must be “based upon reasonable classifications” and “uniform throughout any class.” Rate structure revisions have been permitted under this section since October 1, 1980, subject to limitations on increases above the tax rate levied on October 1, 1971.<sup>6</sup>

A local business tax ordinance adopted after October 1, 1995, must be based on the ordinances of adjacent local governments that adopted their ordinances under s. 205.0535, F.S. If no such

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<sup>1</sup> Ch. 72-306, Laws of Fla. *See also* ch. 205, F.S.

<sup>2</sup> Sections 205.032 and 205.042, F.S.

<sup>3</sup> Section 205.022(5), F.S.

<sup>4</sup> Section 205.022(1), F.S.

<sup>5</sup> Section 205.0315, F.S.

<sup>6</sup> Section 205.043, F.S.

government exists or the local government finds that the rate structure or classifications of the adjacent jurisdiction are unreasonable, then the local government may base its ordinance on that of a jurisdiction of comparable population that adopted an ordinance under s. 205.0535, F.S.<sup>7</sup>

Local governments that adopted a local business tax ordinance after October 1, 1995, were allowed to reclassify businesses, professions, and occupations and to establish new rate structures by October 1, 2008.<sup>8</sup> The procedures for revising the classifications and rate structure included requiring a local government to establish an equity study commission to recommend a revised classification system and new rate structure.<sup>9</sup> After consideration of the commission's recommendations, the local government had the authority to adopt by majority vote a new local business tax ordinance, subject to the following statutory limitations on the amount of the increase:<sup>10</sup>

- For receipts costing \$150 or less, 200 percent;
- For receipts costing more than \$150 but not more than \$500, 100 percent;
- For receipts costing more than \$500 but not more than \$2,500, 75 percent;
- For receipts costing more than \$2,500 but not more than \$10,000, 50 percent; and
- For receipts costing more than \$10,000, 10 percent.

A minimum business tax of up to \$25 is permitted and no receipt may be increased more than \$5,000.<sup>11</sup> The total annual revenue generated by the new rate structure for the fiscal year following the fiscal year during which the rate structure is adopted may not exceed the sum of the revenue base and 10 percent of that revenue base.<sup>12</sup>

A local government that followed these procedures and adopted a new rate structure before the October 1, 2008, deadline is authorized to increase its local business taxes by up to 5 percent every other year by ordinance, if approved by a majority plus one of the governing body.<sup>13</sup>

Counties operating under a home-rule charter<sup>14</sup> or any adjacent county are authorized to levy and collect an additional business tax up to 50 percent, if the business tax being imposed was adopted by ordinance prior to January 1, 1995.<sup>15</sup>

Sections 205.033 and 205.043, F.S., stipulate the conditions under which counties and municipalities are authorized to levy a local business tax. When levying a new business tax, the county or municipality must first give at least 14 days public notice of the resolution or ordinance by publishing a notice in a newspaper of general circulation within its jurisdiction. The public notice must contain the proposed classifications and rates applicable to the business tax.<sup>16</sup>

A municipality's governing body that levies the tax may request that the county in which the municipality is located issue the municipal receipt and collect the tax. A county's governing body that levies the tax may request that municipalities within the county issue the county receipt and collect the tax. However, before a local government issues any business receipts on behalf of another local government, appropriate agreements must be entered into by the affected local governments.<sup>17</sup> All business tax receipts are sold by the appropriate tax collector beginning July 1st of each year. The taxes are due

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<sup>7</sup> Section 205.0315, F.S.

<sup>8</sup> Section 205.0535(1), F.S.

<sup>9</sup> Section 205.0535(2), F.S.

<sup>10</sup> Section 205.0535(3)(a), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 205.0535(3)(b), F.S.

<sup>13</sup> Section 205.0535(4), F.S.

<sup>14</sup> Section 125.011(1), F.S.

<sup>15</sup> Section 205.033(6), F.S. This applies to business taxes imposed under s. 205.033(1), F.S.

<sup>16</sup> Sections 205.032 and 205.042, F.S.

<sup>17</sup> Section 205.045, F.S.

and payable on or before September 30th of each year, and the receipts expire on September 30th of the succeeding year. Under certain circumstances, administrative penalties are also imposed.<sup>18</sup>

### Exemptions

Local governments may exempt certain individuals from all or some portion of local business taxes as well as to regulate the issuance of tax receipts to certain individuals or businesses. Such exemptions include the following:

- An exemption of 50 percent of the business tax levied when the permanent business location or branch office is located in an enterprise zone.<sup>19</sup>
- Vehicles used for the sale and delivery of tangible personal property at wholesale or retail from the place of business on which a business tax is paid.<sup>20</sup>
- An individual who engages in or manages a business, profession, or occupation as an employee of another person, excluding individuals acting in the capacity as an independent contractor.<sup>21</sup>
- An individual licensed and operating as a real estate broker associate or sales associate under chapter 475, F.S.<sup>22</sup>
- All disabled persons physically incapable of manual labor, widows with minor dependents, and persons 65 years or older, with not more than one employee or helper, and who use their own capital only, not in excess of \$1,000.<sup>23</sup>
- An exemption of \$50 toward the local business tax for all honorably discharged members of the United States Armed Forces who served during certain specified periods, who are also disabled from performing manual labor and who are permanent residents and electors of the state. The unremarried spouse of a deceased disabled veteran who qualified for the exemption is also entitled to this exemption.<sup>24</sup>
- Charitable and religious organizations.<sup>25</sup>
- A licensed mobile home dealer or mobile home manufacturer, or an employee of a dealer or manufacturer, who performs setup operations.<sup>26</sup>

### Tax Collections

Statewide, in local fiscal year 2014-2015,<sup>27</sup> total county levies of local business taxes were \$36.2 million<sup>28</sup> and total municipal levies of local business taxes were \$128.3 million.<sup>29</sup> Preliminary data for local fiscal year 2015-2016 indicate \$35.7 million<sup>30</sup> for county levies and \$128.8 million<sup>31</sup> for municipal levies.

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<sup>18</sup> Section 205.053, F.S.

<sup>19</sup> Section 205.054, F.S.

<sup>20</sup> Section 205.063, F.S.

<sup>21</sup> Section 205.066, F.S.

<sup>22</sup> Section 205.067, F.S.

<sup>23</sup> Section 205.162, F.S.

<sup>24</sup> Section 205.171, F.S.

<sup>25</sup> Sections 205.191 and 205.192, F.S.

<sup>26</sup> Section 205.193, F.S.

<sup>27</sup> Local fiscal year 2015 is the most current final data available. Local fiscal year 2016 data are preliminary since reporting by all municipalities has not yet been finalized.

<sup>28</sup> Office of Economic and Demographic Research, *County Revenues: LFY 1993-2015*, available at <http://edr.state.fl.us/content/local-government/data/data-a-to-z/g-l.cfm> (accessed 12/6/2017).

<sup>29</sup> Office of Economic and Demographic Research, *Municipal Revenues: LFY 1993-2015*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/localbiztxmu.xls> (accessed 12/6/2017).

<sup>30</sup> Office of Economic and Demographic Research, *HB 603 Review*, available at [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/\\_pdf/Impact1201.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/Impact1201.pdf) (accessed 12/6/2017).

<sup>31</sup> *Id.*



## Distribution of Tax Proceeds

The revenues derived from the business tax imposed by county governments, exclusive of the costs of collection and credit given for municipal business taxes, are apportioned between the county's unincorporated area and the incorporated municipalities located within the county by a ratio derived by dividing their respective populations by the county's total population.<sup>32</sup> Within 15 days following the month of receipt, the apportioned revenues are sent to each governing authority.<sup>33</sup>

## Authorized Uses

Local business tax proceeds are considered general revenue for the local government. The proceeds of a county-imposed local business tax may be used for overseeing and implementing a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.<sup>34</sup> The proceeds of the additional county business tax imposed pursuant to s. 205.033(6), F.S., are distributed by the county's governing body to a designated organization or agency for the purpose of implementing a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.

## Local Business Tax on the Gross Sales of Retail and Wholesale Merchants

The Cities of Panama City and Panama City Beach levy separate business taxes on the gross sale of all retail and wholesale merchants within the municipal jurisdiction. These municipalities are the only known local governments in Florida that levy a local business tax on the gross receipts of retail and wholesale merchants.<sup>35</sup>

For retail merchants, the City of Panama City imposes a tax of \$10 for each \$1,000 (i.e. 1 percent) of gross sales with a minimum tax of \$1.50 per month. The tax imposed on wholesale merchants is \$0.50 for each \$1,000 of gross sales, or major fraction thereof (i.e. 0.05 percent) with a minimum tax of \$1.50 per month. The tax only applies to the first \$5,000 collected by a merchant for any single item of merchandise.<sup>36</sup>

The City of Panama City Beach imposes a tax of \$10 for each \$1,000 (i.e. 1 percent) of gross sales with a minimum tax of \$50 per year for retail merchants. The tax imposed on wholesale merchants is \$1.50 for each \$1,000 of gross sales, or major fraction thereof (i.e. 0.15 percent) with a minimum tax of \$50 per year.<sup>37</sup>

## **Effect of Proposed Changes**

The bill authorizes an exemption to the local business tax for honorably discharged veterans and their spouses, unremarried surviving spouses of honorably discharged veterans, active duty military servicemembers' spouses, and low-income persons receiving public assistance, as defined in s. 403.2554, F.S., or having a household income less than 130 percent of the federal poverty level. The exemption for the spouses of active duty military servicemembers requires a receipt of permanent change of station orders to the county or municipality.

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<sup>32</sup> Section 205.033, F.S.

<sup>33</sup> Section 205.033(5), F.S.

<sup>34</sup> Section 205.033(7), F.S.

<sup>35</sup> Office of Economic and Demographic Research, *2016 Local Government Financial Information Handbook* at 148, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih16.pdf> (accessed 11/17/2017).

<sup>36</sup> Panama City Code of Ordinances, ch. 14, sec. 14-29 (April 21, 2017).

<sup>37</sup> *Supra* note 35. The Fiscal Year 2016-2017 City of Panama City Beach budget identifies \$10.3 million of projected revenue from local business tax levies (the single largest revenue source) and no levy of ad valorem taxes. Panama City Beach Administration, *Budgets & Financial Statements*, Amended 2016/Adopted 2017 Budget, at 7, available at <http://www.pcbgov.com/home/showdocument?id=6254> (last accessed 11/17/2017).

The bill requires an individual to complete and sign, under penalty of perjury, a Request for Fee Exemption to be furnished by the local governing authority and to provide written documentation supporting the request. Additionally, the bill provides an exemption for businesses with fewer than 100 people, if an individual to whom an exemption may apply owns a majority interest in the business.

The bill allows any municipality that imposes a business tax on the gross sales of all retail and wholesale merchants within the municipal jurisdiction to continue to impose such tax. The municipality may change, by ordinance, the definition of a merchant, but not the rate of the tax.

The bill repeals s. 205.171, F.S., which provides an exemption of \$50 toward the local business tax for all honorably discharged members of the United States Armed Forces who served during certain specified periods, who are also disabled from performing manual labor and who are permanent residents and electors of the state, as well as the unmarried spouse of a deceased disabled veteran who qualified for the exemption.

## **Driver Licenses and Identification Cards**

### **Present Situation**

Currently, veterans may receive a "Veteran" designation<sup>38</sup> on their identification cards<sup>39</sup> or driver licenses<sup>40</sup> by presenting a copy of their DD Form 214<sup>41</sup> or another acceptable form of verification specified by the Florida Department of Veterans' Affairs. The veteran must pay a \$1 fee for an initial or renewal identification card or driver license, or a \$2 fee for a replacement, and surrenders the current identification card or driver license. If the veteran is receiving a replacement identification card or driver license solely for the purpose of receiving the "Veteran" designation, the required \$25 replacement fee is waived.<sup>42</sup> Revenue generated from the \$1 and \$2 fees is deposited into the Highway Safety Operating Trust Fund.

Chapter 2010-163, Laws of Florida required all state driver license issuance services be transferred to tax collectors<sup>43</sup> As part of that transfer, tax collectors retain portions of specified fees when processing certain driver license services.<sup>44</sup> Tax collectors are required to charge a \$6.25 service fee;<sup>45</sup> however, the fee may not be charged:

- More than once per customer;
- For a reexamination requested by the Medical Advisory Board or Department of Highway Safety and Motor Vehicles;
- For a voter registration transaction; or

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<sup>38</sup> Chapter 2015-85, Laws of Fla., required the word "Veteran" to be displayed on identification cards and driver licenses instead of the "V" designation. The Department of Highway Safety and Motor Vehicles expects the implementation of the new design to be completed by December 2017. *See* Department of Highway Safety and Motor Vehicles Agency analysis for SB 100, on file with Local, Federal & Veterans Affairs Subcommittee staff.

<sup>39</sup> Section 322.051(8)(b), F.S.

<sup>40</sup> Section 322.14(1)(d), F.S.

<sup>41</sup> Each veteran is issued a Department of Defense DD Form 214 upon separation from active duty service. This form contains information normally needed to verify military service of benefits, retirement, employment, and membership in veterans' organizations. The form contains the veteran's dates of service, last duty assignment, pay grade and rank, awards received, and condition of discharge. *See* <http://www.dd214.us/> (accessed 11/20/ 2017).

<sup>42</sup> *See* sections 322.21(1)(e) and 322.21(1)(f)3.

<sup>43</sup> Tax collectors are constitutional officers pursuant to FLA. CONST. art. VIII, s. 1(d). Volusia, Broward, and Miami-Dade counties do not have a tax collector who is a constitutional officer. Additionally, the tax collectors of Glades, Franklin, and Gilchrist counties have opted out of providing driver license services, in part because they are small counties as defined in s. 120.52(a)(19), F.S., and have instead entered into interlocal agreements with neighboring tax collectors in adjacent counties to provide driver license services.

<sup>44</sup> Driver license services provided under ch. 322, F.S., include the issuance of driver license and identification cards, examinations for driver licenses, educational programs, and administrative functions associated with such activities.

<sup>45</sup> Section 322.135(1)(c), F.S.

- In violation of any federal or state law.<sup>46</sup>

### Proof of Veteran Status

Currently, United States military veterans do not have one uniform veteran identification card available to them that proves military service.

On July 20, 2015, Congress enacted the “Veterans Identification Card Act 2015.”<sup>47</sup> The Act directs the United States Department of Veterans Affairs (VA) to issue a veteran’s identification card to a requesting veteran who is neither entitled to military retired pay nor enrolled in the VA system for patient enrollment. The card is required to display the veteran’s name and photograph and serve as proof that the veteran has a DD Form 214<sup>48</sup> or other official document in his or her military personnel file that describes the veteran’s military service.<sup>49</sup> The identification card cannot be used as proof of eligibility for any federal benefits and does not grant access to military installations. It is estimated that the cards will be implemented in 2017, at the earliest, free of charge.

Certain veterans may be eligible for other methods of identification that may prove veteran status including, but not limited to, the following:

- **Veteran Health Identification Card**<sup>50</sup> – This card is issued to veterans enrolled in the VA health care system and is used for identification and check-in at VA appointments.
- **DD Form 2 (Retired) U.S. Uniformed Services ID**<sup>51</sup> – This card is issued to retired Uniform Service<sup>52</sup> members entitled to pay, members on the temporary disability retired list, and members on the permanent disability retired list.
- **DD Form 1173 U.S. Uniformed Services ID and Privilege Card**<sup>53</sup> – This card is issued to Medal of Honor recipients, former members in receipt of retired pay, 100 percent disabled veterans, and other benefits-eligible categories as described in DoD policy.
- **DD Form 2765 Department of Defense/Uniformed Services ID and Privilege Card**<sup>54</sup> – This card is issued to Medal of Honor recipients, 100 percent disabled veterans, former members in receipt of retired pay, other benefits-eligible categories as described in the Department of Defense (DoD) policy.
- **100-percent Disabled Veterans State Identification Card** - This card is issued by the Florida Department of Veterans’ Affairs to any Florida veteran who has a 100-percent total and permanent service-connected disability rating from the USDVA or the DoD.<sup>55</sup>
- **“Veteran” Designation on Florida Identification Car or Driver License Card.**<sup>56</sup>

<sup>46</sup> *Id.*

<sup>47</sup> Veterans Identification Card Act 2015, Pub. L. No. 114-31, H.R. 91, 114<sup>th</sup> Cong. (July 20, 2015).

<sup>48</sup> Each veteran is issued a Department of Defense DD Form 214. This form contains information normally needed to verify military service of benefits, retirement, employment, membership in veterans’ organizations, and the veteran’s condition of discharge. *See* <http://www.dd214.us/> (accessed 11/22/2017).

<sup>49</sup> Congress.gov, *H.R. 91-Veterans Identification Card Act 2015*, available at: <https://www.congress.gov/bill/114th-congress/house-bill/91> (accessed 11/22/2017).

<sup>50</sup> U.S. Department of Veterans Affairs site on *Veteran Identification Cards*, available at: [https://iris.custhelp.com/app/answers/detail/a\\_id/911](https://iris.custhelp.com/app/answers/detail/a_id/911) (accessed 11/22/2017).

<sup>51</sup> Department of Defense Common Access Card site on *Uniformed Services ID Card*, available at: [www.cac.mil/uniformed-services-id-card/](http://www.cac.mil/uniformed-services-id-card/) (accessed 11/22/2017).

<sup>52</sup> 10 U.S.C. §101(a)(5) defines “uniformed services” as consisting of the Army, Marines, Navy, Air Force, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> See s. 295.17, F.S.

<sup>56</sup> See ss. 322.14(1)(d) and 322.051(8)(b), F.S.

## Effect of Proposed Changes

The bill removes the \$1 fee for adding the “Veteran” designation on an identification card or driver license. The bill also removes the \$2 fee for adding the “Veteran” designation on a replacement identification card or driver license when the veteran surrenders his or her current identification card or driver license.

The bill also adds two additional forms of identification a veteran may present to the DHSMV to prove veteran status for the purpose of receiving the “Veteran” designation on an identification card or driver license. Specifically, under the bill a veteran may present:

- A Veteran health identification card, issued by the U.S. Department of Veterans Affairs; or
- A Veteran identification card, issued by the U.S. Department of Veterans Affairs pursuant to the Veterans Identification Card Act of 2015.

Lastly, the bill prohibits county tax collectors from charging a veteran the \$6.25 service fee for identification card and driver license services upon presentation of the veteran’s:

- DD Form 214, issued by the U.S. Department of State;
- Veteran health identification card, issued by the U.S. Department of Veterans Affairs;
- Veteran identification card issued by the U.S. Department of Veterans Affairs pursuant to the Veterans Identification Card Act of 2015; or
- Other acceptable form specified by the Florida Department of Veterans’ Affairs.

### B. SECTION DIRECTORY:

- Section 1 Creates s. 205.055, F.S., to exempt honorably discharged veterans, such veterans’ spouses, unremarried surviving spouses of honorably discharged veterans, active duty servicemembers’ spouses, and low-income persons from paying the local business tax and specifies the procedures required to receive such exemption.
- Section 2 Repeals s. 205.171, F.S., relating to exemptions for disabled veterans of any war or their unremarried spouses.
- Section 3 Allows any municipality that imposes a business tax based on gross receipts from the sale of merchandise, services, or both, to continue imposing such tax and allows municipalities to revise the definition of the term “merchant.”
- Section 4 Amends s. 322.051, F.S., deleting fees for adding the word “Veteran” to an identification card and revising acceptable forms of identification required for the addition.
- Section 5 Amends s. 322.14, F.S., deleting fees for adding the word “Veteran” to a driver license and revising acceptable forms of identification required for the addition.
- Section 6 Amends s. 322.135, F.S., prohibiting tax collectors from charging certain service fees to veterans who present specified forms of identification.
- Section 7 Provides an effective date of July 1, 2018.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference (REC) estimates that the elimination of the \$1 and \$2 fee for the “Veteran” designation on identification card and driver licenses the bill will reduce the Highway Safety Operating Trust Fund by \$100,000 annually beginning in Fiscal Year 2018-19.

Additionally, the DHSMV states that the programming required to update the Florida Driver License Information System to waive the \$1 fee for a veterans' driver license or identification card and the \$2 fee for a veteran's replacement driver license or identification card with the word "Veteran" displayed on it would cost approximately \$10,275 in FTE and contracted resources.<sup>57</sup>

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The REC estimates the elimination of the \$6.25 service fee tax collectors charge veterans for services rendered will reduce local governments' revenues by \$400,000 in Fiscal Years 2018-19 through 2021-22, and by \$300,000 in Fiscal Years 2021-22 through 2022-23.

The REC also estimates the exemption from local business taxes for certain individuals will have a negative \$19.1 million impact on local government revenues for Fiscal Year 2018-19, growing to a negative \$21.2 million impact for Fiscal Year 2021-22.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides additional exemptions to local business taxes for low-income persons and servicemembers and their families. By doing so, the bill appears to promote business and industry in the state. Additionally, veterans requesting the "Veteran" designation on an identification card or driver license will no longer pay a \$1 or \$2 fee for the designation when a driver license or identification card is being issued, renewed, or replaced. The veteran will also be exempt from paying the \$6.25 service fee for services rendered by a tax collector.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill reduces the authority that counties or municipalities have to raise revenues in the aggregate. The reduction in authority comes from the exemptions to local business taxes created by the bill for certain categories of individuals. The REC estimates the tax exemption from local business taxes for certain individuals will have a negative \$19.1 million impact on local government revenues for Fiscal Year 2018-2019, growing to a negative \$21.2 million impact for Fiscal Year 2021-22.

Additionally, the county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because the bill reduces the authority that counties or municipalities have to raise

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<sup>57</sup> DHSMV HB 603 agency analysis (On file with Local, Federal & Veterans Affairs Subcommittee).

revenues in the aggregate by prohibiting a county tax collector from charging a \$6.25 service fee to veterans for services rendered. The REC estimates that local governments will lose approximately \$400,000 annually in Fiscal Years 2018-2019 through 2020-2021, and \$300,000 annually in Fiscal Years 2021-2022 through 2022-2023 for the \$6.25 service charge.

If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

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A bill to be entitled  
 An act relating to taxes and fees for veterans and  
 low-income persons; creating s. 205.055, F.S.;  
 exempting certain persons and businesses from business  
 taxes and fees; providing requirements for applying  
 for such exemption; repealing s. 205.171, F.S.,  
 relating to exemptions allowed for disabled veterans  
 of any war or their unremarried spouses; authorizing  
 municipalities that impose certain business taxes on  
 merchants to continue to impose such taxes;  
 authorizing such municipalities to revise the  
 definition of the term "merchant"; amending ss.  
 322.051 and 322.14, F.S.; deleting fees for adding the  
 word "Veteran" to an identification card or driver  
 license; revising acceptable forms of identification  
 required for such addition; amending s. 322.135, F.S.;  
 prohibiting tax collectors from charging certain  
 driver license service fees to veterans who present  
 specified forms of identification; providing an  
 effective date.

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

Section 1. Section 205.055, Florida Statutes, is created  
 to read:

26        205.055 Exemptions; veterans, spouses of veterans and  
 27 certain servicemembers, and low-income persons.-

28        (1) The following persons are entitled to an exemption  
 29 from a business tax and any fees imposed under this chapter:

30        (a) A veteran of the United States Armed Forces who was  
 31 honorably discharged upon separation from service, or the spouse  
 32 or unremarried surviving spouse of such a veteran.

33        (b) The spouse of an active duty military servicemember  
 34 who has relocated to the county or municipality pursuant to a  
 35 permanent change of station order.

36        (c) A person who is receiving public assistance as defined  
 37 in s. 409.2554.

38        (d) A person whose household income is below 130 percent  
 39 of the federal poverty level based on the current year's federal  
 40 poverty guidelines.

41        (2) A person must complete and sign, under penalty of  
 42 perjury, a Request for Fee Exemption to be furnished by the  
 43 local governing authority and provide written documentation in  
 44 support of his or her request for an exemption under subsection  
 45 (1).

46        (3) If a person who is exempt under subsection (1) owns a  
 47 majority interest in a business with fewer than 100 employees,  
 48 the business is exempt.

49        Section 2. Section 205.171, Florida Statutes, is repealed.

50        Section 3. Notwithstanding the provisions of this act, a



51 municipality that imposes a business tax on merchants which is  
 52 measured by gross receipts from the sale of merchandise or  
 53 services, or both, may continue to impose such tax and may, by  
 54 ordinance, revise the definition of the term "merchant."  
 55 However, the municipality may not revise the rate of the tax  
 56 measured by gross sales.

57 Section 4. Paragraph (b) of subsection (8) of section  
 58 322.051, Florida Statutes, is amended to read:

59 322.051 Identification cards.—

60 (8)

61 (b) 1. The word "Veteran" must ~~shall~~ be exhibited on the  
 62 identification card of a veteran upon ~~the payment of an~~  
 63 ~~additional \$1 fee for the identification card and the~~  
 64 presentation of a copy of the person's:

65 a. DD Form 214, issued by the United States Department of  
 66 Defense;

67 b. Veteran health identification card, issued by the  
 68 United States Department of Veterans Affairs;

69 c. Veteran identification card, issued by the United  
 70 States Department of Veterans Affairs pursuant to the Veterans  
 71 Identification Card Act of 2015, Pub. L. 114-31; or

72 d. Other ~~another~~ acceptable form specified by the  
 73 Department of Veterans' Affairs.

74 2. Until a veteran's identification card is next renewed,  
 75 the veteran may have the word "Veteran" added to his or her

76 identification card upon surrender of his or her current  
 77 identification card, ~~payment of a \$2 fee to be deposited into~~  
 78 ~~the Highway Safety Operating Trust Fund,~~ and presentation of any  
 79 of the forms of identification specified in subparagraph 1 a  
 80 ~~copy of his or her DD Form 214 or another acceptable form~~  
 81 ~~specified by the Department of Veterans' Affairs.~~ If the  
 82 applicant is not conducting any other transaction affecting the  
 83 identification card, a replacement identification card must  
 84 ~~shall~~ be issued with the word "Veteran" without payment of the  
 85 fee required in s. 322.21(1)(f)3.

86 Section 5. Paragraph (d) of subsection (1) of section  
 87 322.14, Florida Statutes, is amended to read:

88 322.14 Licenses issued to drivers.-

89 (1)

90 (d)1. The word "Veteran" must ~~shall~~ be exhibited on the  
 91 driver license of a veteran upon ~~the payment of an additional \$1~~  
 92 ~~fee for the license and~~ the presentation of a copy of the  
 93 person's:

94 a. DD Form 214, issued by the United States Department of  
 95 Defense;

96 b. Veteran health identification card, issued by the  
 97 United States Department of Veterans Affairs;

98 c. Veteran identification card, issued by the United  
 99 States Department of Veterans Affairs pursuant to the Veterans  
 100 Identification Card Act of 2015, Pub. L. 114-31; or

101 d. ~~Other another~~ acceptable form specified by the  
 102 Department of Veterans' Affairs.

103 2. Until a veteran's license is next renewed, the veteran  
 104 may have the word "Veteran" added to his or her license upon  
 105 surrender of his or her current license, ~~payment of a \$2 fee to~~  
 106 ~~be deposited into the Highway Safety Operating Trust Fund,~~ and  
 107 presentation of any of the forms of identification specified in  
 108 subparagraph 1 ~~a copy of his or her DD Form 214 or another~~  
 109 ~~acceptable form specified by the Department of Veterans'~~  
 110 ~~Affairs.~~ If the applicant is not conducting any other  
 111 transaction affecting the driver license, a replacement license  
 112 must shall be issued with the word "Veteran" without payment of  
 113 the fee required in s. 322.21(1)(e).

114 Section 6. Paragraph (c) of subsection (1) of section  
 115 322.135, Florida Statutes, is amended to read:

116 322.135 Driver license agents.—

117 (1) The department shall, upon application, authorize by  
 118 interagency agreement any or all of the tax collectors who are  
 119 constitutional officers under s. 1(d), Art. VIII of the State  
 120 Constitution in the several counties of the state, subject to  
 121 the requirements of law, in accordance with rules of the  
 122 department, to serve as its agent for the provision of specified  
 123 driver license services.

124 (c) A service fee of \$6.25 must shall be charged, in  
 125 addition to the fees set forth in this chapter, for providing

126 all services pursuant to this chapter. The service fee may not  
 127 be charged:

128 1. More than once per customer during a single visit to a  
 129 tax collector's office.

130 2. For a reexamination requested by the Medical Advisory  
 131 Board or required pursuant to s. 322.221.

132 3. For a voter registration transaction.

133 4. In violation of any federal or state law.

134 5. To a veteran receiving any service pursuant to this  
 135 chapter, upon presentation of a copy of the veteran's:

136 a. DD Form 214, issued by the United States Department of  
 137 Defense;

138 b. Veteran health identification card, issued by the  
 139 United States Department of Veterans Affairs;

140 c. Veteran identification card, issued by the United  
 141 States Department of Veterans Affairs pursuant to the Veterans  
 142 Identification Card Act of 2015, Pub. L. 114-31; or

143 d. Other acceptable form specified by the Department of  
 144 Veterans' Affairs.

145 Section 7. This act shall take effect July 1, 2018.

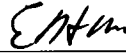
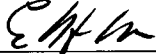


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 617 Covenants and Restrictions

**SPONSOR(S):** Edwards

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 266

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee	8 Y, 0 N	MacNamara	Bond
2) Local, Federal & Veterans Affairs Subcommittee		Miller 	Miller 
3) Judiciary Committee			

### SUMMARY ANALYSIS

The bill amends laws related to covenants and restrictions on real property. Specifically, the bill:

- Replaces the term "homeowners' association" with "property owners' association," thus extending statutory provisions regarding preservation and revival of covenants and restrictions affecting real property to a broader range of associations, notably commercial property owners' associations;
- Authorizes real property parcel owners who were subject to covenants and restrictions but who do not have a homeowners' association to use the same mechanisms as a homeowners' association to revitalize extinguished covenants and restrictions;
- Simplifies the procedures for renewal of the covenants and restrictions of a homeowners association;
- Requires a homeowners association to annually consider preservation of the covenants and restrictions; and
- Creates a statutory form for preservation of the covenants and restrictions.

The bill appears to have an indeterminate minimal positive impact on the clerks of circuit courts and an equal indeterminate negative impact on property owners' association related to recording fees to preserve covenants or restrictions.

The effective date of the bill is October 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background: The Marketable Record Title Act

The Marketable Record Title Act (MRTA) was enacted in 1963 to simplify and facilitate land transactions.<sup>1</sup> In general, MRTA provides that any person vested with any estate in land of record for 30 years or more has a marketable record title free and clear of most claims or encumbrances against the land. Current law includes 9 exceptions to the applicability of MRTA.<sup>2</sup>

##### MRTA and Property Owners Associations

One effect of MRTA is that homeowner association covenants and restrictions can lose effect after 30 years. In order to protect such covenants, MRTA has long provided for renewal of such covenants. Renewal restarts the 30 year time period. However, many associations fail to timely file a renewal of their covenants, primarily due to neglect rather than intent. Formerly, MRTA would apply in such cases and accordingly the covenants and restrictions expired and were unenforceable. In 2004, Part III of ch. 720, F.S., was enacted to provide a means by which covenants and restrictions of a mandatory homeowners' association may be revived.<sup>3</sup> In 2007, nonmandatory homeowners' associations became eligible for revitalization.<sup>4</sup> Revitalization requires the creation of an organizing committee, notice to all affected property owners, approval by a majority of the homeowners, approval by the Department of Economic Opportunity, and the recording of notice in the public records.<sup>5</sup>

There are two categories of property owners who enact and enforce covenants and restrictions regarding their property and that of their neighbors who are impacted by MRTA, but have not been included in the laws regarding renewal or revival of their covenants and restrictions. These property owners are commercial landowners in office parks, industrial parks, and other commercial districts; and neighborhoods with enforceable covenants but no formal homeowners' association.

##### *Preservation and Revitalization of Covenants by a Commercial Property Owners' Association*

The bill provides a definition for the term community covenant or restriction and substitutes the term property owners' association for homeowners' association. A property owners' association includes a homeowners' association as defined in s. 720.301, F.S., a corporation or entity responsible for the operation of real property in which the voting membership is made up of the owners of the real property or their agents, or a combination thereof, and in which membership is a mandatory condition of property ownership, as well as an association of parcel owners authorized to enforce a community covenant or restriction. The bill also makes changes in s. 712.01, F.S., to conform to these new terms.

The bill replaces all instances of the term "homeowners' association" found in ch. 712, F.S., with the term "property owners' association." The effect is to expand MRTA laws on preservation and revitalization of covenants or restrictions to cover commercial associations.

The bill provides that Part III of ch. 720, F.S.<sup>6</sup>, is intended to provide mechanisms for revitalization of covenants or restrictions by all types of communities and property associations, not just residential communities.

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<sup>1</sup> *Blanton v. City of Pinellas Park*, 887 So.2d 1224, 1227 (Fla. 2004).

<sup>2</sup> s. 712.03, F.S.

<sup>3</sup> ch. 2004-345, L.O.F.

<sup>4</sup> ch. 2007-173, L.O.F.

<sup>5</sup> part III of ch. 720, F.S.

<sup>6</sup> ss. 720.403-720.407, F.S.

### *Revitalization of Residential Covenants Not Related to a Homeowners' Association*

There are residential communities with recorded covenants and restrictions similar to those found in a homeowners association, but no association was ever created. Under current law, individual owners can file notice of preservation of covenants before they expire<sup>7</sup>, but there are no means of revitalizing such covenants and restrictions as a neighborhood.

The bill creates s. 712.12, F.S., relating to covenant or restriction revitalization by real property owners not subject to a homeowners' association. The bill provides that the real property owners may use the process available to a homeowners' association in Part III of ch. 720, F.S., to revive covenants or restrictions that have lapsed under MRTA. The real property owners are excepted from needing to provide articles of incorporation or bylaws to revive the covenants or restrictions and only need the required approval in writing. The organizing committee of the community may execute the revived covenants in the name of the community and the community name can be indexed as the grantee of the covenants with the parcel owners listed as grantors. A real property owner who has ceased to be subject to covenants or restrictions as of October 1, 2018, may commence an action by October 1, 2019, to determine if revitalization would unconstitutionally deprive the parcel owner of right or property. Revived covenants or restrictions do not affect the rights of a real property owner which are recognized by a court order in an action commenced by October 1, 2019, and may not be subsequently altered without the consent of the affected parcel owner.

### *Amended Procedures for Preservation of Existing Covenants*

A homeowners' association wishing to timely renew its covenants may do so only under the following conditions:

- The board must give written notice to every parcel owner of the impending preservation of the covenants;<sup>8</sup>
- The board must give written notice to every parcel owner of a meeting of the board of directors where the directors will decide whether to renew the covenants;<sup>9</sup>
- The board of directors of the association must approve the renewal by a two-thirds vote;<sup>10</sup> and
- Notice of the renewal must be recorded in the Official Records of the county.<sup>11</sup>

In addition to allowing written notice in accordance with s. 712.06, F.S., the bill changes this procedure to:

- Provide that compliance by a homeowners association with newly created s. 720.3032, F.S. (see discussion herein) may substitute for the requirements of ss. 712.05 and 712.06, F.S.;
- Provide that an amendment to a covenant or restriction that is indexed under the legal name of the property owners' association and references the recording information of the covenant or restriction to be preserved may substitute for the requirements of ss. 712.05 and 712.06, F.S.;
- Repeal the requirement that the board achieve a two-thirds vote; and
- Repeal the requirement that affected property owners be furnished notice of the board meeting to vote on preservation.

The bill also modifies a provision added to s. 712.05(1), F.S., in 2014 to clarify existing law.<sup>12</sup> Currently, if a homeowners' association provides the notice required by s. 712.05(1), F.S., neither the association

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<sup>7</sup> See ss. 712.05 and 712.06, F.S.

<sup>8</sup> s. 712.06(1)(b), F.S.

<sup>9</sup> s. 712.05(1), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> s. 712.06(2), F.S.

<sup>12</sup> ch. 2014-133, s. 7, Laws of Fla.



nor the clerk of the circuit court is required to provide additional notice pursuant to s. 712.06(3), F.S.<sup>13</sup> The bill modifies this section by providing neither a property owners' association nor a clerk of the circuit court must provide additional notice for a notice filed by the association to preserve and protect a community covenant or restriction from extinguishment by operation of MRTA. This revision appears to be consistent with the current requirements of the law and the clarification enacted in 2014.

#### Additional Requirements of the Board of Directors of a Homeowners' Association

Currently, there is no statutory requirement that a board of directors of a homeowners association regularly consider the need for preservation of the covenants and restrictions of the real property in their neighborhood. The bill amends s. 720.303(2), F.S., requiring the board of directors for a homeowners' association consider whether to file a notice to preserve the covenants and restrictions affecting the community from extinguishment pursuant to MRTA. This consideration must occur at the first board meeting after every annual meeting of the members.

The bill creates s. 720.3032, F.S., to require that a homeowners' association desiring to preserve covenants from termination by operation of MRTA must file in the official records of the county in which the property is located a notice detailing:

- The legal name of the association;
- The mailing and physical addresses of the association;
- The names of the affected subdivision plats and condominiums, or the common name of the community;
- The name, address, and telephone number for the current community association management company or manager, if any;
- An indication as to whether the association desires to preserve the covenants or restrictions affecting the community from extinguishment pursuant to MRTA;
- The name and recording information of those covenants or restrictions affecting the community which the association wishes to preserve;
- A legal description of the community affected by the covenants or restrictions; and
- The signature of a duly authorized officer of the association.

The bill creates a statutory form for such information. The bill further provides that the filing of the completed form is considered a substitute for the notice required for preservation of the covenants pursuant to ss. 712.05 and 712.06, F.S.

The failure to file this notice does not affect the validity or enforceability of any covenant or restriction on real property. A copy of this notice must be included as a part of the next notice of meeting or other mailing sent to all members of the association. The original signed notice must be recorded in the official records of the clerk of the circuit court or other recorder for the county.

#### Other Changes Made by the Bill

The bill also provides a short title of the "Marketable Record Title Act" for ch. 712, F.S.; and makes changes to conform various statutory and definitional cross references.

#### B. SECTION DIRECTORY:

**Section 1:** Creates s. 712.001, F.S., creating a short title.

**Section 2:** Amends s. 712.01, F.S., relating to definitions applicable to the Marketable Record Title Act.

**Section 3:** Amends s. 712.05, F.S., relating to the effect of filing notice to preserve a covenant or restriction.

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<sup>13</sup> See the final two sentences of s. 712.05(1), F.S.

- Section 4:** Amends s. 712.06, F.S., relating to the contents of a notice to preserve a covenant or restriction and the recording and indexing of the notice.
- Section 5:** Amends s. 712.11, F.S., relating to covenant revitalization.
- Section 6:** Creates s. 712.12, F.S., relating to covenant or restriction revitalization by parcel owners not subject to a homeowners' association.
- Section 7:** Amends s. 720.303, F.S., relating to board meetings of a homeowners' association.
- Section 8:** Creates s. 720.3032, F.S., relating to notice of association information and preservation of covenants or restrictions from the Marketable Record Title Act.
- Section 9:** Amends s. 702.09, F.S., relating to definitions applicable to foreclosure of mortgages and statutory liens.
- Section 10:** Amends s. 702.10, F.S., relating to an order to show cause in a mortgage foreclosure.
- Section 11:** Amends s. 712.095, F.S., to conform a cross reference.
- Section 12:** Amends s. 720.403, F.S., relating to preservation of communities and revival of a declaration of covenants.
- Section 13:** Amends s. 720.404, F.S., relating to eligible communities and requirements for revival of a declaration of covenants.
- Section 14:** Amends s. 720.405, F.S., relating to the organizing committee and parcel owner approval for revival of a declaration of covenants.
- Section 15:** Amends s. 720.407, F.S., relating to recording of a declaration of covenants.
- Section 16:** Provides an effective date of October 1, 2018.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill requires the recording of documents in the public records of the county. Recording is subject to a fee of \$10.00 for the first page and \$8.50 for every subsequent page, payable to the recording department (in most counties, the clerk of the court).<sup>14</sup> The net revenues to county recorders are unknown.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Section 8 of the bill allows associations to prepare and record a notice. The recording fee is nominal (\$10 for the first page, \$8.50 for additional pages). Because the form is in statute, associations may be able to complete the task without assistance, or a community association manager can assist an association with preparation and filing without utilizing an attorney.

### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

##### 2. Other:

##### Impairment of Contracts

To the extent that a court may find that a covenant or restriction may be considered a contract between the parties, the changes made by this bill may affect such current contract rights and obligations. Article I, s. 10 of the United States Constitution, and art. I, s. 10 of the Florida Constitution both prohibit the Legislature from enacting any law impairing the obligation of contracts. Although written in terms of an absolute prohibition, the courts have long interpreted the constitutional provisions to prohibit enactment of any unreasonable impairment of contractual rights existing at the time that the law is enacted. The Florida Supreme Court in *Pomponio v. Claridge of Pompano Condominium, Inc.*<sup>15</sup> set forth the following test:

- Was the law enacted to deal with a broad, generalized economic or social problem?
- Does the law operate in an area which was already subject to state regulation at the time the parties' contractual obligations were originally undertaken, or does it invade an area never before subject to regulation by the state?
- Does the law effect a temporary alteration of the contractual relationships of those within its coverage, or does it work a severe, permanent, and immediate change in those relationships irrevocably and retroactively?

#### B. RULE-MAKING AUTHORITY:

The bill neither requires nor authorizes administrative rulemaking by executive agencies.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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<sup>15</sup> *Pomponio v. Claridge of Pompano Condominium, Inc.*, 378 So.2d 774, 779 (Fla. 1979).



26 changes made by the act; creating s. 712.12, F.S.;

27 defining terms; authorizing the parcel owners of a

28 community not subject to a homeowners' association to

29 use specified procedures to revive certain covenants

30 or restrictions, subject to certain exceptions and

31 requirements; authorizing a parcel owner to commence

32 an action by a specified date under certain

33 circumstances for a judicial determination that the

34 covenants or restrictions did not govern that parcel

35 as of a specified date and that any revitalization of

36 such covenants or restrictions as to that parcel would

37 unconstitutionally deprive the parcel owner of rights

38 or property; providing applicability; amending s.

39 720.303, F.S.; requiring a board to take up certain

40 provisions relating to notice filings at the first

41 board meeting; creating s. 720.3032, F.S.; requiring

42 any property owners' association desiring to preserve

43 covenants from potential termination after a specified

44 period by certain operation to record in the official

45 records of each county in which the community is

46 located a notice subject to certain requirements;

47 providing a document form for recording by an

48 association to preserve certain covenants or

49 restrictions; requiring a copy of the filed notice to

50 be sent to all members; requiring the original signed

51 notice to be recorded with the clerk of the circuit  
 52 court or other recorder; amending ss. 702.09 and  
 53 702.10, F.S.; conforming provisions to changes made by  
 54 the act; amending s. 712.095, F.S.; conforming a  
 55 cross-reference; amending ss. 720.403, 720.404,  
 56 720.405, and 720.407, F.S.; conforming provisions to  
 57 changes made by the act; providing an effective date.  
 58

59 Be It Enacted by the Legislature of the State of Florida:  
 60

61 Section 1. Section 712.001, Florida Statutes, is created  
 62 to read:

63 712.001 Short title.—This chapter may be cited as the  
 64 "Marketable Record Title Act."

65 Section 2. Section 712.01, Florida Statutes, is reordered  
 66 and amended to read:

67 712.01 Definitions.—As used in this chapter, the term law:

68 (1) "Community covenant or restriction" means any  
 69 agreement or limitation contained in a document recorded in the  
 70 public records of the county in which a parcel is located which:

71 (a) Subjects the parcel to any use restriction that may be  
 72 enforced by a property owners' association; or

73 (b) Authorizes a property owners' association to impose a  
 74 charge or assessment against the parcel or the parcel owner.

75 (4)(1) The term "Person" includes the as used herein

76 ~~denotes~~ singular or plural, natural or corporate, private or  
 77 governmental, including the state and any political subdivision  
 78 or agency thereof as the context for the use thereof requires or  
 79 denotes and including any property owners' ~~homeowners'~~  
 80 association.

81 ~~(6)(2)~~ "Root of title" means any title transaction  
 82 purporting to create or transfer the estate claimed by any  
 83 person ~~and~~ which is the last title transaction to have been  
 84 recorded at least 30 years before ~~prior to~~ the time when  
 85 marketability is being determined. The effective date of the  
 86 root of title is the date on which it was recorded.

87 ~~(7)(3)~~ "Title transaction" means any recorded instrument  
 88 or court proceeding that ~~which~~ affects title to any estate or  
 89 interest in land and that ~~which~~ describes the land sufficiently  
 90 to identify its location and boundaries.

91 ~~(5)(4)~~ "Property owners' association" ~~The term~~  
 92 "~~homeowners' association~~" means a homeowners' association as  
 93 defined in s. 720.301, a corporation or other entity responsible  
 94 for the operation of property in which the voting membership is  
 95 made up of the owners of the property or their agents, or a  
 96 combination thereof, and in which membership is a mandatory  
 97 condition of property ownership, or an association of parcel  
 98 owners which is authorized to enforce a community covenant or  
 99 restriction ~~use restrictions~~ that is ~~are~~ imposed on the parcels.

100 ~~(3)(5)~~ ~~The term~~ "Parcel" means any real property that

101 ~~which is used for residential purposes that is subject to~~  
 102 ~~exclusive ownership and which~~ is subject to any covenant or  
 103 restriction of a property owners' ~~homeowners'~~ association.

104 (2) ~~(6)~~ ~~The term~~ "Covenant or restriction" means any  
 105 agreement or limitation contained in a document recorded in the  
 106 public records of the county in which a parcel is located which  
 107 subjects the parcel to any use or other restriction or  
 108 obligation ~~which may be enforced by a homeowners' association or~~  
 109 ~~which authorizes a homeowners' association to impose a charge or~~  
 110 ~~assessment against the parcel or the owner of the parcel or~~  
 111 ~~which may be enforced by the Florida Department of Environmental~~  
 112 ~~Protection pursuant to chapter 376 or chapter 403.~~

113 Section 3. Section 712.05, Florida Statutes, is amended to  
 114 read:

115 712.05 Effect of filing notice.—

116 (1) A person claiming an interest in land or other right  
 117 subject to extinguishment under this chapter ~~a homeowners'~~  
 118 ~~association desiring to preserve a covenant or restriction~~ may  
 119 preserve and protect such interest or right ~~the same~~ from  
 120 extinguishment by the operation of this chapter ~~act~~ by filing  
 121 for record, at any time during the 30-year period immediately  
 122 following the effective date of the root of title, a written  
 123 notice in accordance with s. 712.06 ~~this chapter~~.

124 (2) A property owners' association may preserve and  
 125 protect a community covenant or restriction from extinguishment



126 by the operation of this chapter by filing for record, at any  
 127 time during the 30-year period immediately following the  
 128 effective date of the root of title:

129 (a) A written notice in accordance with s. 712.06; or

130 (b) A summary notice in substantial form and content as  
 131 required under s. 720.3032(2); or an amendment to a covenant or  
 132 restriction that is indexed under the legal name of the property  
 133 owners' association and references the recording information of  
 134 the covenant or restriction to be preserved. Failure of a  
 135 summary notice or amendment to be indexed to the current owners  
 136 of the affected property does not affect the validity of the  
 137 notice or vitiate the effect of the filing of such notice.

138 (3) A ~~Such~~ notice under subsection (1) or subsection (2)  
 139 preserves an interest in land or other ~~such claim~~ of right  
 140 subject to extinguishment under this chapter, or a ~~such~~ covenant  
 141 or restriction or portion of such covenant or restriction, for  
 142 not less than ~~up to~~ 30 years after filing the notice unless the  
 143 notice is filed again as required in this chapter. A person's  
 144 disability or lack of knowledge of any kind may not delay the  
 145 commencement of or suspend the running of the 30-year period.  
 146 Such notice may be filed for record by the claimant or by any  
 147 other person acting on behalf of a claimant who is:

148 (a) Under a disability;

149 (b) Unable to assert a claim on his or her behalf; or

150 (c) One of a class, but whose identity cannot be

151 established or is uncertain at the time of filing such notice of  
 152 claim for record.

153

154 ~~Such notice may be filed by a homeowners' association only if~~  
 155 ~~the preservation of such covenant or restriction or portion of~~  
 156 ~~such covenant or restriction is approved by at least two thirds~~  
 157 ~~of the members of the board of directors of an incorporated~~  
 158 ~~homeowners' association at a meeting for which a notice, stating~~  
 159 ~~the meeting's time and place and containing the statement of~~  
 160 ~~marketable title action described in s. 712.06(1)(b), was mailed~~  
 161 ~~or hand delivered to members of the homeowners' association at~~  
 162 ~~least 7 days before such meeting. The property owners'~~  
 163 ~~homeowners' association or clerk of the circuit court is not~~  
 164 required to provide additional notice pursuant to s. 712.06(3)  
 165 for a notice filed under subsection (2). The preceding sentence  
 166 is intended to clarify existing law.

167 ~~(4)(2)~~ It is ~~shall~~ not be necessary for the owner of the  
 168 marketable record title, as described in s. 712.02 herein  
 169 ~~defined~~, to file a notice to protect his or her marketable  
 170 record title.

171 Section 4. Subsections (1) and (3) of section 712.06,  
 172 Florida Statutes, are amended to read:

173 712.06 Contents of notice; recording and indexing.—

174 (1) To be effective, the notice referred to in s. 712.05,  
 175 other than the summary notice and the amendment referred to in

176 s. 712.05(2)(b), ~~must shall~~ contain:

177 (a) The name or description and mailing address of the  
 178 claimant or the property owners' ~~homeowners'~~ association  
 179 desiring to preserve any covenant or restriction ~~and the name~~  
 180 ~~and particular post office address of the person filing the~~  
 181 ~~claim or the homeowners' association.~~

182 (b) The name and mailing ~~post office~~ address of an owner,  
 183 or the name and mailing ~~post office~~ address of the person in  
 184 whose name the ~~said~~ property is assessed on the last completed  
 185 tax assessment roll of the county at the time of filing, who,  
 186 for purpose of such notice, shall be deemed to be an owner;  
 187 ~~provided,~~ however, if a property owners' ~~homeowners'~~ association  
 188 is filing the notice, ~~then~~ the requirements of this paragraph  
 189 may be satisfied by attaching to and recording with the notice  
 190 an affidavit executed by the appropriate member of the board of  
 191 directors of the property owners' ~~homeowners'~~ association  
 192 affirming that the board of directors of the property owners'  
 193 ~~homeowners'~~ association caused a statement in substantially the  
 194 following form to be mailed or hand delivered to the members of  
 195 that property owners' ~~homeowners'~~ association:

196  
 197 STATEMENT OF MARKETABLE TITLE ACTION

198  
 199 The [name of property owners' ~~homeowners'~~ association] (the  
 200 "Association") has taken action to ensure that the [name of

201 declaration, covenant, or restriction], recorded in Official  
 202 Records Book . . . . , Page . . . . , of the public records of . . . .  
 203 County, Florida, as may be amended from time to time, currently  
 204 burdening the property of each and every member of the  
 205 Association, retains its status ~~as the source of marketable~~  
 206 ~~title~~ with regard to the affected real property ~~the transfer of~~  
 207 ~~a member's residence~~. To this end, the Association shall cause  
 208 the notice required by chapter 712, Florida Statutes, to be  
 209 recorded in the public records of . . . . County, Florida. Copies  
 210 of this notice and its attachments are available through the  
 211 Association pursuant to the Association's governing documents  
 212 regarding official records of the Association.

213  
 214 (c) A full and complete description of all land affected  
 215 by such notice, which description shall be set forth in  
 216 particular terms and not by general reference, but if said claim  
 217 is founded upon a recorded instrument or a covenant or a  
 218 restriction, ~~then~~ the description in such notice may be the same  
 219 as that contained in such recorded instrument or covenant or  
 220 restriction, provided the same shall be sufficient to identify  
 221 the property.

222 (d) A statement of the claim showing the nature,  
 223 description, and extent of such claim or other right subject to  
 224 extinguishment under this chapter or, in the case of a covenant  
 225 or restriction, a copy of the covenant or restriction or a

226 reference to the book and page or instrument number in which the  
 227 same is recorded, except that it is ~~shall~~ not ~~be~~ necessary to  
 228 show the amount of any claim for money or the terms of payment.

229 (e) If such claim or other right subject to extinguishment  
 230 under this chapter is based upon an instrument of record or a  
 231 recorded covenant or restriction, such instrument of record or  
 232 recorded covenant or restriction shall be deemed sufficiently  
 233 described to identify the same if the notice includes a  
 234 reference to the book and page in which the same is recorded.

235 (f) Such notice shall be acknowledged in the same manner  
 236 as deeds are acknowledged for record.

237 (3) The person providing the notice referred to in s.  
 238 712.05, other than a notice for preservation of a community  
 239 covenant or restriction, shall:

240 (a) Cause the clerk of the circuit court to mail by  
 241 registered or certified mail to the purported owner of said  
 242 property, as stated in such notice, a copy thereof and shall  
 243 enter on the original, before recording the same, a certificate  
 244 showing such mailing. For preparing the certificate, the  
 245 claimant shall pay to the clerk the service charge as prescribed  
 246 in s. 28.24(8) and the necessary costs of mailing, in addition  
 247 to the recording charges as prescribed in s. 28.24(12). If the  
 248 notice names purported owners having more than one address, the  
 249 person filing the same shall furnish a true copy for each of the  
 250 several addresses stated, and the clerk shall send one such copy

251 to the purported owners named at each respective address. Such  
 252 certificate shall be sufficient if the same reads substantially  
 253 as follows:

254  
 255 I hereby certify that I did on this ....., mail by  
 256 registered (or certified) mail a copy of the foregoing notice to  
 257 each of the following at the address stated:

258  
 259 ... (Clerk of the circuit court) ...  
 260 of .... County, Florida,  
 261 By... (Deputy clerk) ...

262  
 263 The clerk of the circuit court is not required to mail to the  
 264 purported owner of such property any such notice that pertains  
 265 solely to the preserving of any covenant or restriction or any  
 266 portion of a covenant or restriction; or

267 (b) Publish once a week, for 2 consecutive weeks, the  
 268 notice referred to in s. 712.05, with the official record book  
 269 and page number in which such notice was recorded, in a  
 270 newspaper as defined in chapter 50 in the county in which the  
 271 property is located.

272 Section 5. Section 712.11, Florida Statutes, is amended to  
 273 read:

274 712.11 Covenant revitalization.—A property owners'  
 275 ~~homeowners'~~ association not otherwise subject to chapter 720 may

276 use the procedures set forth in ss. 720.403-720.407 to revive  
 277 covenants that have lapsed under the terms of this chapter.

278 Section 6. Section 712.12, Florida Statutes, is created to  
 279 read:

280 712.12 Covenant or restriction revitalization by parcel  
 281 owners not subject to a homeowners' association.-

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

283 (a) "Community" means the real property that is subject to  
 284 a covenant or restriction that is recorded in the county where  
 285 the property is located.

286 (b) "Covenant or restriction" means any agreement or  
 287 limitation imposed by a private party and not required by a  
 288 governmental agency as a condition of a development permit, as  
 289 defined in s. 163.3164, which is contained in a document  
 290 recorded in the public records of the county in which a parcel  
 291 is located and which subjects the parcel to any use restriction  
 292 that may be enforced by a parcel owner.

293 (c) "Parcel" means real property that is used for  
 294 residential purposes and that is subject to exclusive ownership  
 295 and any covenant or restriction that may be enforced by a parcel  
 296 owner.

297 (d) "Parcel owner" means the record owner of legal title  
 298 to a parcel.

299 (2) The parcel owners of a community not subject to a  
 300 homeowners' association may use the procedures set forth in ss.

301 720.403-720.407 to revive covenants or restrictions that have  
 302 lapsed under the terms of this chapter, except:

303 (a) A reference to a homeowners' association or articles  
 304 of incorporation or bylaws of a homeowners' association under  
 305 ss. 720.403-720.407 is not required to revive the covenants or  
 306 restrictions.

307 (b) The approval required under s. 720.405(6) must be in  
 308 writing, and not at a meeting.

309 (c) The requirements under s. 720.407(2) may be satisfied  
 310 by having the organizing committee execute the revived covenants  
 311 or restrictions in the name of the community.

312 (d) The indexing requirements under s. 720.407(3) may be  
 313 satisfied by indexing the community name in the covenants or  
 314 restrictions as the grantee and the parcel owners as the  
 315 grantors.

316 (3) With respect to any parcel that has ceased to be  
 317 governed by covenants or restrictions as of October 1, 2018, the  
 318 parcel owner may commence an action by October 1, 2019, for a  
 319 judicial determination that the covenants or restrictions did  
 320 not govern that parcel as of October 1, 2018, and that any  
 321 revitalization of such covenants or restrictions as to that  
 322 parcel would unconstitutionally deprive the parcel owner of  
 323 rights or property.

324 (4) Revived covenants or restrictions that are implemented  
 325 pursuant to this section do not apply to or affect the rights of



326 the parcel owner which are recognized by any court order or  
 327 judgment in any action commenced by October 1, 2019, and any  
 328 such rights so recognized may not be subsequently altered by  
 329 revived covenants or restrictions implemented under this section  
 330 without the consent of the affected parcel owner.

331 Section 7. Paragraph (e) is added to subsection (2) of  
 332 section 720.303, Florida Statutes, to read:

333 720.303 Association powers and duties; meetings of board;  
 334 official records; budgets; financial reporting; association  
 335 funds; recalls.—

336 (2) BOARD MEETINGS.—

337 (e) At the first board meeting, excluding the  
 338 organizational meeting, which follows the annual meeting of the  
 339 members, the board shall consider the desirability of filing  
 340 notices to preserve the covenants or restrictions affecting the  
 341 community or association from extinguishment under the  
 342 Marketable Record Title Act, chapter 712, and to authorize and  
 343 direct the appropriate officer to file notice in accordance with  
 344 s. 720.3032.

345 Section 8. Section 720.3032, Florida Statutes, is created  
 346 to read:

347 720.3032 Notice of association information; preservation  
 348 from Marketable Record Title Act.—

349 (1) Any property owners' association desiring to preserve  
 350 covenants from potential termination after 30 years by operation

351 of chapter 712 may record in the official records of each county  
 352 in which the community is located a notice specifying:

353 (a) The legal name of the association.

354 (b) The mailing and physical addresses of the association.

355 (c) The names of the affected subdivision plats and  
 356 condominiums or, if not applicable, the common name of the  
 357 community.

358 (d) The name, address, and telephone number for the  
 359 current community association management company or community  
 360 association manager, if any.

361 (e) Indication as to whether the association desires to  
 362 preserve the covenants or restrictions affecting the community  
 363 or association from extinguishment under the Marketable Record  
 364 Title Act, chapter 712.

365 (f) A listing by name and recording information of those  
 366 covenants or restrictions affecting the community which the  
 367 association desires to be preserved from extinguishment.

368 (g) The legal description of the community affected by the  
 369 covenants or restrictions, which may be satisfied by a reference  
 370 to a recorded plat.

371 (h) The signature of a duly authorized officer of the  
 372 association, acknowledged in the same manner as deeds are  
 373 acknowledged for record.

374 (2) Recording a document in substantially the following  
 375 form satisfies the notice obligation and constitutes a summary

376 notice as specified in s. 712.05(2)(b) sufficient to preserve  
377 and protect the referenced covenants and restrictions from  
378 extinguishment under the Marketable Record Title Act, chapter  
379 712.

380  
381 Notice of ... (name of association) ... under s. 720.3032, Florida  
382 Statutes, and notice to preserve and protect covenants and  
383 restrictions from extinguishment under the Marketable Record  
384 Title Act, chapter 712, Florida Statutes.

385  
386 Instructions to recorder: Please index both the legal name  
387 of the association and the names shown in item 3.

388 1. Legal name of association: ....

389 2. Mailing and physical addresses of association: ....

390 ....

391 3. Names of the subdivision plats, or, if none, common  
392 name of community: ....

393 4. Name, address, and telephone number for management  
394 company, if any: .....

395 5. This notice does .... does not .... constitute a notice  
396 to preserve and protect covenants or restrictions from  
397 extinguishment under the Marketable Record Title Act.

398 6. The following covenants or restrictions affecting the  
399 community which the association desires to be preserved from  
400 extinguishment:

401 ... (Name of instrument)...  
 402 ... (Official Records Book where recorded & page)...  
 403 ... (List of instruments)...  
 404 ... (List of recording information)...

405 7. The legal description of the community affected by the  
 406 listed covenants or restrictions is: ... (Legal description,  
 407 which may be satisfied by reference to a recorded plat)...

408 This notice is filed on behalf of ... (Name of  
 409 association) ... as of ... (Date)....  
 410 ... (Name of association)...

412 By: ....  
 413 ... (Name of individual officer)...  
 414 ... (Title of officer)...  
 415 ... (Notary acknowledgment)...

417 (3) A copy of the notice, as filed, must be included as  
 418 part of the next notice of meeting or other mailing sent to all  
 419 members.

420 (4) The original signed notice must be recorded in the  
 421 official records of the clerk of the circuit court or other  
 422 recorder for the county.

423 Section 9. Section 702.09, Florida Statutes, is amended to  
 424 read:

425 702.09 Definitions.—For the purposes of ss. 702.07 and

426 702.08, the words "decree of foreclosure" shall include a  
 427 judgment or order rendered or passed in the foreclosure  
 428 proceedings in which the decree of foreclosure shall be  
 429 rescinded, vacated, and set aside; the word "mortgage" shall  
 430 mean any written instrument securing the payment of money or  
 431 advances and includes liens to secure payment of assessments  
 432 arising under chapters 718 and 719 and liens created pursuant to  
 433 the recorded covenants of a property owners' ~~homeowners'~~  
 434 association as defined in s. 712.01; the word "debt" shall  
 435 include promissory notes, bonds, and all other written  
 436 obligations given for the payment of money; the words  
 437 "foreclosure proceedings" shall embrace every action in the  
 438 circuit or county courts of this state wherein it is sought to  
 439 foreclose a mortgage and sell the property covered by the same;  
 440 and the word "property" shall mean and include both real and  
 441 personal property.

442 Section 10. Subsection (1) of section 702.10, Florida  
 443 Statutes, is amended to read:

444 702.10 Order to show cause; entry of final judgment of  
 445 foreclosure; payment during foreclosure.—

446 (1) A lienholder may request an order to show cause for  
 447 the entry of final judgment in a foreclosure action. For  
 448 purposes of this section, the term "lienholder" includes the  
 449 plaintiff and a defendant to the action who holds a lien  
 450 encumbering the property or a defendant who, by virtue of its

451 status as a condominium association, cooperative association, or  
 452 property owners' ~~homeowners'~~ association, may file a lien  
 453 against the real property subject to foreclosure. Upon filing,  
 454 the court shall immediately review the request and the court  
 455 file in chambers and without a hearing. If, upon examination of  
 456 the court file, the court finds that the complaint is verified,  
 457 complies with s. 702.015, and alleges a cause of action to  
 458 foreclose on real property, the court shall promptly issue an  
 459 order directed to the other parties named in the action to show  
 460 cause why a final judgment of foreclosure should not be entered.

461 (a) The order shall:

462 1. Set the date and time for a hearing to show cause. The  
 463 date for the hearing may not occur sooner than the later of 20  
 464 days after service of the order to show cause or 45 days after  
 465 service of the initial complaint. When service is obtained by  
 466 publication, the date for the hearing may not be set sooner than  
 467 30 days after the first publication.

468 2. Direct the time within which service of the order to  
 469 show cause and the complaint must be made upon the defendant.

470 3. State that the filing of defenses by a motion, a  
 471 responsive pleading, an affidavit, or other papers before the  
 472 hearing to show cause that raise a genuine issue of material  
 473 fact which would preclude the entry of summary judgment or  
 474 otherwise constitute a legal defense to foreclosure shall  
 475 constitute cause for the court not to enter final judgment.

476           4. State that a defendant has the right to file affidavits  
 477 or other papers before the time of the hearing to show cause and  
 478 may appear personally or by way of an attorney at the hearing.

479           5. State that, if a defendant files defenses by a motion,  
 480 a verified or sworn answer, affidavits, or other papers or  
 481 appears personally or by way of an attorney at the time of the  
 482 hearing, the hearing time will be used to hear and consider  
 483 whether the defendant's motion, answer, affidavits, other  
 484 papers, and other evidence and argument as may be presented by  
 485 the defendant or the defendant's attorney raise a genuine issue  
 486 of material fact which would preclude the entry of summary  
 487 judgment or otherwise constitute a legal defense to foreclosure.  
 488 The order shall also state that the court may enter an order of  
 489 final judgment of foreclosure at the hearing and order the clerk  
 490 of the court to conduct a foreclosure sale.

491           6. State that, if a defendant fails to appear at the  
 492 hearing to show cause or fails to file defenses by a motion or  
 493 by a verified or sworn answer or files an answer not contesting  
 494 the foreclosure, such defendant may be considered to have waived  
 495 the right to a hearing, and in such case, the court may enter a  
 496 default against such defendant and, if appropriate, a final  
 497 judgment of foreclosure ordering the clerk of the court to  
 498 conduct a foreclosure sale.

499           7. State that if the mortgage provides for reasonable  
 500 attorney fees and the requested attorney fees do not exceed 3

501 percent of the principal amount owed at the time of filing the  
 502 complaint, it is unnecessary for the court to hold a hearing or  
 503 adjudge the requested attorney fees to be reasonable.

504 8. Attach the form of the proposed final judgment of  
 505 foreclosure which the movant requests the court to enter at the  
 506 hearing on the order to show cause.

507 9. Require the party seeking final judgment to serve a  
 508 copy of the order to show cause on the other parties in the  
 509 following manner:

510 a. If a party has been served pursuant to chapter 48 with  
 511 the complaint and original process, or the other party is the  
 512 plaintiff in the action, service of the order to show cause on  
 513 that party may be made in the manner provided in the Florida  
 514 Rules of Civil Procedure.

515 b. If a defendant has not been served pursuant to chapter  
 516 48 with the complaint and original process, the order to show  
 517 cause, together with the summons and a copy of the complaint,  
 518 shall be served on the party in the same manner as provided by  
 519 law for original process.

520

521 Any final judgment of foreclosure entered under this subsection  
 522 is for in rem relief only. This subsection does not preclude the  
 523 entry of a deficiency judgment where otherwise allowed by law.  
 524 The Legislature intends that this alternative procedure may run  
 525 simultaneously with other court procedures.



526 (b) The right to be heard at the hearing to show cause is  
 527 waived if a defendant, after being served as provided by law  
 528 with an order to show cause, engages in conduct that clearly  
 529 shows that the defendant has relinquished the right to be heard  
 530 on that order. The defendant's failure to file defenses by a  
 531 motion or by a sworn or verified answer, affidavits, or other  
 532 papers or to appear personally or by way of an attorney at the  
 533 hearing duly scheduled on the order to show cause presumptively  
 534 constitutes conduct that clearly shows that the defendant has  
 535 relinquished the right to be heard. If a defendant files  
 536 defenses by a motion, a verified answer, affidavits, or other  
 537 papers or presents evidence at or before the hearing which raise  
 538 a genuine issue of material fact which would preclude entry of  
 539 summary judgment or otherwise constitute a legal defense to  
 540 foreclosure, such action constitutes cause and precludes the  
 541 entry of a final judgment at the hearing to show cause.

542 (c) In a mortgage foreclosure proceeding, when a final  
 543 judgment of foreclosure has been entered against the mortgagor  
 544 and the note or mortgage provides for the award of reasonable  
 545 attorney fees, it is unnecessary for the court to hold a hearing  
 546 or adjudge the requested attorney fees to be reasonable if the  
 547 fees do not exceed 3 percent of the principal amount owed on the  
 548 note or mortgage at the time of filing, even if the note or  
 549 mortgage does not specify the percentage of the original amount  
 550 that would be paid as liquidated damages.

551           (d) If the court finds that all defendants have waived the  
 552 right to be heard as provided in paragraph (b), the court shall  
 553 promptly enter a final judgment of foreclosure without the need  
 554 for further hearing if the plaintiff has shown entitlement to a  
 555 final judgment and upon the filing with the court of the  
 556 original note, satisfaction of the conditions for establishment  
 557 of a lost note, or upon a showing to the court that the  
 558 obligation to be foreclosed is not evidenced by a promissory  
 559 note or other negotiable instrument. If the court finds that a  
 560 defendant has not waived the right to be heard on the order to  
 561 show cause, the court shall determine whether there is cause not  
 562 to enter a final judgment of foreclosure. If the court finds  
 563 that the defendant has not shown cause, the court shall promptly  
 564 enter a judgment of foreclosure. If the time allotted for the  
 565 hearing is insufficient, the court may announce at the hearing a  
 566 date and time for the continued hearing. Only the parties who  
 567 appear, individually or through an attorney, at the initial  
 568 hearing must be notified of the date and time of the continued  
 569 hearing.

570           Section 11. Section 712.095, Florida Statutes, is amended  
 571 to read:

572           712.095 Notice required by July 1, 1983.—Any person whose  
 573 interest in land is derived from an instrument or court  
 574 proceeding recorded subsequent to the root of title, which  
 575 instrument or proceeding did not contain a description of the

576 land as specified by s. 712.01(7) ~~s. 712.01(3)~~, and whose  
 577 interest had not been extinguished prior to July 1, 1981, shall  
 578 have until July 1, 1983, to file a notice in accordance with s.  
 579 712.06 to preserve the interest.

580 Section 12. Section 720.403, Florida Statutes, is amended  
 581 to read:

582 720.403 Preservation of ~~residential~~ communities; revival  
 583 of declaration of covenants.—

584 (1) Consistent with required and optional elements of  
 585 local comprehensive plans and other applicable provisions of the  
 586 Community Planning Act, property owners ~~homeowners~~ are  
 587 encouraged to preserve existing residential and other  
 588 communities, promote available and affordable housing, protect  
 589 structural and aesthetic elements of their ~~residential~~  
 590 community, and, as applicable, maintain roads and streets,  
 591 easements, water and sewer systems, utilities, drainage  
 592 improvements, conservation and open areas, recreational  
 593 amenities, and other infrastructure and common areas that serve  
 594 and support the ~~residential~~ community by the revival of a  
 595 previous declaration of covenants and other governing documents  
 596 that may have ceased to govern some or all parcels in the  
 597 community.

598 (2) In order to preserve a ~~residential~~ community and the  
 599 associated infrastructure and common areas for the purposes  
 600 described in this section, the parcel owners in a community that

601 was previously subject to a declaration of covenants that has  
 602 ceased to govern one or more parcels in the community may revive  
 603 the declaration and the ~~homeowners'~~ association for the  
 604 community upon approval by the parcel owners to be governed  
 605 thereby as provided in this act, and upon approval of the  
 606 declaration and the other governing documents for the  
 607 association by the Department of Economic Opportunity in a  
 608 manner consistent with this act.

609 (3) Part III of this chapter is intended to provide  
 610 mechanisms for the revitalization of covenants or restrictions  
 611 for all types of communities and property associations and is  
 612 not limited to residential communities.

613 Section 13. Section 720.404, Florida Statutes, is amended  
 614 to read:

615 720.404 Eligible ~~residential~~ communities; requirements for  
 616 revival of declaration.—Parcel owners in a community are  
 617 eligible to seek approval from the Department of Economic  
 618 Opportunity to revive a declaration of covenants under this act  
 619 if all of the following requirements are met:

620 (1) All parcels to be governed by the revived declaration  
 621 must have been once governed by a previous declaration that has  
 622 ceased to govern some or all of the parcels in the community;

623 (2) The revived declaration must be approved in the manner  
 624 provided in s. 720.405(6); and

625 (3) The revived declaration may not contain covenants that

626 are more restrictive on the parcel owners than the covenants  
 627 contained in the previous declaration, except that the  
 628 declaration may:

629 (a) Have an effective term of longer duration than the  
 630 term of the previous declaration;

631 (b) Omit restrictions contained in the previous  
 632 declaration;

633 (c) Govern fewer than all of the parcels governed by the  
 634 previous declaration;

635 (d) Provide for amendments to the declaration and other  
 636 governing documents; and

637 (e) Contain provisions required by this chapter for new  
 638 declarations that were not contained in the previous  
 639 declaration.

640 Section 14. Subsections (1), (3), (5), and (6) of section  
 641 720.405, Florida Statutes, are amended to read:

642 720.405 Organizing committee; parcel owner approval.—

643 (1) The proposal to revive a declaration of covenants and  
 644 an ~~a homeowners'~~ association for a community under the terms of  
 645 this act shall be initiated by an organizing committee  
 646 consisting of not less than three parcel owners located in the  
 647 community that is proposed to be governed by the revived  
 648 declaration. The name, address, and telephone number of each  
 649 member of the organizing committee must be included in any  
 650 notice or other document provided by the committee to parcel

651 owners to be affected by the proposed revived declaration.

652           (3) The organizing committee shall prepare the full text  
 653 of the proposed articles of incorporation and bylaws of the  
 654 revived ~~homeowners'~~ association to be submitted to the parcel  
 655 owners for approval, unless the association is then an existing  
 656 corporation, in which case the organizing committee shall  
 657 prepare the existing articles of incorporation and bylaws to be  
 658 submitted to the parcel owners.

659           (5) A copy of the complete text of the proposed revised  
 660 declaration of covenants, the proposed new or existing articles  
 661 of incorporation and bylaws of the ~~homeowners'~~ association, and  
 662 a graphic depiction of the property to be governed by the  
 663 revived declaration shall be presented to all of the affected  
 664 parcel owners by mail or hand delivery not less than 14 days  
 665 before the time that the consent of the affected parcel owners  
 666 to the proposed governing documents is sought by the organizing  
 667 committee.

668           (6) A majority of the affected parcel owners must agree in  
 669 writing to the revived declaration of covenants and governing  
 670 documents of the ~~homeowners'~~ association or approve the revived  
 671 declaration and governing documents by a vote at a meeting of  
 672 the affected parcel owners noticed and conducted in the manner  
 673 prescribed by s. 720.306. Proof of notice of the meeting to all  
 674 affected owners of the meeting and the minutes of the meeting  
 675 recording the votes of the property owners shall be certified by

676 a court reporter or an attorney licensed to practice in the  
 677 state.

678 Section 15. Subsection (3) of section 720.407, Florida  
 679 Statutes, is amended to read:

680 720.407 Recording; notice of recording; applicability and  
 681 effective date.—

682 (3) The recorded documents shall include the full text of  
 683 the approved declaration of covenants, the articles of  
 684 incorporation and bylaws of the ~~homeowners'~~ association, the  
 685 letter of approval by the department, and the legal description  
 686 of each affected parcel of property. For purposes of chapter  
 687 712, the association is deemed to be and shall be indexed as the  
 688 grantee in a title transaction and the parcel owners named in  
 689 the revived declaration are deemed to be and shall be indexed as  
 690 the grantors in the title transaction.

691 Section 16. This act shall take effect October 1, 2018.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 697 Impact Fees  
**SPONSOR(S):** Miller  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Miller <i>E Miller</i>	<i>E Miller</i>
2) Ways & Means Committee			
3) Government Accountability Committee			

**SUMMARY ANALYSIS**

Impact fees are amounts imposed by local governments to fund local infrastructure needed to expand local services to meet the demands of population growth caused by development. The impact fee ordinances enacted by a county, municipal, or special district must meet certain minimum statutory criteria, but the various types of impact fees for different infrastructure needs, the calculation of the amount due, and the timing of collecting these fees currently is at the discretion of each local government.

The bill prohibits any local government from collecting impact fees any time prior to issuing a certificate of occupancy for a building. Certificates of occupancy are issued only after completion of construction and the final inspection showing the construction complies with all applicable building codes.

The bill restricts the timing of collecting impact fees but not the amount, thus does not restrict the amount of revenue local governments may raise nor require they expend additional amounts.

The bill provides an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Impact fees are amounts imposed by local governments to fund local infrastructure required to provide for increased local services needs caused by new growth.<sup>1</sup> Adopted by ordinance of a county, municipality, or special district, impact fees must meet the following minimum criteria:

- The fee must be calculated using the most recent and localized data.
- The local government adopting the impact fee must account for and report fee collections and expenditures. If the fee is imposed for a specific infrastructure need, the local government must account for those revenues and expenditures in a separate accounting fund.
- Charges imposed for the collection of impact fees are limited to the actual costs.
- All local governments are required to give notice of a new or increased impact fee at least 90 days before the new or increased fee takes effect. Counties and municipalities need not wait 90 days before decreasing, suspending, or eliminating an impact fee.<sup>2</sup>

The types of impact fees, amounts, and timing of collection are within the discretion of the local government authorities choosing to impose the fees.<sup>3</sup> The courts have found appropriate the imposition of impact fees where the local government meets two fundamental requirements: a reasonable connection, or nexus, between the need for additional capital facilities and the population growth generated by the project, and a reasonable connection, or nexus, between the expenditures of the funds collected from the impact fees and the benefits accruing to the subdivision or project. Meeting the second criteria requires the local government ordinance imposing the impact fee to earmark the funds collected to acquire the new capital facilities necessary to benefit the new residents.<sup>4</sup>

Some local governments require payment of impact fees prior to the issuance of a development or building permit.<sup>5</sup> In general, a building permit must be obtained before the construction, erection, modification, repair, or demolition of any building.<sup>6</sup> A development permit pertains to any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.<sup>7</sup>

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<sup>1</sup> Section 163.31801(2), F.S.

<sup>2</sup> Section 163.31801(3), F.S.

<sup>3</sup> Currently, in Florida there are 67 counties, 413 municipalities, 1,056 independent special districts, and 634 dependent special districts. See ch. 7, F.S.; *The Local Government Formation Manual 2017-2018*, Appx. B, at <http://myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=2911&Session=2018&DocumentType=General Publications&FileName=2017-2018 Local Government Formation Manual Final Pub.pdf> (accessed 12/27/2017); Lists of Independent and Dependent Districts available through Dept. of Economic Opportunity, Special District Accountability Program, at <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (accessed 12/27/2017).

<sup>4</sup> This is known as the dual rational nexus test. *St. Johns County v. Northeast Florida Builders Association, Inc.*, 583 So. 2d 635, 637 (Fla. 1991), citing *Hollywood, Inc. v. Broward County*, 431 So. 2d 606, 611-612 (Fla. 4th DCA (1983), *rev. den.* 440 So. 2d 352 (Fla. 1983).

<sup>5</sup> See, e.g., Roads Impact Fee, ch. 2, art. VI, div. 2, s. 2-267(a), Land Development Code Lee County, Florida, at [https://library.municode.com/fl/lee\\_county/codes/land\\_development\\_code?nodeId=LADECO\\_CH2AD\\_ARTVIIMFE](https://library.municode.com/fl/lee_county/codes/land_development_code?nodeId=LADECO_CH2AD_ARTVIIMFE) (accessed 12/17/2017); Transportation Impact Fee, Ch. 56, Part I, s. 56-15.C.1, City of Orlando Code of Ordinances, at [https://library.municode.com/fl/orlando/codes/code\\_of\\_ordinances?nodeId=TITIICICO\\_CH56IMFE](https://library.municode.com/fl/orlando/codes/code_of_ordinances?nodeId=TITIICICO_CH56IMFE) (accessed 12/17/2017); Road Impact Fees, Miami-Dade County Code of Ordinances, s. 33E-6.1(c), at [dade\\_county/codes/code\\_of\\_ordinances?nodeId=CD\\_MIAMI-DADE\\_CO\\_FLORIDA\\_CH33EROIMFEOR\\_S33E-6.1PAROIMFE](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=CD_MIAMI-DADE_CO_FLORIDA_CH33EROIMFEOR_S33E-6.1PAROIMFE) (accessed 12/17/2017).

<sup>6</sup> Section 553.79, F.S.

<sup>7</sup> Section 163.3164(16), F.S.

A certificate of occupancy is required before a building or structure may be used or occupied.<sup>8</sup> The certificate is issued by the appropriate local building official after completion of all work and a final inspection of the building or structure shows no violations of the Florida Building Code or other applicable laws.<sup>9</sup>

### **Effect of the Bill**

The bill prohibits a local government from collecting impact fees earlier than the time the government issues a certificate of occupancy for the building.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 163.31801, F.S., to prohibit a local government from collecting impact fees prior to issuing a certificate of occupancy.

Section 2: Provides an effective date of July 1, 2018.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None. The bill will affect the timing when the fees may be collected but not the amount imposed by the local government.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The only impact would be the potential effect on private financing of the change in timing of collecting the fees.

#### **D. FISCAL COMMENTS:**

None.

## **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

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<sup>8</sup> Section 111.1, Florida Building Code – Building (6th ed. 2017), at <https://codes.iccsafe.org/public/document/FBC2017/chapter-1-scope-and-administration> (accessed 12/27/2017).

<sup>9</sup> Section 111.2, Florida Building Code (6th ed. 2017). *See also* Broward County Amendments to the 5<sup>th</sup> Edition (2014) Florida Building Code (Effective June 30, 2015, with amendments through March 2017), s. 110, “Inspections,” p. 1.39, at <http://www.broward.org/CodeAppeals/AboutUs/Documents/ch%201-5thEdition%20-PAssed%2003-09-2017.pdf> (accessed 12/26/2017).

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor authorizes administrative rulemaking by executive agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Senate companion bill, CS/SB 324, was amended extensively in its first committee of reference. The amended bill makes technical changes to s. 163.31801, F.S., and also requires:

- The collection of impact fees may be no earlier than the issuing of a building permit;
- The impact fee must have a rational nexus to the need for additional capital facilities;
- The impact fee also must have a rational nexus to the expenditure of funds collected and the benefits accruing to the new construction;
- The local government must designate the funds collected by the impact fees for acquiring the capital facilities to benefit the new residents; and
- Impact fees collected may not be used to pay existing debt or pay for prior approved projects unless such expenditure has a rational nexus to the impact generated by the new construction.

Other than changing the timing of collecting impact fees, these appear to codify the requirements for imposing and using impact fees articulated by the Florida Supreme Court in *St. Johns County v. Northeast Florida Builders Association, Inc.*, 583 So. 2d 635, 637 (Fla. 1991).

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES





Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Local, Federal & Veterans  
 2 Affairs Subcommittee  
 3 Representative Miller, M. offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

7 Section 1. Section 163.31801, Florida Statutes, is amended  
 8 to read:

9 163.31801 Impact fees; short title; intent; minimum  
 10 requirements; audits; challenges definitions; ordinances levying  
 11 impact fees.—

12 (1) This section may be cited as the "Florida Impact Fee  
 13 Act."

14 (2) The Legislature finds that impact fees are an  
 15 important source of revenue for a local government to use in  
 16 funding the infrastructure necessitated by new growth. The



Amendment No.

17 Legislature further finds that impact fees are an outgrowth of  
18 the home rule power of a local government to provide certain  
19 services within its jurisdiction. Due to the growth of impact  
20 fee collections and local governments' reliance on impact fees,  
21 it is the intent of the Legislature to ensure that, when a  
22 county or municipality adopts an impact fee by ordinance or a  
23 special district adopts an impact fee by resolution, the  
24 governing authority complies with this section.

25 (3) At a minimum, impact fees ~~An impact fee~~ adopted by  
26 ordinance of a county or municipality or by resolution of a  
27 special district must, ~~at minimum~~ satisfy the following  
28 conditions:

29 (a) ~~Require that~~ The calculation of the impact fees must  
30 fee be based on the most recent and localized data.

31 (b) The local government must provide for accounting and  
32 reporting of impact fee collections and expenditures. If a local  
33 governmental entity imposes an impact fee to address its  
34 infrastructure needs, the entity shall account for the revenues  
35 and expenditures of such impact fee in a separate accounting  
36 fund.

37 (c) ~~Limit~~ Administrative charges for the collection of  
38 impact fees must be limited to actual costs.

39 (d) ~~Require that~~ Notice must be provided no less than 90  
40 days before the effective date of an ordinance or resolution  
41 imposing a new or increased impact fees fee. A county or



Amendment No.

42 municipality is not required to wait 90 days to decrease,  
43 suspend, or eliminate an impact fees fee.

44 (e) Collection of the impact fees may not occur earlier  
45 than the issuance of the building permit for the property that  
46 is subject to the fee.

47 (f) The impact fee must be reasonably connected to, or  
48 have a rational nexus with, the need for additional capital  
49 facilities and the increased impact generated by the new  
50 residential or commercial construction.

51 (g) The impact fee must be reasonably connected to, or  
52 have a rational nexus with, the expenditures of the funds  
53 collected and the benefits accruing to the new residential or  
54 commercial construction.

55 (h) The local government must specifically earmark funds  
56 collected by the impact fees for use in acquiring capital  
57 facilities to benefit the new residents.

58 (i) The collection or expenditure of the impact fee  
59 revenues may not be used, in whole or part, to pay existing debt  
60 or be used for prior approved projects unless the expenditure is  
61 reasonably connected to, or has a rational nexus with, the  
62 increased impact generated by the new residential or commercial  
63 construction.

64 (4) Audits of financial statements of local governmental  
65 entities and district school boards which are performed by a  
66 certified public accountant pursuant to s. 218.39 and submitted

475811 - HB 697 Strike all Amendment.docx

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Amendment No.

67 to the Auditor General must include an affidavit signed by the  
68 chief financial officer of the local governmental entity or  
69 district school board stating that the local governmental entity  
70 or district school board has complied with this section.

71 (5) In any action challenging an impact fee, the  
72 government has the burden of proving by a preponderance of the  
73 evidence that the imposition or amount of the fee meets the  
74 requirements of state legal precedent or this section. The court  
75 may not use a deferential standard.

76 Section 2. This act shall take effect July 1, 2018.

77

78

79 T I T L E A M E N D M E N T

80 Remove lines 3-4 and insert:

81 F.S.; revising the minimum requirements for impact fees;



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 725 Permit Fees  
**SPONSOR(S):** Williamson  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1144

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Renner <i>JR</i>	Miller <i>E/H m</i>
2) Careers & Competition Subcommittee			
3) Government Accountability Committee			

**SUMMARY ANALYSIS**

Part IV of ch. 553, F.S., is known as the "Florida Building Codes Act (Act)." The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare. Under current law, each county has the authority to enforce the Florida Building Code, issue building permits, and post each type of building permit application on its website.

The bill requires the governing body of a local government to post its building permit and inspection fee schedules on its website. The bill also requires that before making any adjustment to a fee schedule, a governing body of a local government must publish a building permit and inspection utilization report and post it on its website. The report must be updated annually on the website and be easily accessible to the public.

The bill has an indeterminate fiscal impact on local governments.

The bill provides an effective date of July 1, 2018.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

###### Florida Building Codes Act

Part IV of ch. 553, F.S., is known as the “Florida Building Codes Act (Act).” The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public’s health, safety, and welfare.<sup>1</sup>

###### Fire Prevention Code

The State Fire Marshall must adopt, by rule, the Florida Fire Prevention Code (FFPC), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules. A new edition is adopted every three years.<sup>2</sup>

###### Enforcement of the Florida Building Code

The board of county commissioners of each county is authorized to enforce the Building Code and the Fire Code and to issue building permits.<sup>3</sup> It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the appropriate board of county commissioners, or from such persons as may by resolution be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the board.<sup>4</sup>

The board of county commissioners of each county and the governing body of a municipality are authorized to provide a schedule of reasonable inspection fees<sup>5</sup> in order to defer the costs of inspection and enforcement of the Building Code and Fire Code.<sup>6</sup> A county that issues building permits must post each type of building permit application on its website. Completed applications must be submitted electronically to the county or local enforcement agency building department, which must provide accepted methods of electronic submission. However, payments, attachments, or drawings required as part of the permit application may be submitted in person in a nonelectronic format, at the discretion of the building official.<sup>7</sup>

###### Local Government Fees

It is unlawful for any person, firm, corporation, or governmental entity to construct, erect, alter, modify, repair, or demolish any building without first obtaining a permit from the appropriate enforcing agency

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<sup>1</sup> Section 553.72(1), F.S.

<sup>2</sup> Section 633.202(1), F.S.

<sup>3</sup> Sections 125.56(1) and 125.01(1)(bb), F.S.

<sup>4</sup> Section 125.56(4)(a), F.S.

<sup>5</sup> See, e.g., Broward County website on *Impact and Concurrency Fees*, available at

<http://www.broward.org/Planning/Development/FAQs/Pages/Impact-and-Concurrency-Fees.aspx> (accessed 12/27/2017).

<sup>6</sup> Sections 125.56(2) and 166.222, F.S.

<sup>7</sup> Section 125.56(4)(b), F.S.

or from such persons delegated the authority to issue permits, upon the payment of reasonable fees adopted by the enforcing agency.<sup>8</sup>

Except for construction regarding correctional and mental health facilities, elevators, storage facilities, educational institutions, and toll collection facilities, each local government and each legally constituted enforcement district with statutory authority must regulate building construction.<sup>9</sup> Local governments are authorized to provide a schedule of consistent reasonable fees to be used solely for carrying out the local government's responsibilities in enforcing the Florida Building Code.<sup>10</sup> The basis for the fee structure must relate to the level of service provided by the local government.<sup>11</sup> Fees charged must be consistently applied.<sup>12</sup>

Local enforcement agencies, independent special districts,<sup>13</sup> or dependent special districts<sup>14</sup> may not require additional fees, charges, or expenses for:

- Providing proof of licensure pursuant to ch. 489, F.S.;
- Recording or filing a license issued; and
- Providing, recording, or filing evidence of workers' compensation insurance coverage required by ch. 440, F.S.<sup>15</sup>

A "local enforcement agency" means the agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for the design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.<sup>16</sup>

### **Effect of Proposed Changes**

The bill requires the governing body of a local government or municipality to post its permit and inspection fee schedules on its website with a link to the building permit and inspection utilization report.

The bill also provides that before making any adjustment to a fee schedule, the governing body of a local government is required to publish a building permit and inspection utilization report and post it on the local government's website. The report must be updated annually on the website and easily accessible to the public. The report must include the following:

- Direct and indirect costs incurred by the local government to implement the Florida Building Code, including costs related to the review of:

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<sup>8</sup> Section 553.79(1), F.S.

<sup>9</sup> Section 553.80(1), F.S.

<sup>10</sup> The phrase "enforcing the Building Code" includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. *See* s. 553.80(7)(a), F.S.

<sup>11</sup> Section 553.80(7), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 189.012(3), F.S., defines an "independent special district" as having a governing board comprised of members which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Additionally, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

<sup>14</sup> A dependent special district has a governing board comprised of members which are identical in membership to, or all appointed by, or any removable at will by, the governing body of a single county or municipality, or the district budget may be affirmed or vetoed by the governing body of a single county or municipality. *See* s. 189.012(2), F.S. A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. *See 2017-2018 Local Gov't Formation Manual* at pg. 64, available at <http://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911>

<sup>15</sup> Section 553.80(7)(d), F.S.

<sup>16</sup> Section 553.71(5), F.S.

- Building plans;
- Building inspections;
- Building re-inspections;
- Building permit processing;
- Building code enforcement; and
- Building fire inspections.
- Number of building permits requested;
- Number of building permits issued;
- Number of building inspections and re-inspections conducted;
- Number of personnel employed by the local government to implement the Florida Building Code, issued by building permits, and conduct inspections;
- Salary related employee benefit costs incurred by the local government to implement the Florida Building Code, issue building permits, and conduct inspections;
- Revenue derived from fees pursuant to this section;
- Revenue derived from fines pursuant to this section;
- Investment earnings derived from the local government's investment of revenue derived from fees and fines pursuant to this section;
- Balances carried forward by the local government pursuant to this section; and
- Balances refunded by the local government pursuant to this section.

**B. SECTION DIRECTORY:**

- Section 1 Amends s. 125.56, F.S., requiring the governing body of a local government or municipality to post its permit and inspection fee schedules and a link to an annual building permit and inspection report on its website.
- Section 2 Amends s. 553.80, F.S., requiring a governing body of a local government to publish a report and post it on the local government's website; providing reporting requirements.
- Section 3 Provides an effective date of July 1, 2018.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:  
None.
2. Expenditures:  
None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.
2. Expenditures:  
Indeterminate. Some local governments may require an initial expenditure of funds to revise the local government's existing website to include the ability to post permit and inspection fee schedules as well as a report on the local government's website. This may be an issue for a local government with minimal website capability.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Requiring a local government to post its permit and inspection fee schedules as well as a building permit and inspection utilization report on its website will help applicants for building permits assess the associated costs of the permit.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

The county/municipality mandates provision of Art. VII, section 18 of the Florida Constitution may apply because this bill requires local governments to revise their websites and post their permit and inspection fee schedules with a link to the building permit and inspection utilization report on their websites. This may result in additional expenditures to comply with the statute. However, an exemption may apply because the fiscal impact is likely to be insignificant since local governments are already authorized to post each type of building permit application on their websites.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill amends s. 125.56, F.S., pertaining to the enforcement of the Florida Building and Fire Protection Codes by the board of commissioners of a county, by adding requirements for municipalities with authority under s. 166.222, F.S., or other local governments with authority under s. 553.80, F.S. Placing the new requirement for all entities authorized to impose permit and inspection fees within a statute currently directed only to counties may create confusion as to the applicability of the new requirements to non-county local governments.

Section 1 of the bill requires each local government to include on its website a link to the building permit and inspection utilization report required under s. 553.80(7), F.S. However, section 3 of the bill requires publication of such a report before the local government makes any adjustment to a fee schedule. The bill is not clear as to whether a local government is required to prepare such a report, and update it annually, if the local government makes no adjustments to a fee schedule.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

A bill to be entitled

An act relating to permit fees; amending s. 125.56, F.S.; requiring the governing body of a local government to post its permit and inspection fee schedules and a link to an annual building permit and inspection report on its website; amending s. 553.80, F.S.; requiring the governing body of a local government to publish such report and post it on the local government's website; providing reporting requirements; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (4) of section 125.56, Florida Statutes, to read:

125.56 Enforcement and amendment of the Florida Building Code and the Florida Fire Prevention Code; inspection fees; inspectors; etc.--

(4)

(c) The governing body of a local government authorized under this section, s. 166.222, or s. 553.80 to issue fees shall post its permit and inspection fee schedules on its website with a link to the building permit and inspection utilization report required under s. 553.80(7).

Section 2. Subsection (7) of section 553.80, Florida



26 Statutes, is amended to read:

27 553.80 Enforcement.—

28 (7) (a) The governing bodies of local governments may  
 29 provide a schedule of reasonable fees, as authorized by s.  
 30 125.56(2) or s. 166.222 and this section, for enforcing this  
 31 part. These fees, and any fines or investment earnings related  
 32 to the fees, shall be used solely for carrying out the local  
 33 government's responsibilities in enforcing the Florida Building  
 34 Code. When providing a schedule of reasonable fees, the total  
 35 estimated annual revenue derived from fees, and the fines and  
 36 investment earnings related to the fees, may not exceed the  
 37 total estimated annual costs of allowable activities. Any  
 38 unexpended balances shall be carried forward to future years for  
 39 allowable activities or shall be refunded at the discretion of  
 40 the local government. The basis for a fee structure for  
 41 allowable activities shall relate to the level of service  
 42 provided by the local government and shall include consideration  
 43 for refunding fees due to reduced services based on services  
 44 provided as prescribed by s. 553.791, but not provided by the  
 45 local government. Fees charged shall be consistently applied.

46 1. ~~(a)~~ As used in this subsection, the phrase "enforcing  
 47 the Florida Building Code" includes the direct costs and  
 48 reasonable indirect costs associated with review of building  
 49 plans, building inspections, reinspections, and building permit  
 50 processing; building code enforcement; and fire inspections

51 associated with new construction. The phrase may also include  
 52 training costs associated with the enforcement of the Florida  
 53 Building Code and enforcement action pertaining to unlicensed  
 54 contractor activity to the extent not funded by other user fees.

55 2.~~(b)~~ The following activities may not be funded with fees  
 56 adopted for enforcing the Florida Building Code:

57 a.1. Planning and zoning or other general government  
 58 activities.

59 b.2. Inspections of public buildings for a reduced fee or  
 60 no fee.

61 c.3. Public information requests, community functions,  
 62 boards, and any program not directly related to enforcement of  
 63 the Florida Building Code.

64 d.4. Enforcement and implementation of any other local  
 65 ordinance, excluding validly adopted local amendments to the  
 66 Florida Building Code and excluding any local ordinance directly  
 67 related to enforcing the Florida Building Code as defined in  
 68 subparagraph 1. paragraph (a).

69 3.~~(e)~~ A local government shall use recognized management,  
 70 accounting, and oversight practices to ensure that fees, fines,  
 71 and investment earnings generated under this subsection are  
 72 maintained and allocated or used solely for the purposes  
 73 described in subparagraph 1. paragraph (a).

74 4.~~(d)~~ The local enforcement agency, independent district,  
 75 or special district may not require at any time, including at

76 the time of application for a permit, the payment of any  
 77 additional fees, charges, or expenses associated with:

78     ~~a.1.~~ Providing proof of licensure pursuant to chapter 489;  
 79     ~~b.2.~~ Recording or filing a license issued pursuant to this  
 80 chapter; or

81     ~~c.3.~~ Providing, recording, or filing evidence of workers'  
 82 compensation insurance coverage as required by chapter 440.

83     (b) Before making any adjustment to a fee schedule, the  
 84 governing body of a local government shall publish a building  
 85 permit and inspection utilization report and post it on the  
 86 local government's website. The report shall be updated annually  
 87 on such website and be easily accessible to the public. The  
 88 report shall include:

89         1. Direct and indirect costs incurred by the local  
 90 government to implement the Florida Building Code, including  
 91 costs related to the review of:

92             a. Building plans.  
 93             b. Building inspections.  
 94             c. Building reinspections.  
 95             d. Building permit processing.  
 96             e. Building code enforcement.  
 97             f. Building fire inspections.

98         2. Number of building permits requested.  
 99         3. Number of building permits issued.  
 100         4. Number of building inspections and reinspections

101 | conducted.

102 |       5. Number of personnel employed by the local government to  
 103 | implement the Florida Building Code, issue building permits, and  
 104 | conduct inspections.

105 |       6. Salary and related employee benefit costs incurred by  
 106 | the local government to implement the Florida Building Code,  
 107 | issue building permits, and conduct inspections.

108 |       7. Revenue derived from fees pursuant to s. 553.80(7).

109 |       8. Revenue derived from fines pursuant to s. 553.80(7).

110 |       9. Investment earnings derived from the local government's  
 111 | investment of revenue derived from fees and fines pursuant to s.  
 112 | 533.80(7).

113 |       10. Balances carried forward by the local government  
 114 | pursuant to s. 553.80(7).

115 |       11. Balances refunded by the local government pursuant to  
 116 | s. 553.80(7).

117 |       Section 3. This act shall take effect July 1, 2018.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Local, Federal & Veterans  
 2 Affairs Subcommittee  
 3 Representative Williamson offered the following:

**Amendment (with title amendment)**

Remove lines 20-21 and insert:

7 (c) The governing body of a county authorized under this  
 8 section or s. 553.80 to issue fees shall

9 Between lines 24 and 25, insert:

10 Section 2. Subsection (2) is added to section 166.222,  
 11 Florida Statutes, to read:

12 166.222(1) Building code inspection fees.—The governing  
 13 body of a municipality may provide a schedule of reasonable  
 14 inspection fees in order to defer the costs of inspection and  
 15 enforcement of the provisions of its building code.



Amendment No.

16           (2) The governing body of a municipality authorized under  
17 s. 553.80 to issue fees shall post its permit and inspection fee  
18 schedules on its website with a link to the building permit and  
19 inspection utilization report required under s. 553.80(7).

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23

**T I T L E   A M E N D M E N T**

24

Remove lines 3-6 and insert:

25

F.S.; requiring the governing body of a county to post its

26

permit and inspection fee schedules and a link to the annual

27

building permit and inspection report on its website; amending

28

s. 166.222, F.S.; requiring the governing body of a municipality

29

to post its permit and inspection fee schedules and a link to an

30

annual building permit and inspection report on its website;


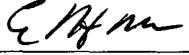
31

amending s. 553.80,



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 765 Truth in Millage Notices  
**SPONSOR(S):** Ingoglia  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Darden 	Miller 
2) Ways & Means Committee			
3) Government Accountability Committee			

**SUMMARY ANALYSIS**

Section 200.069, F.S., requires each property appraiser to prepare and deliver a “notice of proposed property taxes and non-ad valorem assessments” to each taxpayer listed on the current year’s assessment roll. This notice is commonly referred to as a “truth-in-millage notice” or “TRIM notice.” The notice informs the taxpayer of the property taxes and millage rate assessed against the property for the present year, the property taxes and millage rate under the proposed budget of each taxing authority, the property taxes and millage rate if the taxing authority made no budget changes from the previous year, and the date, time, and meeting location at which the taxing authority will adopt the rate for the upcoming year.

The bill authorizes the property appraiser of each county to elect to post TRIM notices on the property appraiser’s website in lieu of providing notice by first-class mail. The property appraiser’s website must give taxpayers the option to receive an email notification within three business days after the most recent notice is posted. The bill requires the property appraisers electing to provide TRIM notices on their respective websites to mail a postcard to each taxpayer on the current year’s assessment roll for the first three years stating the web-based notice system is in operation, informing the taxpayer that TRIM notices are available online instead of being mailed, and that the taxpayer may sign up for an email notification. The bill makes conforming changes to statutes that reference the mailing of the TRIM notice.

The bill provides an effective date of July 1, 2018.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Ad Valorem Taxation

The Florida Constitution reserves to local governments the authority to levy ad valorem taxes on real and tangible personal property.<sup>1</sup> Ad valorem taxes are levied annually by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>3</sup> and provides for specified assessment limitations, property classifications, and exemptions.<sup>4</sup> After the property appraiser considers any assessment limitation or use classification affecting the just value of a parcel of real property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>5</sup>

##### Determination of Millage

Each property appraiser must complete an assessment of the value of all property within the appraiser's jurisdiction and certify to the taxing authorities the taxable value of such property no later than July 1 of each year, unless extended for good cause by the Department of Revenue.<sup>6</sup> The taxable value of a parcel includes both the value of structures and other improvements on the parcel and the value of the land on which those structures and improvements sit.<sup>7</sup> The property appraiser also ensures that all real property is listed on the real property assessment roll.<sup>8</sup> The certification from the property appraiser to each taxing authority must include the procedure for calculating the "rolled-back rate"<sup>9</sup> as well as the maximum millage rate.<sup>10</sup>

Each taxing authority uses the taxable value provided by the property appraiser to prepare a proposed millage rate that is levied on each parcel's taxable value.<sup>11</sup> Each taxing authority must compute proposed or final millage rates based on utilizing at least 95 percent of the taxable value of the property

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<sup>1</sup> Art. VII, ss. 1(a), 9(a), Fla. Const.

<sup>2</sup> Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Article VII, s. 4, Fla. Const.

<sup>4</sup> Article VII, ss. 3, 4, and 6, Fla. Const.

<sup>5</sup> Section 196.031, F.S.

<sup>6</sup> Section 193.023(1), F.S.

<sup>7</sup> See *The Appraisal Process and Your Taxes*, Hillsborough County Property Appraiser, available at <http://www.hcpafl.org/Property-Info/The-Appraisal-Process-Your-Taxes> (last accessed Dec. 28, 2017) (process for calculating property tax values).

<sup>8</sup> Section 193.085(1), F.S.

<sup>9</sup> The "rolled-back rate" is defined as "[A] millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year's total taxable value, and any dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value." Section 200.065(1), F.S.

<sup>10</sup> Section 200.065(1), F.S. The "maximum millage rate" is the millage rate a local government may levy by a simple majority vote of its governing body. S. 200.065(5), F.S.

<sup>11</sup> Section 200.065(2)(a)1., F.S.

within the boundaries of the taxing authority. Each taxing authority must prepared and submit its tentative budget in accordance with applicable law.<sup>12</sup>

Within 35 days of the certification of value by the property appraiser, each taxing authority must inform the property appraiser of its proposed millage rate, its rolled-back rate, and the date, time, and location of the public hearing to be held to consider the proposed millage rate and tentative budget.<sup>13</sup> This information is used by the property appraiser to prepare notices of proposed property taxes.<sup>14</sup> The notice must be mailed by the later of 55 days after the certification of value by the property appraiser or 10 days after the tax roll is approved or interim roll procedures under s. 193.1145, F.S. have been instituted. If the notice is not mailed until 10 days after the tax roll is approved or interim roll procedures are instituted, all deadlines under s. 200.065 are extended by a number of days equal to the difference between the deadline for the mailing of proposed notices and 55 days after the certification of value. If a taxing authority fails to provide timely notice to the property appraiser, the taxing authority is prohibited from levying a millage rate higher than the rolled-back rate for the upcoming fiscal year.

Between 65 and 80 days after the certification of value, the governing body of each taxing authority must hold a public hearing on the tentative budget and proposed millage rate.<sup>15</sup> During the meeting, the governing body of the taxing authority may amend the tentative budget, adopt the amended tentative budget, recompute the proposed millage rate, and publicly announce the percentage (if any) by which the recomputed millage rate exceeds the rolled-back rate. If the recomputed millage rate exceeds the rolled-back rate, the percentage difference is included in the notice of proposed tax increase issued pursuant to s. 200.065(3)(a), F.S.<sup>16</sup>

#### Truth-in-Millage (TRIM) Notice

The property appraiser must provide each taxpayer listed on the current year's assessment roll a notice of proposed property taxes and non-ad valorem assessments by first-class mail.<sup>17</sup> This notice, more commonly known as a truth-in-millage, or TRIM, notice, is sent on behalf of all taxing authorities levying ad valorem taxes and non-ad valorem assessments on each parcel listed on the current year's assessment roll.<sup>18</sup> TRIM notices are prepared using a standardized form specified by statute. The property appraiser may not alter the contents of the form; however, the Department of Revenue may adjust the spacing and placement of elements on the form as necessitated by the needs of local taxing authorities.

The first page of the TRIM notice states that the notice is a "notice of proposed property taxes" and that the notice is not a bill.<sup>19</sup> The notice must inform the taxpayer that the taxing authorities which levy property taxes on the property will soon hold public hearings to adopt budgets and tax rates for the following year. The notice must include a brief legal description of the property, the name and mailing address of the owner of record, and the tax information applicable to the specific parcel in question.<sup>20</sup> The notice must include seven columns labeled:<sup>21</sup>

- "Taxing Authority,"
- "Your Property Taxes Last Year,"

<sup>12</sup> See s. 200.065(2)(a)2.-4., F.S. (requiring county commissions to prepare and submit budgets in accordance with s. 129.03, F.S., requiring school districts to prepare and submit budgets in accordance with Ch. 1011, F.S., and requiring other taxing authorities to prepare and consider budgets in accordance with s. 200.065 and other provisions of law).

<sup>13</sup> Section 200.065(2)(b), F.S.

<sup>14</sup> This notice is commonly referred to as a truth-in-millage, or TRIM, notice.

<sup>15</sup> Section 200.065(2)(c), F.S.

<sup>16</sup> See s. 200.065(2)(c), F.S.

<sup>17</sup> Section 200.069, F.S.

<sup>18</sup> See *Your TRIM Notice Explained*, Leon County Property Appraiser, available at <http://www.leonpa.org/dnn/portals/0/Documents/TRIM%20Brochure.pdf> (last accessed Dec. 28, 2017).

<sup>19</sup> Section 200.069(1), F.S.

<sup>20</sup> Section 200.069(2)(a), F.S.

<sup>21</sup> *Id.*

- “Last Year’s Adjusted Tax Rate (Millage),”<sup>22</sup>
- “Your Taxes This Year IF NO Budget Change Is Adopted,”
- “Tax Rate This Year IF PROPOSED Budget Is Adopted (Millage),”
- “Your Taxes This Year IF PROPOSED Budget Change Is Adopted,” and
- “A Public Hearing on the Proposed Taxes and Budget Will Be Held.”

Under each column, the notice must include an entry for:<sup>23</sup>

- the county;
- the school district levy required pursuant to s. 1011.60(6), F.S.;
- other operating school levies;
- the municipality or municipal service taxing unit or units in which the parcel lies (if any);
- the water management district levying pursuant to s. 373.503, F.S.;
- the independent special districts in which the parcel lies (if any); and
- all voted levies for debt service applicable to the parcel (if any).

The “taxing authority” column contains the brief, commonly used name for each taxing authority or its governing body.<sup>24</sup> The school district levies are indented and preceded by “Public Schools” with the school district levy required pursuant to s. 1011.60(6), F.S. labeled as “by state law,” while other operating school levies are labeled as “by local board.”

The “public hearing” column states the times and places for local government board meetings at which tentative budgets and proposed tax rates are to be considered, prior to final approval.<sup>25</sup>

The bottom of the notice contains a final entry labeled “Total Property Taxes,” listing the total amount of taxes due to all taxing authorities levying ad valorem taxes on the property for the present year, if the rolled-back rate is adopted, and under the proposed budget.<sup>26</sup>

The second page of the notice states the property’s market value, value of exemptions, and taxable values for the previous and current year for each taxing authority that levying ad valorem tax against the property.<sup>27</sup> The second page also provides the taxpayer notice of how to challenge the assessed value of the property.<sup>28</sup>

If a local governing board is levying non-ad valorem assessments against the property, this information may be included in the notice, but must be clearly delineated from information concerning proposed property taxes.<sup>29</sup>

### **Effect of Proposed Changes**

The bill authorizes the property appraiser of each county to make TRIM notices available on the property appraiser’s website in place of delivering a copy of the notice by first-class mail to each taxpayer listed on the current year’s assessment roll. If a property appraiser posts TRIM notices to the property appraiser’s website, the bill requires the website to give taxpayers the option to request and receive an email notification within three business days after the most recent notice is posted.

<sup>22</sup> “Last years’ adjusted tax rate” is the rolled-back rate. S. 200.069(2)(b), F.S. For voted levies for debt service, “last years’ adjusted tax rate” is the rate authorized by referendum. S. 200.069(4)(c), F.S.

<sup>23</sup> Section 200.069(3), F.S.

<sup>24</sup> Section 200.069(4)(a), F.S.

<sup>25</sup> Section 200.069(4)(g), F.S.

<sup>26</sup> Section 200.069(5), F.S.

<sup>27</sup> Section 200.069(6)(a), F.S.

<sup>28</sup> Section 200.069(7), F.S.

<sup>29</sup> Section 200.069(10), F.S.

The bill requires the property appraiser to mail a postcard to each taxpayer listed on the current year's assessment roll for the first three years the web-based noticed system is in use, informing the taxpayer that TRIM notices are no longer delivered by first-class mail, are available online, and that the taxpayer may register for an email alert.

The bill also adds references to the electronic posting of a TRIM notice to other statutes that reference the notice provided under s. 200.069, F.S.

**B. SECTION DIRECTORY:**

- Section 1: Amends s. 200.069, F.S., to authorize the property appraiser of each county to make notice of proposed property taxes and non-ad valorem assessments available on the property appraiser's website in place of first-class mail.
- Section 2: Amends s. 192.0105, F.S., adding a conforming reference concerning electronic posting of notices to Taxpayer's Bill of Rights.
- Section 3: Amends s. 193.073, F.S., adding a conforming reference concerning electronic posting of notices requiring that the property appraiser issue a notice informing a taxpayer of an erroneous or incomplete statement of personal property.
- Section 4: Amends s. 193.114, F.S., adding a conforming reference concerning electronic posting of notices to required documentation for the preparation of assessment rolls.
- Section 5: Amends s. 193.1142, F.S., adding a conforming reference concerning electronic posting of notices to the requirement that the assessment roll must be approved prior to the issuance of notices.
- Section 6: Provides an effective date of July 1, 2018.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:  
None.
2. Expenditures:  
None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.
2. Expenditures:  
The bill would reduce local government expenditures to the extent operating and maintaining a website contain TRIM notices is cheaper than the cost of sending a notice via first-class mail to property owners.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not require a property appraiser to provide taxpayers the option to request to continue to receive a TRIM notice by mail. It is also unclear how taxpayers would be notified that TRIM notices are only available online after the first three years of the web-based notification system.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

A bill to be entitled

An act relating to truth in millage notices; amending s. 200.069, F.S.; authorizing a property appraiser to make proposed property tax and non-ad valorem assessment notices available on the property appraiser's website; requiring that a property appraiser's website provide an option for a taxpayer to request and receive an e-mail notification when such notices are posted on the website; requiring a property appraiser to mail a postcard containing specified information for the first 3 years in which he or she implements a web-based noticing system; amending ss. 192.0105, 193.073, 193.114, and 193.1142, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 200.069, Florida Statutes, is amended to read:

200.069 Notice of proposed property taxes and non-ad valorem assessments.—Pursuant to s. 200.065(2)(b), the property appraiser, in the name of the taxing authorities and local governing boards levying non-ad valorem assessments within his or her jurisdiction and at the expense of the county, shall

26 | prepare and make available on the property appraiser's website  
27 | or deliver by first-class mail to each taxpayer to be listed on  
28 | the current year's assessment roll a notice of proposed property  
29 | taxes, which notice shall contain the elements and use the  
30 | format provided in the following form. Notwithstanding the  
31 | provisions of s. 195.022, no county officer shall use a form  
32 | other than that provided herein. The Department of Revenue may  
33 | adjust the spacing and placement on the form of the elements  
34 | listed in this section as it considers necessary based on  
35 | changes in conditions necessitated by various taxing  
36 | authorities. If the elements are in the order listed, the  
37 | placement of the listed columns may be varied at the discretion  
38 | and expense of the property appraiser, and the property  
39 | appraiser may use printing or electronic technology and devices  
40 | to complete the form, the spacing, and the placement of the  
41 | information in the columns. A county officer may use a form  
42 | other than that provided by the department for purposes of this  
43 | part, but only if his or her office pays the related expenses  
44 | and he or she obtains prior written permission from the  
45 | executive director of the department; however, a county officer  
46 | may not use a form the substantive content of which is at  
47 | variance with the form prescribed by the department. The county  
48 | officer may continue to use such an approved form until the law  
49 | that specifies the form is amended or repealed or until the  
50 | officer receives written disapproval from the executive

51 director.

52 (1) (a) If a property appraiser posts the notices on the  
 53 property appraiser's website, the website must provide an option  
 54 for a taxpayer to request and receive an e-mail notification  
 55 within 3 business days after the most recent notices are posted  
 56 on the website.

57 (b) Beginning in the year in which a property appraiser  
 58 implements a web-based noticing system and for 2 years  
 59 thereafter, the property appraiser shall prepare and mail a  
 60 postcard to each taxpayer who is listed on the current year's  
 61 assessment roll informing the taxpayer that the notices of  
 62 proposed property taxes and non-ad valorem assessments are no  
 63 longer delivered by first-class mail but are posted on the  
 64 property appraiser's website. The postcard must inform the  
 65 taxpayer that the website allows the taxpayer to request and  
 66 receive an e-mail notification as set forth in paragraph (a).

67 (2) (a) The first page of the notice shall read:

68 NOTICE OF PROPOSED PROPERTY TAXES

69 DO NOT PAY—THIS IS NOT A BILL

70 The taxing authorities which levy property taxes against  
 71 your property will soon hold PUBLIC HEARINGS to adopt budgets  
 72 and tax rates for the next year.

73 The purpose of these PUBLIC HEARINGS is to receive opinions  
 74 from the general public and to answer questions on the proposed  
 75 tax change and budget PRIOR TO TAKING FINAL ACTION.



76 Each taxing authority may AMEND OR ALTER its proposals at  
 77 the hearing.

78 (b)~~(2)~~~~(a)~~ The notice shall include a brief legal  
 79 description of the property, the name and mailing address of the  
 80 owner of record, and the tax information applicable to the  
 81 specific parcel in question. The information shall be in  
 82 columnar form. There shall be seven column headings which shall  
 83 read: "Taxing Authority," "Your Property Taxes Last Year," "Last  
 84 Year's Adjusted Tax Rate (Millage)," "Your Taxes This Year IF NO  
 85 Budget Change Is Adopted," "Tax Rate This Year IF PROPOSED  
 86 Budget Is Adopted (Millage)," "Your Taxes This Year IF PROPOSED  
 87 Budget Change Is Adopted," and "A Public Hearing on the Proposed  
 88 Taxes and Budget Will Be Held:."

89 (c)~~(b)~~ As used in this section, the term "last year's  
 90 adjusted tax rate" means the rolled-back rate calculated  
 91 pursuant to s. 200.065(1).

92 (3) There shall be under each column heading an entry for  
 93 the county; the school district levy required pursuant to s.  
 94 1011.60(6); other operating school levies; the municipality or  
 95 municipal service taxing unit or units in which the parcel lies,  
 96 if any; the water management district levying pursuant to s.  
 97 373.503; the independent special districts in which the parcel  
 98 lies, if any; and for all voted levies for debt service  
 99 applicable to the parcel, if any.

100 (4) For each entry listed in subsection (3), there shall

101 appear on the notice the following:

102 (a) In the first column, a brief, commonly used name for  
 103 the taxing authority or its governing body. The entry in the  
 104 first column for the levy required pursuant to s. 1011.60(6)  
 105 shall be "By State Law." The entry for other operating school  
 106 district levies shall be "By Local Board." Both school levy  
 107 entries shall be indented and preceded by the notation "Public  
 108 Schools:". For each voted levy for debt service, the entry shall  
 109 be "Voter Approved Debt Payments."

110 (b) In the second column, the gross amount of ad valorem  
 111 taxes levied against the parcel in the previous year. If the  
 112 parcel did not exist in the previous year, the second column  
 113 shall be blank.

114 (c) In the third column, last year's adjusted tax rate or,  
 115 in the case of voted levies for debt service, the tax rate  
 116 previously authorized by referendum.

117 (d) In the fourth column, the gross amount of ad valorem  
 118 taxes which will apply to the parcel in the current year if each  
 119 taxing authority levies last year's adjusted tax rate or, in the  
 120 case of voted levies for debt service, the amount previously  
 121 authorized by referendum.

122 (e) In the fifth column, the tax rate that each taxing  
 123 authority must levy against the parcel to fund the proposed  
 124 budget or, in the case of voted levies for debt service, the tax  
 125 rate previously authorized by referendum.

126 (f) In the sixth column, the gross amount of ad valorem  
 127 taxes that must be levied in the current year if the proposed  
 128 budget is adopted.

129 (g) In the seventh column, the date, the time, and a brief  
 130 description of the location of the public hearing required  
 131 pursuant to s. 200.065(2)(c).

132 (5) Following the entries for each taxing authority, a  
 133 final entry shall show: in the first column, the words "Total  
 134 Property Taxes:" and in the second, fourth, and sixth columns,  
 135 the sum of the entries for each of the individual taxing  
 136 authorities. The second, fourth, and sixth columns shall,  
 137 immediately below said entries, be labeled Column 1, Column 2,  
 138 and Column 3, respectively. Below these labels shall appear, in  
 139 boldfaced type, the statement: SEE REVERSE SIDE FOR EXPLANATION.

140 (6)(a) The second page of the notice shall state the  
 141 parcel's market value and for each taxing authority that levies  
 142 an ad valorem tax against the parcel:

143 1. The assessed value, value of exemptions, and taxable  
 144 value for the previous year and the current year.

145 2. Each assessment reduction and exemption applicable to  
 146 the property, including the value of the assessment reduction or  
 147 exemption and tax levies to which they apply.

148 (b) The reverse side of the second page shall contain  
 149 definitions and explanations for the values included on the  
 150 front side.

151 (7) The following statement shall appear after the values  
 152 listed on the front of the second page:

153 If you feel that the market value of your property is  
 154 inaccurate or does not reflect fair market value, or if you are  
 155 entitled to an exemption or classification that is not reflected  
 156 above, contact your county property appraiser at ...(phone  
 157 number)... or ...(location)....

158 If the property appraiser's office is unable to resolve the  
 159 matter as to market value, classification, or an exemption, you  
 160 may file a petition for adjustment with the Value Adjustment  
 161 Board. Petition forms are available from the county property  
 162 appraiser and must be filed ON OR BEFORE ...(date)....

163 (8) The reverse side of the first page of the form shall  
 164 read:

165 EXPLANATION

166 \*COLUMN 1—"YOUR PROPERTY TAXES LAST YEAR"

167 This column shows the taxes that applied last year to your  
 168 property. These amounts were based on budgets adopted last year  
 169 and your property's previous taxable value.

170 \*COLUMN 2—"YOUR TAXES IF NO BUDGET CHANGE IS ADOPTED"

171 This column shows what your taxes will be this year IF EACH  
 172 TAXING AUTHORITY DOES NOT CHANGE ITS PROPERTY TAX LEVY. These  
 173 amounts are based on last year's budgets and your current  
 174 assessment.

175 \*COLUMN 3—"YOUR TAXES IF PROPOSED BUDGET CHANGE IS ADOPTED"

176 This column shows what your taxes will be this year under the  
 177 BUDGET ACTUALLY PROPOSED by each local taxing authority. The  
 178 proposal is NOT final and may be amended at the public hearings  
 179 shown on the front side of this notice. The difference between  
 180 columns 2 and 3 is the tax change proposed by each local taxing  
 181 authority and is NOT the result of higher assessments.

182 \*Note: Amounts shown on this form do NOT reflect early payment  
 183 discounts you may have received or may be eligible to receive.  
 184 (Discounts are a maximum of 4 percent of the amounts shown on  
 185 this form.)

186 (9) The bottom portion of the notice shall further read in  
 187 bold, conspicuous print:

188 "Your final tax bill may contain non-ad valorem assessments  
 189 which may not be reflected on this notice such as assessments  
 190 for roads, fire, garbage, lighting, drainage, water, sewer, or  
 191 other governmental services and facilities which may be levied  
 192 by your county, city, or any special district."

193 (10)(a) If requested by the local governing board levying  
 194 non-ad valorem assessments and agreed to by the property  
 195 appraiser, the notice specified in this section may contain a  
 196 notice of proposed or adopted non-ad valorem assessments. If so  
 197 agreed, the notice shall be titled:

198 NOTICE OF PROPOSED PROPERTY TAXES  
 199 AND PROPOSED OR ADOPTED  
 200 NON-AD VALOREM ASSESSMENTS

DO NOT PAY—THIS IS NOT A BILL

201  
202 There must be a clear partition between the notice of proposed  
203 property taxes and the notice of proposed or adopted non-ad  
204 valorem assessments. The partition must be a bold, horizontal  
205 line approximately 1/8-inch thick. By rule, the department  
206 shall provide a format for the form of the notice of proposed or  
207 adopted non-ad valorem assessments which meets the following  
208 minimum requirements:

209 1. There must be subheading for columns listing the  
210 levying local governing board, with corresponding assessment  
211 rates expressed in dollars and cents per unit of assessment, and  
212 the associated assessment amount.

213 2. The purpose of each assessment must also be listed in  
214 the column listing the levying local governing board if the  
215 purpose is not clearly indicated by the name of the board.

216 3. Each non-ad valorem assessment for each levying local  
217 governing board must be listed separately.

218 4. If a county has too many municipal service benefit  
219 units or assessments to be listed separately, it shall combine  
220 them by function.

221 5. A brief statement outlining the responsibility of the  
222 tax collector and each levying local governing board as to any  
223 non-ad valorem assessment must be provided on the form,  
224 accompanied by directions as to which office to contact for  
225 particular questions or problems.

226 (b) If the notice includes all adopted non-ad valorem  
 227 assessments, the provisions contained in subsection (9) shall  
 228 not be placed on the notice.

229 Section 2. Paragraph (a) of subsection (1) of section  
 230 192.0105, Florida Statutes, is amended to read:

231 192.0105 Taxpayer rights.—There is created a Florida  
 232 Taxpayer's Bill of Rights for property taxes and assessments to  
 233 guarantee that the rights, privacy, and property of the  
 234 taxpayers of this state are adequately safeguarded and protected  
 235 during tax levy, assessment, collection, and enforcement  
 236 processes administered under the revenue laws of this state. The  
 237 Taxpayer's Bill of Rights compiles, in one document, brief but  
 238 comprehensive statements that summarize the rights and  
 239 obligations of the property appraisers, tax collectors, clerks  
 240 of the court, local governing boards, the Department of Revenue,  
 241 and taxpayers. Additional rights afforded to payors of taxes and  
 242 assessments imposed under the revenue laws of this state are  
 243 provided in s. 213.015. The rights afforded taxpayers to assure  
 244 that their privacy and property are safeguarded and protected  
 245 during tax levy, assessment, and collection are available only  
 246 insofar as they are implemented in other parts of the Florida  
 247 Statutes or rules of the Department of Revenue. The rights so  
 248 guaranteed to state taxpayers in the Florida Statutes and the  
 249 departmental rules include:

250 (1) THE RIGHT TO KNOW.—

251 (a) The right to be sent a notice of, or have access via a  
 252 website to view, proposed property taxes and proposed or adopted  
 253 non-ad valorem assessments (see ss. 194.011(1), 200.065(2)(b)  
 254 and (d) and (13)(a), and 200.069). The notice or website must  
 255 also inform the taxpayer that the final tax bill may contain  
 256 additional non-ad valorem assessments (see s. 200.069(9)).

257  
 258 Notwithstanding the right to information contained in this  
 259 subsection, under s. 197.122 property owners are held to know  
 260 that property taxes are due and payable annually and are charged  
 261 with a duty to ascertain the amount of current and delinquent  
 262 taxes and obtain the necessary information from the applicable  
 263 governmental officials.

264 Section 3. Paragraph (a) of subsection (1) of section  
 265 193.073, Florida Statutes, is amended to read:

266 193.073 Erroneous returns; estimate of assessment when no  
 267 return filed.—

268 (1)(a) Upon discovery that an erroneous or incomplete  
 269 statement of personal property has been filed by a taxpayer or  
 270 that all the property of a taxpayer has not been returned for  
 271 taxation, the property appraiser shall mail a notice informing  
 272 the taxpayer that an erroneous or incomplete statement of  
 273 personal property has been filed. Such notice shall be mailed at  
 274 any time before the mailing or posting of the notice required in  
 275 s. 200.069. The taxpayer has 30 days after the date the notice



276 is mailed to provide the property appraiser with a complete  
 277 return listing all property for taxation.

278 Section 4. Paragraphs (a) and (b) of subsection (4) of  
 279 section 193.114, Florida Statutes, are amended to read:

280 193.114 Preparation of assessment rolls.—

281 (4) (a) For every change made to the assessed or taxable  
 282 value of a parcel on an assessment roll subsequent to the  
 283 mailing or posting of the notice provided for in s. 200.069, the  
 284 property appraiser shall document the reason for such change in  
 285 the public records of the office of the property appraiser in a  
 286 manner acceptable to the executive director or the executive  
 287 director's designee.

288 (b) For every change that decreases the assessed or  
 289 taxable value of a parcel on an assessment roll between the time  
 290 of complete submission of the tax roll pursuant to s.  
 291 193.1142(3) and the mailing or posting of the notice provided  
 292 for in s. 200.069, the property appraiser shall document the  
 293 reason for such change in the public records of the office of  
 294 the property appraiser in a manner acceptable to the executive  
 295 director or the executive director's designee.

296 Section 5. Paragraph (b) of subsection (4) of section  
 297 193.1142, Florida Statutes, is amended to read:

298 193.1142 Approval of assessment rolls.—

299 (4) The department is authorized to issue a review notice  
 300 to a county property appraiser within 30 days of a complete

301 submission of the assessment rolls of that county. Such review  
 302 notice shall be in writing; shall set forth with specificity all  
 303 reasons relied on by the department as a basis for issuing the  
 304 review notice; shall specify all supporting data, surveys, and  
 305 statistical compilations for review; and shall set forth with  
 306 particularity remedial steps which the department requires the  
 307 property appraiser to take in order to obtain approval of the  
 308 tax roll. In the event that such notice is issued:



309 (b) The notice required pursuant to s. 200.069 shall not  
 310 be issued or posted on a website prior to approval of an  
 311 assessment roll for the county or prior to institution of  
 312 interim roll procedures under s. 193.1145.

313 Section 6. This act shall take effect July 1, 2018.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 815 County and Municipal Public Officers and Employees  
**SPONSOR(S):** Avila  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Darden 	Miller 
2) Public Integrity & Ethics Committee			
3) Government Accountability Committee			

### SUMMARY ANALYSIS

Official travel by local government officers and employees is generally governed by a state-wide structure which defines types of travel and sets standardized rates for reimbursement. Taxpayer funds may only be used for official travel necessary to achieve public purposes and subject to limitations set by general law. All travel must be approved the county or municipal governing body or the body's designee. Counties, school boards, special districts, and metropolitan planning organizations may adopt reimbursement rates that differ from general law, as long as those rates are at least as much as the statutorily established rates that were in effect during the 2005-2006 fiscal year.

Candidates for public office are required to file periodic reports of contributions received and expenditures made. Each candidate must file reports with the officer before whom the candidate is required by law to qualify.

The Florida Constitution requires all elected constitutional officers, candidates for such offices, and statewide elected officers, to file a full and public disclosure of their financial interests. Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.

The bill requires travel by county and municipal officers to be approved by the governing body of the applicable local government at a publicly noticed meeting. The bill requires the request to appear on the meeting agenda with an itemized list of anticipated travel expenses and the public be given an opportunity to comment. The bill limits the time period for which travel expenses may be reimbursed and prohibits local governments from paying for foreign travel by county and municipal officers and employees. The bill places a \$120 limit on reimbursable lodging expenses.

The bill requires a county or municipal elected official who is a candidate for elected office to make available required campaign finance reports on the county or municipality's website. The bill requires county or municipal elected officials to report travel expenses that are reimbursed from taxpayer funds to the commission on ethics for the applicable local government or to the state Commission on Ethics, if no local ethics commission exists. The bill requires county and municipal elected officials to comply with applicable financial disclosure requirements under s. 8, Art. II of the Florida Constitution.

The bill may have an indeterminate, but likely insignificant, fiscal impact on state and local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Official Travel by County and Municipal Officials and Employees

The rates, procedures, and limitations placed on the use of taxpayer funds for travel by state and local government employees and officers is standardized by general law.<sup>1</sup> In the case of local government officials and employees, all travel must be approved by the governing body of the local government or by a designated representative of the body.<sup>2</sup> The travel request must be accompanied by a signed statement by the traveler's supervisor stating the purpose of the travel and that the travel is for official business. The local government may only pay for travel expenses necessary to achieve the public purpose and subject to limitations established by state law.<sup>3</sup> Per diem costs related to foreign travel may be paid by advancement or reimbursement, at current rates specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)."<sup>4</sup>

Travel is divided into four categories:<sup>5</sup>

- Class A: Continuous travel of 24 hours or more away from official headquarters.
- Class B: Continuous travel of less than 24 hours which involves overnight absence from official headquarters.
- Class C: Travel for short or day trips where the travel is not away from official headquarters overnight.
- Foreign travel: Travel outside the United States.

Reimbursements for travel time are calculated based on the type of travel. Class A travel is calculated based on a calendar day, while Class B travel is calculated based on the travel period.<sup>6</sup> Travelers conducting Class A or Class B travel are reimbursed for each travel day included in the travel period at the rate of one-fourth of the authorized per diem rate for each six-hour period. Class C travelers are not reimbursed per diem, but may receive a subsistence allowance based on the time of travel.<sup>7</sup>

Class C travelers receive a subsistence allowance of \$6 for breakfast, \$11 for lunch, and \$19 for dinner.<sup>8</sup> The per diem and subsistence allowance for Class A and B travelers is the greater of:<sup>9</sup>

- \$80 per day; or
- the sum of actual expenses for lodging at a single-occupancy rate plus the value of the subsistence allowance for Class C travelers for the same number of meals.

Travelers are only reimbursed for the actual expenses of lodging or meals when the lodging or meals are provided at a state institution and may not be reimbursed for any meal or lodging included in a convention or conference registration fee paid for with taxpayer funds.<sup>10</sup>

<sup>1</sup> Section 112.061(1), F.S.

<sup>2</sup> See s. 112.061(3)(a), F.S. (travel must be approved by "head of the agency"). The "head of the agency" is defined as the highest policymaking authority of a public agency. S. 112.061(2)(b), F.S.

<sup>3</sup> Section 112.061(3)(b), F.S.

<sup>4</sup> Section 112.061(3)(f), F.S.

<sup>5</sup> Section 112.061(2)(k)-(n), F.S. The "official headquarters" of an officer or employee is the city or town where the office of the employee is located.

<sup>6</sup> Section 112.061(5)(a), F.S.

<sup>7</sup> Section 112.061(5)(b), F.S.

<sup>8</sup> Section 112.061(6)(b), F.S.

<sup>9</sup> Section 112.061(6)(a), F.S.

<sup>10</sup> Section 112.061(6)(a), (c), F.S.

Public officers and employees may also receive reimbursement for transportation expenses.<sup>11</sup> Travel is reimbursed according to a "usually traveled route," with any costs associated with deviation from that route being borne by the traveler. The governing body of the local government or the body's designee must determine the most economical method of travel, taking into account the nature of the business, the most efficient and economical means of travel (including a consideration of time and impact on productivity of the traveler), and the number of persons making the trip.<sup>12</sup> If the traveler pays for the cost of official travel out of pocket, the traveler must provide documentation for reimbursement.<sup>13</sup> Use of a personal vehicle for official business is reimbursed to the travel at the rate of 44.5 cents per mile, or at the common carrier fare for such travel.<sup>14</sup> Mileage is calculated based on the current map of the Department of Transportation, plus vicinity mileage traveled for the conduct of official business.<sup>15</sup>

Travelers may also be reimbursed for:<sup>16</sup>

- taxi fare;
- ferry fares;
- bridge, road, and tunnel tolls;
- storage or parking fees;
- communication expenses; and
- convention registration fees, if the convention/conference serves a direct public purpose with relation to the employer of the public official, including expenses such a banquet or other meal fees, if the travel can show the charges were proper and necessary to enhance the public purpose of participation of the governmental entity at the conference.

Counties, school boards, special districts, and metropolitan planning organizations may adopt per diem, subsistence, and mileage rates that vary from this framework, as long as their adopted rates are not less than the statutorily established rates that were in effect during the 2005-2006 fiscal year.<sup>17</sup> Alternative rates may be adopted by ordinance or resolution of the governing body. The rates must apply uniformly to all travel conducted by officers and employees of the entity.<sup>18</sup>

The Department of Financial Services (DFS) is required to adopt rules to determine the justification for state officers and employees to attend conferences and conventions.<sup>19</sup> State agencies are required to adopt specific rules for this purpose that do not conflict with rules adopted by DFS.<sup>20</sup>

Travelers are not required to provide notarized documentation of travel expenses, but must include a written declaration that the claimed travel expenses were necessary for the performance of official duties and accurately reflect travel costs. A traveler who makes a deliberate misrepresentation is guilty of a second-degree misdemeanor and shall be civilly liable for the amount of overpayment.<sup>21</sup>

### Campaign Finance Reports

Candidates, political committees, and electioneering communications organizations are required to file periodic reports of contributions received and expenditures made.<sup>22</sup> Each candidate and political committee must file reports with the officer before whom the candidate is required by law to qualify.<sup>23</sup>

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<sup>11</sup> Section 112.061(7), F.S.

<sup>12</sup> Section 112.061(7)(a), F.S.

<sup>13</sup> Section 112.061(7)(c), F.S.

<sup>14</sup> Section 112.061(7)(d)1., F.S.

<sup>15</sup> Section 112.061(7)(d)3., F.S.

<sup>16</sup> Section 112.061(8), F.S.

<sup>17</sup> Section 112.061(14)(a), F.S.

<sup>18</sup> Section 112.061(14)(b), F.S.

<sup>19</sup> Section 112.061(9)(a), F.S.

<sup>20</sup> Section 112.061(9)(b), F.S.

<sup>21</sup> Section 112.061(10), F.S.

<sup>22</sup> See ch. 106, F.S.

<sup>23</sup> Section 106.07(2)(a)1., F.S.

Statewide candidates and political committees are required to file campaign finance reports with the Division of Elections (Division).<sup>24</sup> Those candidates and committees must file monthly contribution and expenditure reports until the 60th day before the primary, weekly reports beginning on the 60th day before the primary, and daily contribution reports beginning the 10th day before the general election.<sup>25</sup> Candidates and political committees that are required to file with an entity other than the Division must file reports on the 60th day immediately preceding the primary election, and biweekly on each Friday thereafter with additional reports due on the 25th and 11th days before the primary election and the general election.<sup>26</sup> Electioneering communications organizations<sup>27</sup> and political party executive committee candidates have distinct reporting requirements that differ from candidates and political committees.<sup>28</sup>

### Financial Disclosure Requirements

The Florida Constitution requires all elected constitutional officers, candidates for such offices, and statewide elected officers, to file a full and public disclosure of their financial interests.<sup>29</sup> Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.<sup>30</sup>

Pursuant to the Constitution, the term “full and public disclosure of financial interests” means the reporting individual must disclose his or her net worth and the value of each asset and liability in excess of \$1,000.<sup>31</sup> The disclosure must be accompanied by either a sworn statement with this information or a copy of the reporting individual’s most recent federal income tax return.<sup>32</sup> Pursuant to general law, the Commission on Ethics (Commission) has created by rule CE Form 6 to be used to make the required full and public financial disclosure.<sup>33</sup>

According to the Commission, and as articulated on the form, individuals holding the following positions must file CE Form 6: governor; lieutenant governor; cabinet members; legislators; state attorneys; public defenders; clerks of circuit courts; sheriffs; tax collectors; property appraisers; supervisors of elections; county commissioners; elected superintendents of schools; district school board members; Jacksonville City Council members (including mayor); compensation claims judges; Duval County superintendent of schools; Florida Housing Finance Corporation Board members; Florida Prepaid College Board members; and each expressway authority, transportation authority (except the Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to Chapter 348 or 343, F.S., or any other general law.<sup>34</sup>

Reporting individuals are required to file CE Form 6 annually with the Commission by July 1.<sup>35</sup> Additionally, candidates for a constitutional office are required to make a full and public disclosure of their financial interests at the time of qualifying.<sup>36</sup>

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<sup>24</sup> Section 106.07(1)(a), F.S.

<sup>25</sup> *Id.*

<sup>26</sup> Section 106.07(1)(b), F.S.

<sup>27</sup> *See* s. 106.011(9), F.S.

<sup>28</sup> *See* ss. 106.0702 and 106.0703, F.S.

<sup>29</sup> Art. II, ss. 8(a) and 8(i)(2), Fla. Const.

<sup>30</sup> Art. II, s. 8(a), Fla. Const.

<sup>31</sup> Art. II, s. 8(i)(1), Fla. Const.

<sup>32</sup> *Id.*

<sup>33</sup> Section 112.3144(5), F.S.; *see also* Rule 34-8.002, F.A.C.

<sup>34</sup> Rule 34-8.003, F.A.C. County commissioners are included because that office is established by art. VIII, s. 1(e) of the Florida Constitution.

<sup>35</sup> Rule 34-8.002, F.A.C.

<sup>36</sup> Section 99.061(5), F.S.

While elected city commissioners may have similar authority and spending power as county commissioners and other public officers that are required to file CE Form 6, state law only requires city commissioners to file CE Form 1, which is a less detailed form of financial disclosure.<sup>37</sup> Elected municipal officers, and candidates for such offices, must file this form at the time of qualifying and annually by July 1.<sup>38</sup>

Florida law requires municipalities to submit annual financial reports to DFS.<sup>39</sup> DFS in turn verifies the data and publishes a report on its website showing, among other data, municipal revenues, expenditures, and long-term debt.<sup>40</sup>

### **Effect of Proposed Changes**

The bill requires any out-of-state travel by a county or municipal public office to be approved by the governing body of the county or municipality at a publicly noticed meeting. The request must be included on the meeting agenda and provide an itemized list of all anticipated travel expenses. The meeting must provide an opportunity for the public to comment before the expense is approved. The governing body of the county or municipality may approve the rest by a majority vote of the members present and voting. The approved expenses are limited to those necessarily incurred by the public officer for a period beginning 24 hours before the start of the event and ending 24 hours after the event necessitating the travel.

The bill prohibits payment of or reimbursement for the foreign travel expenses of any county or municipal public officer or employee under any circumstances.

The bill places a limit of \$120 per day on the permitted lodging expenses of county and municipal public officers or employees. A county or municipal employee may expend funds for any lodging expenses in excess of \$120 per day.

The bill requires a county or municipal public official who is a candidate for elected office to make campaign finance reports filed pursuant to s. 106.07, F.S., available for public view on the county or municipality's website.

The bill requires any county or municipal public officer to report travel expenses that are paid for or reimbursed from taxpayer funds to the commission on ethics of the applicable county or municipality. If the county or municipality has not established a commission on ethics, the public office must report travel expenses to the state Commission on Ethics. The report must include the purpose of the travel, justify the necessity of the travel, and provide proof of expenses.

The bill requires county and municipal public officers to comply with the applicable financial disclosure requirements of s. 8, Art. II of the Florida Constitution by January 1, 2019. According to an agency analysis by the Commission on Ethics, this provision would require both county and municipal public officers to file CE Form 6, "Full and Public Disclosure of Financial Interests,"<sup>41</sup>

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 112.061, concerning travel by county or municipal officers.

Section 2: Creates s. 112.91, F.S., concerning disclosure requirements for county and municipal officers.

<sup>37</sup> Section 112.3145(3), F.S.; *see also* Rule 34-8.202, F.A.C. Unlike the office of county commissioner, municipal public offices are created by general or special law and not in the Florida Constitution. *See* art. VIII, s. 2(a), Fla. Const.

<sup>38</sup> Rule 34-8.202, F.A.C.

<sup>39</sup> Section 218.32(1), F.S.

<sup>40</sup> Section 218.32(2), F.S.

<sup>41</sup> Florida Commission on Ethics, Agency Analysis of 2018 House Bill 815, p. 1 (Dec. 20, 2017).



Section 3: Provides an effective date of July 1, 2018.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill appears to have an indeterminate but likely insignificant negative fiscal impact on the Commission on Ethics to the extent additional staff and resources are needed to process travel expense reports.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill appears to have an indeterminate fiscal impact on counties and municipalities. The bill appears have an indeterminate but likely insignificant negative fiscal impact due to increase reporting requirements. The bill appears to have an indeterminate positive fiscal impact to the extent the provisions reduce the frequency and cost of travel by public officials.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires counties and municipalities to maintain a website to provide access to campaign finance reports; however, an exemption may apply since this requirement appears to have an insignificant fiscal impact to county or municipal governments.

2. Other:

The bill revises the requirements for approving and reimbursing travel by employees and officers of a county, and thus appears to make subject to the approval of the county commissioners travel requests for or on behalf of the following elected county constitutional officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of courts. While a county may adopt a charter abolishing one or more of these constitutional offices, where the elected county constitutional office remains intact the officer is not subject to the control of the county commission as to fulfilling the requirements of that office.

**B. RULE-MAKING AUTHORITY:**

The bill does not provide rulemaking authority or require executive branch rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

Section 2 of the bill creates a new section law numbered at the end of ch. 112, Part VIII, F.S., pertaining to rights of firefighters. It would appear the provisions of Section 2 would be better located in ch. 112, Part III, F.S., the Code of Ethics for Public Officers and Employees, to clarify the ability of the Commission on Ethics to ensure compliance.

The bill requires a county or municipal public officer to comply with “applicable financial disclosure requirements of s. 8, Art. II of the Florida Constitution.” Under current law, county commissioners are required to file CE Form 6, “Full and Public Disclosure of Financial Interests,” while city commissioners are only required to file CE Form 1, “Statement of Financial Interests.” The CE Form 6 requirement cites to art. II, s. 8 of the Florida Constitution, requiring “full and public disclosure of... financial interests” of “all elected constitutional officers and candidates for such offices.” While the Commission on Ethics maintains the language of the bill would require municipal public officers to file CE Form 6, the bill does not expressly require municipal public officers to make “full and public disclosure of their financial interests.”

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



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Section 1. Paragraphs (f), (g), and (h) of subsection (3) of section 112.061, Florida Statutes, are redesignated as paragraphs (h), (i), and (j), respectively, paragraph (a) of that subsection and paragraph (a) of subsection (6) are amended, and new paragraphs (f) and (g) are added to subsection (3) of that section, to read:

112.061 Per diem and travel expenses of public officers, employees, and authorized persons.—

(3) AUTHORITY TO INCUR TRAVEL EXPENSES.—

(a) All travel must be authorized and approved by the head of the agency, or his or her designated representative, from whose funds the traveler is paid. The head of the agency shall not authorize or approve such a request unless:

1. It is accompanied by a signed statement by the traveler's supervisor stating that such travel is on the official business of the state and also stating the purpose of such travel.

2. For county or municipal public officers requesting authorization to travel outside of the state, it is approved by the governing body of the county or municipality at a publicly noticed meeting. The request must be included on the meeting agenda and must include an itemized list detailing all anticipated travel expenses, including, but not limited to, the anticipated costs of all means of travel, lodging, and

51 subsistence. The public must have an opportunity to speak at the  
 52 meeting before the vote occurs. The governing body of the county  
 53 or municipality may approve the request by a majority vote of  
 54 the members present and voting at the meeting.

55 (f) Travel expenses of county or municipal public officers  
 56 or employees shall be limited to those expenses necessarily  
 57 incurred by them beginning 24 hours before the start of the  
 58 event and ending 24 hours after the end of the event  
 59 necessitating such travel.

60 (g) Travel expenses of county or municipal public officers  
 61 or employees for foreign travel shall not be allowed under any  
 62 circumstances.

63 (6) RATES OF PER DIEM AND SUBSISTENCE ALLOWANCE.—For  
 64 purposes of reimbursement rates and methods of calculation, per  
 65 diem and subsistence allowances are provided as follows:

66 (a) All travelers shall be allowed for subsistence when  
 67 traveling to a convention or conference or when traveling within  
 68 or outside the state in order to conduct bona fide state  
 69 business, which convention, conference, or business serves a  
 70 direct and lawful public purpose with relation to the public  
 71 agency served by the person attending such meeting or conducting  
 72 such business, either of the following for each day of such  
 73 travel at the option of the traveler:

- 74 1. Eighty dollars per diem; or
- 75 2. If actual expenses exceed \$80, the amounts permitted in

76 paragraph (b) for subsistence, plus actual expenses for lodging  
 77 at a single-occupancy rate to be substantiated by paid bills  
 78 therefor, except that county or municipal public officers or  
 79 employees are only permitted lodging expenses of up to \$120 per  
 80 day. A county or municipal public officer or employee may expend  
 81 his or her own funds for any lodging expenses that exceed \$120  
 82 per day.

83

84 When lodging or meals are provided at a state institution, the  
 85 traveler shall be reimbursed only for the actual expenses of  
 86 such lodging or meals, not to exceed the maximum provided for in  
 87 this subsection.

88 Section 2. Section 112.91, Florida Statutes, is created to  
 89 read:

90 112.91 County and municipal public officers.-

91 (1) For purposes of this section, the term "public  
 92 officer" has the same meaning as in s. 112.061.

93 (2) A county or municipal public officer who is a  
 94 candidate for elected office must make any report required under  
 95 s. 106.07 available for public view on such county's or  
 96 municipality's website.

97 (3) A county or municipal public officer must report  
 98 travel expenses that are paid with or reimbursed from taxpayer  
 99 funds to the commission on ethics of the county or municipality  
 100 or, if the county or municipality has not established a

101 commission on ethics, to the Commission on Ethics created in s.  
 102 112.320. The travel expense report must state the purpose of the  
 103 travel, justify the necessity of the travel, and provide proof  
 104 of incurred travel expenses.

105 (4) Beginning January 1, 2019, a county or municipal  
 106 public officer must comply with the applicable financial  
 107 disclosure requirements of s. 8, Art. II of the State  
 108 Constitution.

109 Section 3. This act shall take effect July 1, 2018.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Local, Federal & Veterans  
 2 Affairs Subcommittee

3 Representative La Rosa offered the following:

4  
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (5) of section 99.061, Florida  
 8 Statutes, is amended to read:

9 99.061 Method of qualifying for nomination or election to  
 10 federal, state, county, municipal, or district office.-

11 (5) At the time of qualifying for office, each candidate  
 12 for an elective municipal office or a constitutional office  
 13 shall file a full and public disclosure of financial interests  
 14 pursuant to s. 8, Art. II of the State Constitution, which must  
 15 be verified under oath or affirmation pursuant to s.

16 92.525(1)(a), and a candidate for any other office, ~~including~~





Amendment No. 1

17 ~~local elective office,~~ shall file a statement of financial  
18 interests pursuant to s. 112.3145.

19 Section 2. Subsection (10) is added to section 106.07,  
20 Florida Statutes, to read:

21 106.07 Reports; certification and filing.—

22 (10) An elected county or municipal public officer who is  
23 a candidate for elective office must provide any report he or  
24 she is required to file pursuant to this section, whether for  
25 his or her campaign or a political committee that he or she  
26 controls, to the county or municipality that he or she serves  
27 for posting on its website.

28 Section 3. Paragraphs (f), (g), and (h) of subsection (3)  
29 of section 112.061, Florida Statutes, are redesignated as  
30 paragraphs (h), (i), and (j), respectively, paragraph (a) of  
31 that subsection is amended, and new paragraphs (f) and (g) are  
32 added to subsection (3) of that section, and subsection (16) is  
33 added to that section to read:

34 112.061 Per diem and travel expenses of public officers,  
35 employees, and authorized persons.—

36 (3) AUTHORITY TO INCUR TRAVEL EXPENSES.—

37 (a) All travel must be authorized and approved by the head  
38 of the agency, or his or her designated representative, from  
39 whose funds the traveler is paid. The head of the agency shall  
40 not authorize or approve such a request unless:



Amendment No. 1

41       1. It is accompanied by a signed statement by the  
42 traveler's supervisor stating that such travel is on the  
43 official business of the state and also stating the purpose of  
44 such travel.

45       2. For county or municipal public officers requesting  
46 authorization to travel outside of the state, it is approved by  
47 the governing body of the county or municipality at a publicly  
48 noticed meeting. The request must be included on the meeting  
49 agenda and must include an itemized list detailing all  
50 anticipated travel expenses, including, but not limited to, the  
51 anticipated costs of all means of travel, lodging, and  
52 subsistence. The public must have an opportunity to speak at the  
53 meeting before the vote occurs. The governing body of the county  
54 or municipality may approve the request by a majority vote of  
55 the members present and voting at the meeting. This paragraph  
56 shall not apply to a county constitutional officer, as defined  
57 by s. 1(d), Art. VIII of the State Constitution, who is elected  
58 by the electors of the county.

59       (f) Travel expenses of county or municipal public officers  
60 or employees shall be limited to those expenses necessarily  
61 incurred by them beginning 24 hours before the start of the  
62 event and ending 24 hours after the end of the event  
63 necessitating such travel. This paragraph shall not apply to a  
64 county constitutional officer, as defined by s. 1(d), Art. VIII



Amendment No. 1

65 of the State Constitution, who is elected by the electors of the  
66 county.

67 (g) Travel expenses of county or municipal public officers  
68 or employees for foreign travel shall not be allowed under any  
69 circumstances. This paragraph shall not apply to a county  
70 constitutional officer, as defined by s. 1(d), Art. VIII of the  
71 State Constitution, who is elected by the electors of the  
72 county.

73 (16) REPORTING.- A county or municipal public officer must  
74 report travel expenses that are paid with or reimbursed from  
75 taxpayer funds to the commission on ethics of the county or  
76 municipality or, if the county or municipality has not  
77 established a commission on ethics, to the Commission on Ethics  
78 created in s. 112.320. The travel expense report must state the  
79 purpose of the travel, justify the necessity of the travel, and  
80 provide proof of incurred travel expenses.

81 Section 4. Subsections (1), (2), and (3) of section  
82 112.3144, Florida Statutes, are amended to read:

83 112.3144 Full and public disclosure of financial  
84 interests.-

85 (1) In addition to officers specified in s. 8, Art. II of  
86 the State Constitution or any other state law, all elected  
87 municipal officers, including any individual who is appointed to  
88 fill a vacancy for an unexpired term in an elective municipal  
89 office, are required to file a full and public disclosure of



Amendment No. 1

90 their financial interests. An officer who is required by s. 8,  
91 Art. II of the State Constitution to file a full and public  
92 disclosure of ~~his or her~~ financial interests for any calendar or  
93 fiscal year shall file that disclosure with the Florida  
94 Commission on Ethics. ~~Additionally, beginning January 1, 2015,~~  
95 An officer who is required to complete annual ethics training  
96 pursuant to s. 112.3142 must certify on his or her full and  
97 public disclosure of financial interests that he or she has  
98 completed the required training.

99 (2) A person who is required, ~~pursuant to s. 8, Art. II of~~  
100 ~~the State Constitution,~~ to file a full and public disclosure of  
101 financial interests and who has filed a full and public  
102 disclosure of financial interests for any calendar or fiscal  
103 year is ~~shall~~ not be required to file a statement of financial  
104 interests pursuant to s. 112.3145(2) and (3) for the same year  
105 or for any part thereof notwithstanding any requirement of this  
106 part. If an incumbent in an elective office has filed the full  
107 and public disclosure of financial interests to qualify for  
108 election to the same office or if a candidate for office holds  
109 another office subject to the annual filing requirement, the  
110 qualifying officer shall forward an electronic copy of the full  
111 and public disclosure of financial interests to the commission  
112 no later than July 1. The electronic copy of the full and public  
113 disclosure of financial interests satisfies the annual  
114 disclosure requirement of this section. A candidate who does not



Amendment No. 1

115 qualify until after the annual full and public disclosure of  
116 financial interests has been filed pursuant to this section  
117 shall file a copy of his or her disclosure with the officer  
118 before whom he or she qualifies.

119 (3) For purposes of full and public disclosure under s.  
120 8(a), Art. II of the State Constitution and this section, the  
121 following items, if not held for investment purposes and if  
122 valued at over \$1,000 in the aggregate, may be reported in a  
123 lump sum and identified as "household goods and personal  
124 effects":

125 (a) Jewelry;

126 (b) Collections of stamps, guns, and numismatic  
127 properties;

128 (c) Art objects;

129 (d) Household equipment and furnishings;

130 (e) Clothing;

131 (f) Other household items; and

132 (g) Vehicles for personal use.

133 Section 5. This act shall take effect July 1, 2018, except  
134 that sections 1 and 4 shall take effect January 1, 2019.

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**T I T L E   A M E N D M E N T**

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Remove everything before the enacting clause and insert:




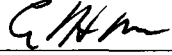
Amendment No. 1

139 An act relating to county and municipal public officers and  
140 employees; amending s. 99.061, F.S.; requiring a candidate for  
141 an elective municipal office to file a full and public  
142 disclosure of financial interests upon qualifying for office;  
143 amending s. 106.07, F.S.; requiring elected county or municipal  
144 public officers who are candidates for elective office to make  
145 certain campaign finance reports available for posting on their  
146 county or municipal websites; amending s. 112.061, F.S.;  
147 requiring that requests to travel out of state by county or  
148 municipal public officers be approved by the governing board of  
149 the county or municipality at a publicly noticed meeting;  
150 specifying requirements for such meetings; limiting travel  
151 expenses of such public officers or employees to those expenses  
152 incurred within a specified timeframe; prohibiting advancement  
153 or reimbursement for travel expenses of such public officers or  
154 employees for foreign travel; requiring county or municipal  
155 public officers to report certain travel expenses to a local  
156 commission on ethics or the Commission on Ethics; amending s.  
157 112.3144, F.S.; requiring elected municipal officers to file a  
158 full and public disclosure of financial interests, rather than a  
159 statement of financial interests; providing effective dates.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HM 817 Renewal of Title IV-E Waivers for Child Welfare Services  
**SPONSOR(S):** Harrell  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Darden 	Miller 
2) Health & Human Services Committee			
3) Government Accountability Committee			

### SUMMARY ANALYSIS

HM 817 is a memorial to the U.S. Congress requesting legislation under which Florida's existing Title IV-E waiver for child welfare services could be renewed in lieu of a return to traditional federal Title IV-E funding.

Title IV-E of the Social Security Act provides entitlement funding for out-of-home services for certain children eligible due to family income, placement setting, and vulnerability to maltreatment as well as for certain related purposes. However, Florida currently has a waiver to allow it instead to receive Title IV-E funding as a capped allocation and distribute it to community-based care lead agencies providing child welfare services, which may then use that funding for a wider array of services than otherwise specified in law. This waiver expires September 30, 2018, and federal law bars the operation of any Title IV-E waiver projects after September 30, 2019, which means Florida will have to revert to meeting more restrictive federal requirements for Title IV-E funding in the near future.

The memorial presents the rationale for continuing the existing Title IV-E waiver beyond September 30, 2019. The waiver allows the state to provide an expanded range of community-based services and supports to children and families that might otherwise be jeopardized by a reversion to the traditional Title IV-E funding model.

HM 817 also directs that copies of the memorial be provided to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

The memorial does not have a fiscal impact on state or local governments.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the problems cannot be ameliorated, the child welfare system finds safe out-of-home placements for such children, such as relative and non-relative caregivers, foster families, or adoptive families.

To serve families and children, the Department of Children and Families (DCF) contracts for foster care and related services with lead agencies, also known as community-based care organizations (CBCs). The transition to outsourced provision of child welfare services was intended to increase local community ownership of service delivery and design.<sup>1</sup> DCF, through the CBCs, administers a system of care for children to:<sup>2</sup>

- Prevent children's separation from their families;
- Intervene to allow children to remain safely in their own homes;
- Reunify families who have had children removed from their care, if possible and appropriate;
- Ensure safety and normalcy for children who are separated from their families;
- Enhance the well-being of children through educational stability and timely health care;
- Provide permanency; and
- Develop their independence and self-sufficiency.

As of October 31, 2017, 11,911 children were receiving services in their home, while 24,318 children were in out-of-home care.<sup>3</sup> Out-of-home placements range from temporary placement with a family member to a family foster home to a residential child-caring agency to a permanent adoptive placement with a family previously unknown to the child.<sup>4</sup>

Florida uses funds from a variety of sources for child welfare services, such as the Social Services Block Grant, the Temporary Assistance to Needy Families block grant, Title XIX Medicaid administration, Title IV-B, Title IV-E, various other child welfare grants, and general revenue.

##### Title IV-E Funding for Child Welfare

While states bear primary responsibility for child welfare, Congress appropriates funds to states through a variety of funding streams for services to children who have suffered maltreatment. One of these funding streams is Title IV-E of the Social Security Act. Title IV-E provides federal reimbursement to states for a portion of the cost of foster care, adoption assistance, and (in states electing to provide this kind of support) kinship guardianship assistance on behalf of each child who meets federal eligibility criteria. Title IV-E also authorizes funding to support services to youth who "age out" of foster care, or are expected to age out without placement in a permanent family. While Title IV-E funding is an entitlement, eligibility is limited to those children who:

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<sup>1</sup> DEPARTMENT OF CHILDREN AND FAMILIES, *Community-Based Care*, <http://www.myflfamilies.com/service-programs/community-based-care> (last accessed Dec. 20, 2017).

<sup>2</sup> Section 409.145(1), F.S.

<sup>3</sup> DEPARTMENT OF CHILDREN AND FAMILIES, *Child Welfare Key Indicators Monthly Report*, November 2017, p. 29, available at [http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI\\_Monthly\\_Report\\_Nov2017.pdf](http://centerforchildwelfare.fmhi.usf.edu/qa/cwkeyindicator/KI_Monthly_Report_Nov2017.pdf) (last accessed Dec. 20, 2017).

<sup>4</sup> Section 409.175, F.S.

- Are from a home with very low income (less than 50% of federal poverty level in most states),
- Have been determined by a judge to need to be in care,
- Are living in a licensed family foster home or a “child care institution”, and
- Be under 18 years old, unless the state has included older youth in its Title IV-E plan.

A Congressional Research Service analysis estimates that less than half of the children in foster care met Title IV-E foster care eligibility criteria in 2015.<sup>5</sup>

Eligible Title IV-E expenditures include:

- Foster care maintenance payments (for the child's room and board);
- Caseworker time to perform required activities on behalf of eligible children in foster care or children at imminent risk of entering foster care (e.g., finding a foster care placement for a child and planning services necessary to ensure a child does not need to enter care, is reunited with his or her parents, has a new permanent home, or is otherwise prepared to leave foster care);
- Program-related data system development and operation, training, and recruitment of foster care providers; and
- Other program administration costs.

The federal government pays a share of these costs ranging from 50-83%, depending on the nature of the expenditure. Regarding foster care maintenance payments, an additional consideration is the state's per capita income.<sup>6</sup>

### Title IV-E Waivers

In 1994, Congress authorized the U.S. Department of Health and Human Services (HHS) to approve state demonstration projects made possible by waiving certain provisions of Title IV-E. This provided states flexibility in using federal funds for services promoting safety, well-being, and permanency for children in the child welfare system.<sup>7</sup> HHS may waive compliance with standard Title IV-E requirements and instead allow states to establish projects that allow them to serve children and provide services that are not typically eligible. To do so, states must enter into an agreement with the federal government outlining the terms and conditions to which the state will adhere in using the federal funds. The states also agree to evaluate the projects.<sup>8</sup> Currently 26 states have approved projects, including Florida.<sup>9</sup>

### Florida's Title IV-E Waivers

Florida's original Title IV-E waiver was effective on October 1, 2006, and was to extend for five years. Key features of the original waiver were:

- A capped allocation of funds, similar to a block grant, distributed to community-based care lead agencies for service provision;
- Flexibility to use funds for a broader array of services beyond out-of-home care; and
- Ability to serve children who did not meet Title IV-E criteria.<sup>10</sup>

The original waiver tested the hypotheses that under this approach:

- An expanded array of community-based care services would become available,

<sup>5</sup> Emelie Stoltzfus, *Child Welfare: An Overview of Federal Programs and their Current Funding*, CONGRESSIONAL RESEARCH SERVICE, January 10, 2017, p. 13-15, available at <https://fas.org/sgp/crs/misc/R43458.pdf> (last accessed Dec. 20, 2017).

<sup>6</sup> *Id.*  
<sup>7</sup> Amy C. Vargo et al., *Final Evaluation Report, IV-E Waiver Demonstration Evaluation, SFY 11-12*, March 15, 2012, p. 5, available at <http://www.centerforchildwelfare.org/kb/LegislativeMandatedRpts/IV-EWaiverFinalReport3-28-12.pdf> (last accessed Dec. 20, 2017).

<sup>8</sup> 42 U.S.C. §1320a-9(f).

<sup>9</sup> Stoltzfus, *supra* note 6, at 15.

<sup>10</sup> Vargo, *supra* note 7, at 5-6.

- Fewer children would need to enter out-of-home care,
- Child outcomes would improve, and
- Out-of-home care costs would decrease while expenditures for in-home and preventive services would increase.

Results indicated that the waiver generally achieved these goals, though evaluators noted areas of improvement available regarding the ongoing assessment of fathers' needs; assessment of children's dental, educational, and physical health needs and provision of needed services; frequency of case manager visits with parents; and engagement of fathers in services.<sup>11</sup>

The federal government extended Florida's original waiver to 2014, then approved a renewal retroactively beginning October 1, 2013. The renewal is authorized until September 30, 2018. The renewal waiver's terms and conditions include the following goals:

- Improving child and family outcomes through flexible use of Title IV-E funds;
- Providing a broader array of community-based services and increasing the number of children eligible for services; and
- Reducing administrative costs associated with the provision of child welfare services by removing current restrictions on Title IV-E eligibility and on the types of services that may be paid for using Title IV-E funds.<sup>12</sup>

Like the original waiver, the renewal waiver also involves a capped allocation of funds, flexibility to use funds for a wider array of services, and expanded eligibility for children.<sup>13</sup> The renewal waiver also required that the state procure an independent evaluation of the processes and outcomes under the waiver. The University of South Florida was chosen to complete these evaluations, which are available on the DCF website.<sup>14</sup> Florida was projected to expend an estimated \$182 million in Title IV-E waiver funds in 2016-17, about 15% of total child welfare spending.<sup>15</sup>

### Sunset of Waiver and Non-Renewal

As stated above, Florida's waiver is due to end September 30, 2018. Federal law prohibits the federal government from establishing new waivers or allowing current waivers to operate after September 30, 2019.<sup>16</sup> Thus Florida will revert to more restrictive Title IV-E federal funding requirements beginning in 2018, or in 2019 if the waiver is renewed for an additional year.

### Child and Family Services Review

HHS, through the Children's Bureau, conducts periodic Child and Family Services Reviews in each state. As authorized by federal law, these reviews assess states' compliance with the federal requirements for child welfare systems in Title IV-B and Title IV-E of the Social Security Act. In particular, the Children's Bureau examines whether desired child outcomes are being achieved and whether the child welfare system is structured appropriately and its processes operate effectively.

<sup>11</sup> *Id.* at 2-3.

<sup>12</sup> *Demonstration Project Terms and Conditions*, p. 4, available at <http://www.centerforchildwelfare.org/kb/GenIVE/WaiverTERms2013-2018.pdf> (last accessed Dec. 20, 2017).

<sup>13</sup> *Waiver Authority*, p.1, available at <http://www.centerforchildwelfare.org/kb/GenIVE/WaiverTERms2013-2018.pdf> (last accessed Dec. 20, 2017).

<sup>14</sup> Department of Children and Families, *IV-E Waiver Evaluation Reports*, available at <http://centerforchildwelfare.fmhi.usf.edu/IVEReport.shtml> (last accessed Dec. 20, 2017).

<sup>15</sup> Department of Children and Families, *Child Welfare Funding Basics for Florida in Light of Our Title IV-E Demonstration Waiver and the Family First Prevention Services Act of 2016 - HR 5456*, presented at the Florida Coalition for Children Foundation's 2016 Annual Conference, on file with Local, Federal & Veterans Affairs Subcommittee staff.

<sup>16</sup> 42 U.S.C. s. 1320a-9(d)(2).

In two previous rounds of reviews<sup>17</sup>, no state was assessed as meeting all requirements.<sup>18</sup> The third round began in 2015 and involves a comprehensive analysis of the child welfare system comprising a statewide assessment, interviews, focus groups, and reviews of 80 cases. Through this analysis, the Children's Bureau rates whether a state is in "substantial conformity" with each outcome or systemic factor. For a state to be in substantial conformity with a particular outcome, 95% or more of the cases reviewed must be rated as having substantially achieved the outcome. The substantial conformity assessment for the systemic factors considers information from the statewide assessment, interviews, and focus groups.<sup>19</sup>

The report summarizing Florida's results was issued in late 2016. The report indicated that Florida was not in substantial conformity of any of the 7 outcomes but was in substantial conformity with 3 of 7 systemic factors, including:

- Quality assurance system,
- Staff and provider training, and
- Agency responsiveness to the community.<sup>20</sup>

As the reviews are currently in progress, 24 states and the District of Columbia have a Final State Report for Round 3 posted to the Children's Bureau website.<sup>21</sup> Once a state's review is complete, the state formulates a Performance Improvement Plan to address those outcomes and systemic factors not in substantial conformity.<sup>22</sup> Florida's current Performance Improvement Plan is available on the DCF website.<sup>23</sup>

### **Effect of the Memorial**

The memorial requests that Congress amend federal law to allow for the extension of the existing Title IV-E waiver beyond September 30, 2019. An extension on the existing waiver program would give Florida the flexibility to continue alternative funding models and preserve the expanded array of services and supports that have been developed statewide. In the absence of an extension for the existing waiver, maintaining current service levels may require additional appropriations of state funds.

HM 817 also directs that copies of the memorial be provided to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

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<sup>17</sup> U.S. Department of Health and Human Services, *Children's Bureau Fact Sheet: Child and Family Services Reviews*, available at [https://www.acf.hhs.gov/sites/default/files/cb/cfsr\\_general\\_factsheet.pdf](https://www.acf.hhs.gov/sites/default/files/cb/cfsr_general_factsheet.pdf) (last accessed Dec. 20, 2017). Note that because of differences in how the third round of reviews is being conducted, state performance cannot be compared across the reviews. See <http://www.centerforchildwelfare.org/qa/CFSRTools/2016%20CFSR%20Final%20Report.pdf> (last accessed Dec. 20, 2017).

<sup>18</sup> *Id.* The outcomes address safety (children are, first and foremost, protected from abuse and neglect and safely maintained in their homes whenever possible and appropriate), permanency (children have permanency and stability in their living situations, and the continuity of family relationships and connections is preserved for families), and family and child well-being (families have enhanced capacity to provide for their children's needs, and children receive appropriate services to meet their educational needs and adequate services to meet their physical and mental health needs). The systemic factors include the effectiveness of the statewide child welfare information system; the case review system; the quality assurance system; staff and provider training; the service array and resource development; the agency's responsiveness to the community; and foster and adoptive parent licensing, recruitment, and retention.

<sup>19</sup> U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth, and Families, Children's Bureau, *Child and Family Services Reviews, Florida Final Report, 2016*, p. 2, at <http://www.centerforchildwelfare.org/qa/CFSRTools/2016%20CFSR%20Final%20Report.pdf> (last accessed Dec. 20, 2017).

<sup>20</sup> *Id.* at 3.

<sup>21</sup> U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *Reports and Results of the Child and Family Services Reviews (CFSRs)*, [https://library.childwelfare.gov/cwig/ws/cwmd/docs/cb\\_web/SearchForm](https://library.childwelfare.gov/cwig/ws/cwmd/docs/cb_web/SearchForm) (last accessed Dec. 20, 2017).

<sup>22</sup> *Supra* note 17.

<sup>23</sup> FLORIDA'S CENTER FOR CHILD WELFARE, *Child and Family Services Review*, <http://www.centerforchildwelfare.org/CFSRHome.shtml> (last accessed Dec. 20, 2017).

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

**B. SECTION DIRECTORY:**

Not applicable.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This memorial does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The memorial does not provide rulemaking authority or require executive branch rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

House Memorial

A memorial to the Congress of the United States,  
 urging Congress to allow renewal of Title IV-E waivers  
 for child welfare services.

WHEREAS, one of the most important roles of government is  
 ensuring the safety and well-being of society's most vulnerable  
 members, including children, and

WHEREAS, children enter the child welfare system for many  
 reasons, such as parental substance abuse, domestic violence,  
 mental illness, and generational poverty, and the complexity of  
 cases is growing due to the interplay of these factors, and

WHEREAS, preventing child abuse, abandonment, and neglect  
 saves children from trauma and avoids costs for more intensive  
 treatment services, juvenile justice interventions, public  
 benefits expenditures, and other social services, and

WHEREAS, with the federal funding flexibility provided by  
 Florida's Title IV-E waiver for child welfare services,  
 professionals working closely with children and families can  
 tailor services to best meet individual needs, regardless of the  
 level of involvement in the child welfare system, thus making  
 the most effective and efficient use of funding, and

WHEREAS, Florida has been a national leader in innovative  
 child welfare service provision through a community-based system  
 of care and flexible funding streams, providing communities with

26 the responsibility, authority, and resources to care for their  
 27 own children, and

28 WHEREAS, while the federal Child and Family Services Review  
 29 found that Florida exceeds national standards with respect to  
 30 certain indicators and systemic factors, the state still faces  
 31 challenges in meeting other requirements and would benefit from  
 32 continued flexibility in federal funding to most effectively  
 33 meet these challenges, and

34 WHEREAS, Florida's Title IV-E waiver will expire September  
 35 30, 2018, and federal law requires all waiver operations to  
 36 terminate by September 30, 2019, such that Florida will soon  
 37 revert to more restrictive funding limitations unless Congress  
 38 takes action, and

39 WHEREAS, widespread support exists nationally to transform  
 40 the current Title IV-E funding approach to emphasize prevention  
 41 and greater provision of a wider array of services tailored to  
 42 meet individual families' needs so that children may be safe  
 43 while avoiding the trauma of placement outside the home when  
 44 possible, which is what Florida's waiver currently allows, and

45 WHEREAS, meeting traditional Title IV-E obligations will  
 46 force significant changes to Florida's child welfare system,  
 47 requiring professionals to spend time revising policies and  
 48 processes instead of working to meet the needs of children and  
 49 families, NOW, THEREFORE,

50



HM 817

2018

51 Be It Resolved by the Legislature of the State of Florida:

52



53 That the Legislature of the State of Florida requests the  
 54 Congress of the United States to amend federal law to allow the  
 55 Secretary of the Department of Health and Human Services to  
 56 renew existing Title IV-E waivers to extend beyond September 30,  
 57 2019, giving Florida the flexibility to continue providing an  
 58 expanded array of community-based programs and support to  
 59 children who are in or who are at risk of entering out-of-home  
 60 placement and their families.

61 BE IT FURTHER RESOLVED that copies of this memorial be  
 62 dispatched to the President of the United States, to the  
 63 President of the United States Senate, to the Speaker of the  
 64 United States House of Representatives, and to each member of  
 65 the Florida delegation to the United States Congress.



HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 869 Ranger Drainage District, Orange County  
SPONSOR(S): Plasencia  
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Darden 	Miller 
2) Natural Resources & Public Lands Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Ranger Drainage District (District) is independent special district in eastern Orange County, which was created by a decree of the Ninth Judicial Circuit in 1970. The District is governed by a three-member board elected on a one-acre, one-vote basis while exercising all powers set forth in Chapter 298, F.S.

The District is comprised of approximately 10,000 acres of land along the Econlockhatchee River. The lands east of the river comprise approximately 7,000 acres, primarily residential. In this area, the District provides all works and improvements necessary to execute the water control plan and levies assessments to provide services. The lands west of the river are generally for institutional and commercial uses, with site development controlled directly by the St. Johns River Water Management District. The lands west of the river currently are neither taxed nor serviced by the District.

The bill removes all lands west of the Econlockhatchee River from the District.

The bill shall take effect upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,<sup>1</sup> special act,<sup>2</sup> local ordinance,<sup>3</sup> or by rule of the Governor and Cabinet.<sup>4</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>5</sup>

A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality.<sup>6</sup> An "independent special district" is any district that is not a dependent special district.<sup>7</sup>

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.<sup>8</sup>

Chapter 298, F.S., governs the creation and operation of a water control district (WCD).<sup>9</sup> A WCD has the authority and responsibility to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.<sup>10</sup> A WCD may build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of the district. A WCD also may acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property, including pumping stations, pumping machinery, motive equipment, electric lines, and all appurtenant or auxiliary machines, devices, or equipment.<sup>11</sup> Any special or local law the Legislature enacts pertaining to a WCD prevails on the WCD and has the same force and effect as if it were part of ch. 298, F.S., at the time the WCD was created and organized.<sup>12</sup>

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<sup>1</sup> Section 189.031(3), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 189.02(1), F.S.

<sup>4</sup> Section 190.005(1), F.S. *See, generally,* s. 189.012(6), F.S.

<sup>5</sup> *2017 – 2018 Local Gov't Formation Manual*, p. 60, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911> (last accessed Dec. 18, 2017).

<sup>6</sup> Section 189.012(2), F.S.

<sup>7</sup> Section 189.012(3), F.S.

<sup>8</sup> Art. VII, s. 9(a), Fla. Const.

<sup>9</sup> All special districts operating under ch. 298, F.S., and formerly known as "drainage districts" or "water management districts" are now officially called water control districts. Section 298.001, F.S.

<sup>10</sup> Section 298.22, F.S.

<sup>11</sup> Section 298.22(3), F.S.

<sup>12</sup> Section 298.76(5), F.S.

## Ranger Drainage District

The Ranger Drainage District (District) is an independent special district in eastern Orange County, southeast of Orlando.<sup>13</sup> The District was created by a decree of the Ninth Judicial Circuit in 1970.<sup>14</sup> The District is governed by a three-member board elected on a one-acre, one-vote basis.<sup>15</sup> The board of the District is authorized to exercise all powers set forth in Chapter 298, F.S.<sup>16</sup> The board is also authorized to provide services to parcels adjoining the district with consent of the landowner, to allow fishing in district-owned canals, and to sponsor events "intended to foster community spirit," including a fishing tournament for children of the community.<sup>17</sup>

The District is comprised of approximately 10,000 acres of land along the Econlockhatchee River.<sup>18</sup> The lands to the east of the river, approximately 7,000 acres, are primarily zoned for residential use. Lands to the west of the river are generally zoned into large-scale institutional, utility, commercial, and conservation tracts. When the district was created in 1970, these lands were intended to be developed as residential and mixed-use development.<sup>19</sup> Developers continued to pay capital improvement taxes on these properties until the District's bonds were retired in 1994, but obtained authorization for site development directly from the St. Johns River Water Management District.<sup>20</sup> The lands west of the river currently are not taxed to fund District services since the District has no water control facilities in the area.<sup>21</sup>

## Effect of Proposed Changes

The bill revises the boundaries of the district to remove all lands west of the Econlockhatchee River. This will reduce the size of the district by approximately 3,000 acres.

### B. SECTION DIRECTORY:

Section 1: Amends ch. 99-453, Laws of Fla., removing lands west of the Econlockhatchee River from the Ranger Drainage District.

Section 2: Provides that the bill shall take effect upon becoming a law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 5, 2017

WHERE? *Orlando Sentinel*, a daily newspaper of general circulation published in Orange County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

<sup>13</sup> See Ranger Drainage District, *Third Amended Water Control Plan*, January 2008, at 67, available at [https://docs.wixstatic.com/ugd/f79a5a\\_90c3d17f56a24be9a9e4fe3846dd912c.pdf](https://docs.wixstatic.com/ugd/f79a5a_90c3d17f56a24be9a9e4fe3846dd912c.pdf) (map of the district in relation to city of Orlando).

<sup>14</sup> Ch. 99-453, s. 3, Laws of Fla. Prior to July 1, 1980, drainage districts could be created by order of the circuit court with jurisdiction over the majority of the land being made part of the district, on petition of the land owners. See s. 298.01, F.S.

<sup>15</sup> Ch. 99-453, s. 7(5), Laws of Fla. Landowners owning less than one acre are entitled one vote, while landowners owning more than one acre are entitled to one additional vote for each acre owned beyond the first.

<sup>16</sup> Ch. 99-453, s. 7(1), Laws of Fla.

<sup>17</sup> Ch. 99-453, s. 5, Laws of Fla.

<sup>18</sup> Ranger Drainage District, *Third Amended Water Control Plan*, *supra* note 9, at 7.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

# Orlando Sentinel

Rep. Alasencia LB  
HB 869

Published Daily  
ORANGE County, Florida

STATE OF FLORIDA

COUNTY OF ORANGE

Before the undersigned authority personally appeared Maria Torres / Tina L. Robinson / Jennifer Carter, who on oath says that he or she is an Advertising Representative of the ORLANDO SENTINEL, a DAILY newspaper published at the ORLANDO SENTINEL in ORANGE County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter of 11200-Misc. Legal, **Deletion of lands west of Econlockhatchee River** was published in said newspaper in the issues of Sep 05, 2017.

Affiant further says that the said ORLANDO SENTINEL is a newspaper published in said ORANGE County, Florida, and that the said newspaper has heretofore been continuously published in said ORANGE County, Florida, each day and has been entered as periodicals matter at the post office in ORANGE County, Florida, in said ORANGE County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

MAT  
Signature of Affiant

Maria Torres  
Printed Name of Affiant

Sworn to and subscribed before me on this 6 day of September, 2017,  
by above Affiant, who is personally known to me ( X ) or who has produced  
identification ( ).

Cheryl Alli  
Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped

**NOTICE OF INTENT TO SEEK LOCAL LEGISLATION**  
Pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, the Board of Supervisors of the Ranger Drainage District hereby gives notice of the Board's intention to seek local legislation before the Florida Legislature at its regularly scheduled Legislative Session beginning in January 2018. The substance of the proposed law is an amendment to the Ranger Drainage District boundary deleting all lands west of the Econlockhatchee River from the District. The lands to be deleted pay no taxes or assessments to the District and receive no drainage or flood services from the District.  
Board of Supervisors  
Ranger Drainage District  
05516921 9/5/17

**HOUSE OF REPRESENTATIVES  
2018 ECONOMIC IMPACT STATEMENT FORM**

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

**BILL #:** 869

**SPONSOR(S):** Plasencia

**RELATING TO:** Ranger Drainage District (Orange County)  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 18-19</u>	<u>FY 19-20</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 18-19</u>	<u>FY 19-20</u>
	\$ <u>0</u>	\$ <u>0</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

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**III. FUNDING SOURCE(S):**

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 18-19</u>	<u>FY 19-20</u>
Local:	\$ <u>0</u>	\$ <u>0</u>
State:	\$ <u>0</u>	\$ <u>0</u>
Federal:	\$ <u>0</u>	\$ <u>0</u>

**IV. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: None  
\_\_\_\_\_  
\_\_\_\_\_
2. Advantages to Businesses: Eliminates possibility of future assessments.  
\_\_\_\_\_  
\_\_\_\_\_
3. Advantages to Government: Reduces administrative time spent addressing property within  
the boundaries of the district that receive no benefit from  
the district.  
\_\_\_\_\_

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None  
\_\_\_\_\_

2. Disadvantages to Businesses:

None

3. Disadvantages to Government:

None

**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

None.

**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

Prior experience working for the district.

**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:   
[Must be signed by Preparer]

Print preparer's name: Dawn Mullins

1-8-17  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):  
General Manager

REPRESENTING: Ranger Drainage District

PHONE: 407-568-5502

E-MAIL ADDRESS: dawnmullins@rangerdrainagedistrict.com

1                                   A bill to be entitled  
 2           An act relating to Ranger Drainage District, Orange  
 3           County; amending ch. 99-453, Laws of Florida, as  
 4           amended; revising district boundaries; providing an  
 5           effective date.

6  
 7   Be It Enacted by the Legislature of the State of Florida:

8  
 9           Section 1. Section 4 of chapter 99-453, Laws of Florida,  
 10          as amended by chapter 2005-309, Laws of Florida, is amended to  
 11          read:

12           Section 4. Status and boundaries of ranger drainage  
 13          district.—The Ranger Drainage District is hereby declared to be  
 14          an independent water control district and a public corporation  
 15          of the State of Florida pursuant to chapter 298, Florida  
 16          Statutes, as it may be amended from time to time, and the lands  
 17          lying within the area described as follows in Orange County,  
 18          Florida, shall hereby constitute the Ranger Drainage District:

19  
 20                   The South one-half of Section 1, less that part lying  
 21                   East of the West right-of-way line of State Road No.  
 22                   520; The South one-half of Section 2; the East three-  
 23                   eighths of Section 10; all of Sections 11, 12, 13, 14,  
 24                   23, 24, 25, 26, together with portions of Sections 27  
 25                   and 28, in Township 23 South, Range 32 East in Orange

26 County, Florida, being more particularly described as  
 27 follows:  
 28  
 29 BEGINNING at the Southeast corner of Section 25, run  
 30 northerly along the easterly line of Sections 25, 24,  
 31 13, 12 and 1 to the westerly right-of-way line of  
 32 State Road No. 520; thence northwesterly along said  
 33 westerly right-of-way line of State Road No. 520 to a  
 34 point of intersection with the north line of the South  
 35 one-half of Section 1; thence westerly along the north  
 36 line of the South one-half of Sections 1 and 2 to the  
 37 westerly quarter corner of Section 2; thence southerly  
 38 along the West line of Section 2 to the Southwest  
 39 corner of Section 2; thence westerly along the North  
 40 line of Section 10 to the Northwest corner of the  
 41 easterly three-eighths of Section 10; thence southerly  
 42 along the west line of the easterly three-eighths of  
 43 Section 10 to the Southwest corner of the easterly  
 44 three-eighths of Section 10; thence easterly along the  
 45 south line of Section 10 to the Southeast corner of  
 46 Section 10; thence southerly along the west line of  
 47 Sections 14 and 23 to the Southwest corner of Section  
 48 23; thence westerly along the north line of Sections  
 49 27 and 28 to the Northeast corner of Tract A,  
 50 CAPE/ORLANDO ESTATES UNIT 11A, according to the plat

51 thereof, as recorded in Plat Book 3, at Pages 107  
 52 through 109, inclusive, of the Public Records of  
 53 Orange County, Florida; thence southerly along the  
 54 easterly boundary of said Tract A to the Southeast  
 55 corner of said Tract A; thence easterly along the  
 56 south line of Sections 27, 26 and 25 to the POINT OF  
 57 BEGINNING.

58  
 59 ~~The South one-half of Sections 1 and 2, the easterly~~  
 60 ~~three-eighths of Section 10, all of Sections, 11, 12,~~  
 61 ~~13, 14, 19, 23, 24, 25, 26, 27, 28, 29, 30, and 31 in~~  
 62 ~~Township 23 South, Range 32 East in Orange County,~~  
 63 ~~Florida, the boundary of which is more particularly~~  
 64 ~~described as follows:~~

65  
 66 ~~Commence at the Southeast corner of Section 25, run~~  
 67 ~~northerly along the easterly lines of Sections 25, 24,~~  
 68 ~~13, 12, and 1 to the westerly right-of-way of State~~  
 69 ~~Road 520; thence proceed northwesterly along said~~  
 70 ~~westerly right-of-way of State Road 520 to the~~  
 71 ~~intersection of State Road 520 and the north line of~~  
 72 ~~the South one-half of Section 1; thence westerly along~~  
 73 ~~the North line of the South one-half of Sections 1 and~~  
 74 ~~2 to the westerly quarter corner of Section 2; thence~~  
 75 ~~southerly along the West line of Section 2 to the~~

76 ~~Southwest corner of Section 2; thence westerly along~~  
 77 ~~the North line of Section 10 to the Northwest corner~~  
 78 ~~of the easterly three eighths of Section 10; thence~~  
 79 ~~southerly along the west line of the easterly three~~  
 80 ~~eighths of Section 10 to the Southwest corner of the~~  
 81 ~~easterly three eighths of Section 10; thence easterly~~  
 82 ~~along the south line of Section 10 to the Southeast~~  
 83 ~~corner of Section 10; thence southerly along the west~~  
 84 ~~line of Section 14 and 23 to the Southwest corner of~~  
 85 ~~Section 23; thence westerly along the North line of~~  
 86 ~~Sections 27, 28, and 29 to the Northwest corner of~~  
 87 ~~Section 29; thence northerly along the east line of~~  
 88 ~~Section 19 to the Northeast corner of Section 19;~~  
 89 ~~thence westerly along the North line of Section 19 to~~  
 90 ~~the Northwest corner of Section 19; thence southerly~~  
 91 ~~along the west line of Sections 19, 30, and 31 to the~~  
 92 ~~Southwest corner of Section 31; thence easterly along~~  
 93 ~~the south line of Section 31 to the Southeast corner~~  
 94 ~~of Section 31; thence northerly along the east line of~~  
 95 ~~Section 31 to the Northeast corner of Section 31;~~  
 96 ~~thence easterly along the south lines of Sections 29,~~  
 97 ~~28, 27, 26, and 25 to the point of beginning.~~

98

99 Section 2. This act shall take effect upon becoming a law.







## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 889 West Palm Beach Police Pension Fund of the City of West Palm Beach, Palm Beach County

**SPONSOR(S):** Willhite

**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Darden 	Miller 
2) Oversight, Transparency & Administration Subcommittee			
3) Government Accountability Committee			

### SUMMARY ANALYSIS

The West Palm Beach Police Pension Fund (Fund) was established by the Legislature in 1947. Each police officer employed by West Palm Beach is a Fund participant. According to the most recent data from the Department of Management Services, the fund has 241 active members, 214 retired members, and 36 members in the Deferred Retirement Option Plan (DROP). As of December 30, 2015, the Fund had \$263,834,220 in total assets and \$56,666,324 in unfunded actuarial accrued liability.

The bill modifies the special act creating the Fund to revise the methodology to calculate the monthly pension benefit amount. The bill also makes technical corrections concerning the effective date of a previous change to the special act and a reference to DROP account balances for deceased Fund members.

The bill implements an agreement reached by the City of West Palm Beach and the union representing the city's police officers.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Police Pensions: Marvin B. Clayton Police Officers Pension Trust Fund Act

Local police pension plans are governed by ch. 185, F.S., the Marvin B. Clayton Police Officers Pension Trust Fund Act (Clayton Police Pension Act).<sup>1</sup> Originally enacted in 1939, the Clayton Police Pension Act encouraged cities to create police pension plans by providing access to premium tax revenues. The Clayton Police Pension Act sets forth minimum benefits and standards for municipal police pensions, which cannot be reduced by municipalities; however, the benefits provided by a local plan may vary from the provisions in the Clayton Police Pension Act so long as the minimum standards are met.

Local police pension plans created pursuant to the Clayton Police Pension Act are funded by four sources:

- Net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the premium tax);<sup>2</sup>
- Employee contributions;<sup>3</sup>
- Other revenue sources;<sup>4</sup> and
- Mandatory payments by the city of the normal cost of the plan.<sup>5</sup>

The premium tax is an excise tax of 0.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality.<sup>6</sup> It is payable by the insurers to the Department of Revenue, and the net proceeds are transferred to the appropriate fund at the Department of Management Services, Division of Retirement (Division). In 2016, premium tax distributions to municipalities from the Police Officers' Pension Trust Fund amounted to \$75.9 million.<sup>7</sup>

To qualify for insurance premium tax dollars, plans must meet the requirements found in ch. 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the Division; however, the day-to-day operational control rests with the local boards of trustees.<sup>8</sup> The board of trustees must invest and reinvest the assets of the fund according to s. 185.06, F.S., unless specifically authorized to vary from the law. If the Division determines that a police pension plan created pursuant to ch. 185, F.S., is not in compliance, the sponsoring municipality could be denied its insurance premium tax revenues.<sup>9</sup>

The default employee contribution under the Clayton Act is 5 percent of salary, but the percentage may be adjusted.<sup>10</sup> A municipality may elect to make an employee's contributions, but the employee must still contribute at least 0.5 percent of his or her salary.<sup>11</sup> Rates may also be increased above 5 percent,

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<sup>1</sup> Section 185.015, F.S.

<sup>2</sup> Section 185.07(1)(a), F.S.

<sup>3</sup> Section 185.07(1)(b), F.S.

<sup>4</sup> Section 185.07(1)(c), (e)-(g), F.S.

<sup>5</sup> Section 185.07(1)(d), F.S.

<sup>6</sup> Section 185.08, F.S.

<sup>7</sup> Department of Management Services, *Municipal Police and Fire Plans*, available at

[http://www.dms.myflorida.com/workforce\\_operations/retirement/local\\_retirement\\_plans/municipal\\_police\\_and\\_fire\\_plans](http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans) (last accessed Dec. 12, 2017).

<sup>8</sup> See s. 185.06, F.S.

<sup>9</sup> Section 185.23(1), F.S.

<sup>10</sup> Section 185.07(1)(b), F.S.

<sup>11</sup> Section 185.07(2)(a), F.S.

subject to the consent of members' collective bargaining representative or, if none, by a majority consent of the police officer members of the fund.<sup>12</sup>

### Florida Protection of Public Employee Retirement Benefits Act

The Florida Constitution prohibits any increase in retirement or pension benefits for a publicly funded plan, unless the increase has made or concurrently makes provision for funding the increase on an actuarially sound basis.<sup>13</sup> The Florida Protection of Public Employee Retirement Benefits Act (Benefits Act), Part VII of ch. 112, F.S., implements the provisions of Art. X, s. 14, Florida Constitution.<sup>14</sup> The Benefits Act applies to all retirement or pension plans for public employees that are funded in whole or in part by public funds.<sup>15</sup>

Local governments are prohibited from agreeing to a proposed change in retirement benefits if the plan administrator did not issue a statement of actuarial impact of the proposed change before both the adoption of the change by the governing body of the local government and the last public hearing about the proposed change.<sup>16</sup> This statement must also be furnished to the Division before the local government can agree to the change.<sup>17</sup> The statement must indicate whether the proposed change complies with Art. X, s. 14, Florida Constitution and with s. 112.64, F.S. (concerning the administration of pension funds and the amortization of any unfunded actuarial liability).<sup>18</sup>

### West Palm Beach Police Pension Fund

The West Palm Beach Police Pension Fund (Fund or Plan) was established by the Legislature in 1947.<sup>19</sup> The act governing the Fund was most recently amended in 2012.<sup>20</sup> As of September 30, 2016, the Fund had 241 active members, 214 retired members, and 36 members in the Deferred Retirement Option Plan (DROP).<sup>21</sup> As of December 30, 2015, the Fund had \$263,834,220 in total assets and \$56,666,324 in unfunded actuarial accrued liability.<sup>22</sup> Normal retirement age is 55 years of age for those with at least 10 years of service, 50 years of age for those with at least 20 years of service, and any age for those with at least 25 years of service.<sup>23</sup>

The Fund currently assumes 8 percent annual growth of its assets.<sup>24</sup> During the 2014-15 fiscal year, the Fund saw a 10.40 percent growth in the actuarial value of its assets and a 2.10 percent decline in the market value of its assets.

### Retirement Pension Calculation

Retirement benefits under the Plan are calculated using several methods based on both the member's years of service and dates of employment.<sup>25</sup> A member's benefit under the Plan must be at least 2 percent of final average salary for each year of service.

---

<sup>12</sup> Section 185.07(2)(b), F.S.

<sup>13</sup> Article X, s. 14, Fla. Const.

<sup>14</sup> Section 112.61, F.S.

<sup>15</sup> Section 112.62, F.S.

<sup>16</sup> Section 112.63(3), F.S.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> Chapter 47-24981, Laws of Fla.

<sup>20</sup> Chapter 2012-259, Laws of Fla.

<sup>21</sup> Department of Management Services, *Florida Local Government Retirement Systems 2016 Annual Report*, p. 16 of Appendix F, available at

[http://www.dms.myflorida.com/workforce\\_operations/retirement/local\\_retirement\\_plans/local\\_retirement\\_section/local\\_government\\_annual\\_reports](http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/local_retirement_section/local_government_annual_reports) (last accessed Dec. 12, 2017) (herein DMS Local Government Reports).

<sup>22</sup> DMS Local Government Reports, p. 19 of Appendix A.

<sup>23</sup> DMS Local Government Reports, p. 67 of Appendix B1.

<sup>24</sup> DMS Local Government Reports, p. 21 of Appendix E.

<sup>25</sup> Chapter 47-24981, s. 16(9)(a), Laws of Fla., as amended.

For service after October 1, 2011, retirement benefits are calculated using 2.68 percent of the Plan member's final average salary per year and fractional parts of the years of service up to a total of 26 years, plus 1 percent of the final average salary multiplied by the number of years of service in excess of 26 years.

Credit for service earned before October 1, 2011, is calculated as follows:

- For members with at least 12 years and 6 months of service as of October 1, 1999, and who were actively employed by the department on or after October 1, 1999, 3 percent of final average salary multiplied by years of service<sup>26</sup> earned between April 1, 1987, and September 30, 2011, plus 2.5 percent of the final average salary multiplied by years of service earned prior to April 1, 1987, up to a total of 26 years, plus 1 percent of the final average salary multiplied by the number of years in excess of 26 years.
- For members who had less than 12 years and 6 months of service and were actively employed by the department on or after October 1, 1999, 3 percent of final average salary multiplied by years of service, earned up to September 30, 2011, plus 1 percent of the final average salary multiplied by the number of years in excess of 26 years.
- For members who terminated employment, retired on a vested deferred benefit, or retired on or before October 1, 1999, the greater of:
  - 2.5 percent of final average salary multiplied by years of service, up to a total of 26 years, plus 1 percent of final average salary multiplied by the number of years in excess of 26 years.
  - The sum of 2.5 percent of final average salary multiplied by years of service for credited service earned through September 30, 1988, and 2 percent of the final average salary multiplied by years of service earned on or after October 1, 1988.

## **Effect of Proposed Changes**

### Retirement Pension Calculation

The bill revises the formula for service earned after October 1, 2017. The pension benefit for all years of service earned after October 1, 2017 is calculated using 3 percent of the final average salary per year and fractional parts of a year up to a total of 26 years, plus 1 percent of the final average salary for the number of years or fractions of years in excess of 26 years of credited service.

Years of service occurring between October 1, 2011 and October 1, 2017 are calculated using 2.68 percent of the Plan member's final average salary per year and are included in the 26-year limitation.

### Other Changes

The bill inserts the effective date of a 2017 special act amending the plan to reflect when a provision took effect. The bill clarifies a reference to DROP account balances for deceased Fund members.

## **B. SECTION DIRECTORY:**

Section 1: Amends ch. 24981 (1947), Laws of Fla., to revise the formula for calculating the monthly pension benefit for Fund members.

Section 2: Provides that the bill shall take effect upon becoming a law.

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

<sup>26</sup> Unless otherwise noted, the term "years of service" for the purpose of this section includes fractional years of service.

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 1, 2017

WHERE? *The Palm Beach Post*, a daily newspaper of general circulation published in Palm Beach County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or requirement executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

ep Willhite LB  
HB 889

# The Palm Beach Post

Palm Beach Daily News | ideabar

## PROOF OF PUBLICATION STATE OF FLORIDA

### PUBLIC NOTICE

Before the undersigned authority, personally appeared Tiffani Everett, who on oath, says that he/she is a Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published in West Palm Beach and distributed in Palm Beach County, Martin County, and St. Lucie County, Florida; that the attached copy of advertising for a Legal - Notice was published in said newspaper on: first date of Publication 11/01/2017 and last date of Publication 11/01/2017. Affiant further says that the said The Palm Beach Post is a newspaper published in West Palm Beach, in said Palm Beach County, Florida and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

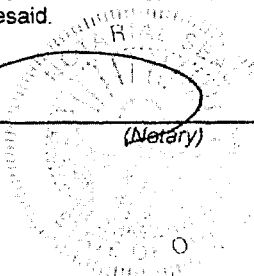
KLAUSNER, KAUFMAN, JENSEN &  
LEVINSON  
7080 N.W. 4TH ST.  
FORT LAUDERDALE, FL 33317

Invoice/Order Number: 0000240014  
Ad Cost: \$96.32  
Paid: \$96.32  
Balance Due: \$0.00

Signed *Tiffani Everett*  
(Legal Advertising Agent)

Sworn or affirmed to, and subscribed before me, this 3rd day of November, 2017 in Testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Signed *V. Lee Flannery*  
(Notary)



VICKY LEE FLANNERY  
NOTARY PUBLIC  
STATE OF OHIO  
Comm. Expires  
03-16-2022

Please see Ad on following page(s).

KLAUSNER, KAUFMAN, JENSEN & LEVINSON  
7080 N.W. 4TH ST.  
FORT LAUDERDALE, FL 33317

Invoice/Order Number: 0000240014  
Ad Cost: \$96.32  
Paid: \$96.32  
Balance Due: \$0.00

**NOTICE OF INTENTION TO SEEK  
ENACTMENT OF SPECIAL LAW**

The Board of Trustees of the City of West Palm Beach Police Pension Fund, Florida, does hereby give notice of its intention to seek the enactment of a special law during the 2018 session of the Florida Legislature relating to the City of West Palm Beach Police Pension Fund:

**A bill to be entitled**

An act relating to the West Palm Beach Police Pension Fund of the City of West Palm Beach, Palm Beach County; amending ch. 24981 (1947), Laws of Florida, as amended; revising retirement pension calculation; conforming terminology; providing an effective date.

BY ORDER OF THE  
BOARD OF TRUSTEES,  
TROY MARCHESI, SECRETARY  
PUBLISH: THE PALM BEACH POST  
11-1/2017

0000240014-01

**HOUSE OF REPRESENTATIVES**

**2017 - 2018 LOCAL BILL CERTIFICATION FORM**

BILL #: 889  
SPONSOR(S): Representative Matt Willhite  
RELATING TO: City of West Palm Beach - West Palm Beach Police Pension  
[Indicate Area Affected (City, County, or Special District) and Subject]  
NAME OF DELEGATION: Palm Beach County  
CONTACT PERSON: Christine Shaw  
PHONE NO.: (561) 818-8833 E-Mail: CShaw1@pbcgov.org

- I. *House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:*
- (1) *The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;*
  - (2) *The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and*
  - (3) *The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.*
  - (4) *An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.*

(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES  NO

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level: Changes to the City of West Palm Beach Pension Plan require State approval since it was created by the Florida Legislature.

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES  NO

Date hearing held: October 17, 2017

Location: Solid Waste Authority Administration Building - 7501 North Jog Road, West Palm Beach

(3) Was this bill formally approved by a majority of the delegation members?

YES  NO  UNANIMOUSLY APPROVED

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee?

YES  NO

- II. *Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or*



*the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE November 1, 2017

Where? Palm Beach Post County Palm Beach County

Referendum in lieu of publication: YES  NO

Date of Referendum \_\_\_\_\_

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES  NO

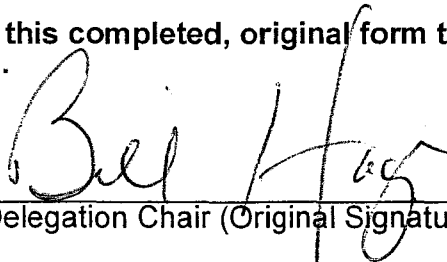
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES  NO

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES  NO

Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee.



\_\_\_\_\_  
Delegation Chair (Original Signature)

December 1, 2017

\_\_\_\_\_  
Date

\_\_\_\_\_  
Representative Bill Hager

\_\_\_\_\_  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2018 ECONOMIC IMPACT STATEMENT FORM**

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

**BILL #:** 889

**SPONSOR(S):** Matt Willhite

**RELATING TO:** City of West Palm Beach Police Pension Fund

[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 18-19</u>	<u>FY 19-20</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 17-18</u>	<u>FY 18-19</u>
	\$ <u>481,841</u>	\$ <u>503,524</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

See attached Supplemental Actuarial Valuation Report with cover letter dated June 22, 2017 for the explanation of cost calculations.

### III. FUNDING SOURCE(S):

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 17-18</u>	<u>FY 18-19</u>
Local:	\$ <u>481,841</u>	\$ <u>503,524</u>
State:	\$ <u>0</u>	\$ <u>0</u>
Federal:	\$ <u>0</u>	\$ <u>0</u>

### IV. ECONOMIC IMPACT:

#### Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: Implementation of agreement between city and union; clarification for administrative purposes; benefit restoration for members

---

2. Advantages to Businesses: None

---

3. Advantages to Government: Implementation of agreement between city and union; clarification for administrative purposes; improved ability to attract and retain police officers

#### Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None

---

2. Disadvantages to Businesses: None

3. Disadvantages to Government: Increased costs

**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

Improves ability of City and Police Department to attract and retain officers because the benefit is restored to the prevailing market of benefits

**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

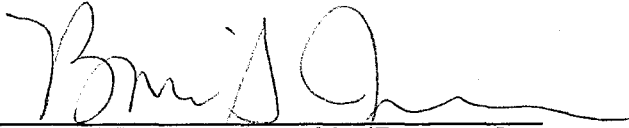
See attached Supplemental Actuarial Valuation Report with cover letter dated June 22, 2017 for the explanation of cost calculations.

---

**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:

  
[Must be signed by Preparer]

Print preparer's name:

Bonni S. Jensen

September 22, 2017

Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Legal Counsel

REPRESENTING:

West Palm Beach Police Pension Fund

PHONE:

954-916-1202

E-MAIL ADDRESS:

bonni@robertdklausner.com

1                                   A bill to be entitled  
2           An act relating to the West Palm Beach Police Pension  
3           Fund of the City of West Palm Beach, Palm Beach  
4           County; amending ch. 24981 (1947), Laws of Florida, as  
5           amended; revising retirement pension calculation;  
6           conforming terminology; providing an effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:

9  
10           Section 1. Paragraph (h) of subsection (2), paragraph (a)  
11           of subsection (9), paragraph (b) of subsection (13), and  
12           paragraph (c) of subsection (17) of chapter 24981 (1947), Laws  
13           of Florida, as amended by chapter 2017-207, Laws of Florida, are  
14           amended to read:

15           Section 16. West Palm Beach Police Pension Fund.—

16           (2) Definitions.—The following words or phrases, as used  
17           in this act, shall have the following meanings, unless a  
18           different meaning is clearly indicated by the context:

19           (h) "Final average salary" means the average of the  
20           monthly salary paid to a member in the 3 best years of  
21           employment. In no event shall any one year, beginning January 1,  
22           2005, include more than 400 hours of overtime. Prior to January  
23           1, 2005, individual years may include more than 400 hours of  
24           overtime. Effective prospectively from January 1, 2013, the  
25           overtime will be limited to 300 hours in any one year. As of the

26 effective date of this act, for purposes of determining final  
27 average salary, any lump sum payment made to a member for  
28 retroactive pay, such amounts shall not be considered as a lump  
29 sum but will be treated as if paid during the retroactive pay  
30 periods.

31 (9) Retirement pension calculation.—

32 (a) Upon retirement eligibility as provided in subsection  
33 (8), a member shall receive a monthly pension. The pension shall  
34 be the following, as applicable:

35 1. For all years of service earned after October 1, 2017,  
36 the benefit is calculated using 3 percent of final average  
37 salary per year and fractional parts of the years of service up  
38 to a total of 26 years, plus 1 percent of the final average  
39 salary multiplied by the number of years, and fraction of a  
40 year, of credited service in excess of 26 years. For all years  
41 of service earned after October 1, 2011, and before October 1,  
42 2017, the benefit is calculated using 2.68 percent of final  
43 average salary per year and fractional parts of the years of  
44 service and is included in the 26-year limitation up to a total  
45 of 26 prospective years, plus 1 percent of the final average  
46 salary multiplied by the number of years, and fraction of a  
47 year, of credited service in excess of 26 years. This change in  
48 the multiplier was due to the change in assumptions in a prior  
49 version of this special act. This reduction is required by this  
50 paragraph. For years of service earned before October 1, 2011,

51 the benefit will be calculated under the provisions of the  
 52 applicable subparagraphs 2.-4. For purposes of determining the  
 53 26-year limitation, the member's total number of years of  
 54 credited service are used, regardless of whether the multiplier  
 55 is 3 percent or 2.68 percent. In no event shall the benefit be  
 56 less than 2.75 ~~2~~ percent per year of credited service.

57 2. A member who has more than or equal to 12 years and 6  
 58 months of service at October 1, 1999, and who was actively  
 59 employed by the Department on or after October 1, 1999, shall  
 60 receive a benefit equal to 3 ~~three~~ percent of final average  
 61 salary multiplied by the number of years, and fraction of a  
 62 year, of credited service earned from April 1, 1987, to  
 63 September 30, 2011, plus 2.5 percent of final average salary  
 64 multiplied by the number of years, and fraction of a year, of  
 65 credited service earned prior to April 1, 1987, up to a total of  
 66 26 years, plus 1 percent of the final average salary multiplied  
 67 by the number of years, and fraction of a year, of credited  
 68 service which is in excess of 26 years. ~~However,~~ In no event  
 69 shall the benefit be less than 2.75 ~~2~~ percent per year of  
 70 credited service. For all years of service after October 1,  
 71 2011, the benefit will be calculated in accordance with  
 72 subparagraph 1.

73 3. A member who has less than 12 years and 6 months of  
 74 service on October 1, 1999, and who was actively employed by the  
 75 Department on or after October 1, 1999, shall receive a benefit



76 equal to 3 ~~three~~ percent of final average salary multiplied by  
 77 the number of years, and fraction of a year, of credited service  
 78 up to September 30, 2011, plus 1 percent of the final average  
 79 salary multiplied by the number of years, and fraction of a  
 80 year, of credited service which is in excess of 26 years.  
 81 ~~However,~~ In no event shall the benefit be less than 2.75 ~~2~~  
 82 percent per year of credited service. For all years of service  
 83 after October 1, 2011, the benefit will be calculated in  
 84 accordance with subparagraph 1.

85 4. A member who terminated employment, retired on a vested  
 86 deferred benefit, or retired on or before October 1, 1999, shall  
 87 receive a benefit equal to the greater of the following:

88 a. Two and one-half percent of final average salary  
 89 multiplied by the number of years, and fraction of a year, of  
 90 credited service not to exceed 26 years, plus 1 percent of the  
 91 final average salary multiplied by the number of years, and  
 92 fraction of a year, of credited service which is in excess of 26  
 93 years; or

94 b. The sum of the following:

95 (I) Two and one-half percent of final average salary  
 96 multiplied by the number of years, and fraction of a year, of  
 97 credited service earned through September 30, 1988; and

98 (II) Two percent of final average salary multiplied by the  
 99 number of years, and fraction of a year, of credited service  
 100 earned on and after October 1, 1988.

101  
 102 To the extent that the benefit accrual factor is less than 3  
 103 percent for active members with less than 12 years and 6 months  
 104 of service on October 1, 1999, the supplemental pension  
 105 distribution calculation under subparagraph (12)(a)2. shall be  
 106 adjusted for employees who retire or enter the DROP after  
 107 October 1, 1999. The adjustment shall be to decrease the minimum  
 108 return of 8.25 percent needed to afford the supplemental pension  
 109 distribution, where the amount of the reduction is zero if an  
 110 employee has been credited with 12 years and 6 months of service  
 111 or more with the 3-percent benefit accrual factor or 1.25  
 112 percent if an employee has been credited with no more than a  
 113 2.5-percent benefit accrual factor. If an employee has been  
 114 credited with less than 12 years and 6 months of service at the  
 115 3-percent benefit accrual factor, then the accumulated amount  
 116 over 2.5 percent for each year of service divided by one-half  
 117 percent divided by 12.5 subtracted from 1 multiplied by 1.25  
 118 percent is the reduction from 8.25 percent. An example of the  
 119 calculation of the minimum return for the supplemental pension  
 120 distribution as herein described is set forth in the collective  
 121 bargaining agreement between the City of West Palm Beach and the  
 122 Police Benevolent Association, Certified Unit No. 145 and  
 123 Certified Unit No. 825, October 1, 1998-September 30, 2001.  
 124  
 125 Effective October 1, 2011, the assumed investment rate of return

126 was lowered from 8.25 percent to 8 percent, which resulted in a  
 127 reduction in the benefit multiplier to 2.68 percent for all  
 128 prospective years of service, up to 26 years of service in  
 129 total, and 1 percent for each year of service after 26.  
 130 Additionally, for any supplemental pension distributions  
 131 subsequent to October 1, 2011, the revised factors in this  
 132 paragraph will be applied.

133 (13) Deferred Retirement Option Plan (DROP).—

134 (b) Amounts payable upon election to participate in DROP.—

135 1. Monthly retirement benefits that would have been  
 136 payable had the member terminated employment with the Department  
 137 and elected to receive monthly pension payments shall be paid  
 138 into the DROP and credited to the retirant. Payments into the  
 139 DROP shall be made monthly over the period the retirant  
 140 participates in the DROP, up to a maximum of 60 months.

141 2. Effective October 1, 2002, DROP Participants have the  
 142 option to select between two methods to credit investment  
 143 earnings to their account. The method may be changed each year  
 144 effective October 1; however, the method must be elected prior  
 145 to October 1. The methods are:

146 a. Earnings using the rate of investment return earned (or  
 147 lost) on Pension Fund assets as reported by the Fund's  
 148 investment monitor. DROP assets are commingled with the Pension  
 149 Fund assets for investment purposes.

150 b. A fixed rate of 8.25 percent for members who reached

151 normal retirement age on or before October 1, 2012. Effective  
 152 October 1, 2012, the fixed rate is 8 percent for members who  
 153 retire or enter the DROP on or after October 1, 2012. In any  
 154 fiscal year, if the amount paid in investment earnings under  
 155 this paragraph creates a deficiency as compared to the gross  
 156 earnings of the pension fund as a whole (using the rate  
 157 determined by the Fund's investment monitor), then the rate will  
 158 be reduced to 4 percent effective the next October 1 until the  
 159 deficiency is satisfied. When the deficiency is satisfied, the  
 160 rate will return to 8 percent, effective the next October 1.  
 161 Beginning October 1, 2012, the cumulative amounts paid in  
 162 earnings for the fixed rate will be maintained in the actuarial  
 163 valuation.

164

165 However, if a police officer does not terminate employment at  
 166 the end of participation in the DROP, interest credits shall  
 167 cease on the balance.

168 3. No payments shall be made from the DROP until the  
 169 member terminates employment with the Department.

170 4. Upon termination of employment, participants in the  
 171 DROP shall receive the balance of the DROP account in accordance  
 172 with the following rules:

173 a. Members may elect to begin to receive payment upon  
 174 termination of employment or defer payment of the DROP until the  
 175 latest day as provided under sub-subparagraph c.

176           b. Payments shall be made in either:

177           (I) Lump sum.—The entire account balance shall be paid to

178 the retirant upon approval of the Board of Trustees.

179           (II) Installments.—The account balance shall be paid out

180 to the retirant in three equal payments paid over 3 years, the

181 first payment to be made upon approval of the Board of Trustees.

182           (III) Annuity.—The account balance shall be paid out in

183 monthly installments over the lifetime of the member or until

184 the entire balance is exhausted. Monthly amount paid shall be

185 determined by the Fund's actuary in accordance with selections

186 made by the member on a form provided by the Board of Trustees.

187           c. Any form of payment selected by a police officer must

188 comply with the minimum distribution requirements of s.

189 401(A)(9) of the Internal Revenue Code and is subject to the

190 requirements of subsection (30) of this act; e.g., payments must

191 commence by age 70-1/2.

192           d. If a member dies and is eligible for benefits from the

193 DROP account, the entire balance of the DROP account shall be

194 converted to the name of the beneficiary designated in

195 accordance with subsection (9)(e). The entire balance shall be

196 paid out in a lump sum to the beneficiary, at the discretion of

197 the beneficiary. If the designated beneficiary is the surviving

198 spouse, the account may remain with the Fund until the latest

199 period specified under subsection (30). These DROP accounts

200 shall not be eligible for any further DROP distributions but are

201 eligible for earnings. If a member fails to designate a  
 202 beneficiary, or if the beneficiary predeceases the member, the  
 203 entire balance shall be converted, in the following order, to  
 204 the name or names of:

- 205 1. The member's surviving children on a pro rata basis;
- 206 2. If no children are alive, the member's spouse;
- 207 3. If no spouse is alive, the member's surviving parents
- 208 on a pro rata basis; or
- 209 4. If none are alive, the estate of the member.

210

211 The accounts which are converted to the names of the  
 212 beneficiaries shall have the right to name a successor  
 213 beneficiary. Any designated beneficiary, other than the  
 214 surviving spouse of the member, must take a distribution of the  
 215 entire DROP ~~share~~ account balance by the end of 5 years after  
 216 the death of the member. Installment distributions which begin  
 217 in the calendar year of the member's death shall be treated as  
 218 complying with this 5-year distribution requirement, even though  
 219 the installments are not completed within 5 years after the  
 220 member's death.

221 e. Costs, fees, and expenses of administration shall be  
 222 debited from the individual member accounts on a proportionate  
 223 basis, taking the cost, fees, and expenses of administration of  
 224 the Fund as a whole, multiplied by a fraction, the numerator of  
 225 which is the total assets in all individual member accounts and

226 the denominator of which is the total assets of the Fund as a  
 227 whole.

228 (17) Death benefits.—

229 (c) Death after retirement.—Upon the death of a retirant,  
 230 the following applicable pensions shall be paid, subject to the  
 231 provisions of subsection (18). This paragraph is not applicable  
 232 if a retiree chose an optional form of benefit at the time of  
 233 retirement or if the retiree was not entitled at the time of  
 234 retirement under paragraph (9) (c).

235 1. The surviving spouse of the retirant shall receive a  
 236 pension of two-thirds of the retirant's pension, provided that  
 237 the retirant was receiving a pension under paragraph (9) (a).  
 238 Upon the surviving spouse's death, the pension shall terminate.  
 239 Effective for years of service earned after June 6, 2017, ~~the~~  
 240 ~~effective date of this act~~, if the retiree leaves a surviving  
 241 spouse that he or she was not married to on the date of  
 242 retirement, then the survivor benefit may be actuarially reduced  
 243 to take into account the age of the substituted survivor.

244 2. In the event the deceased retirant does not leave a  
 245 surviving spouse eligible to receive a pension, or if the  
 246 surviving spouse dies and he or she leaves an unmarried child or  
 247 children under age 18, each child shall receive a pension of an  
 248 equal share of two-thirds of the deceased retirant's pension.  
 249 Upon any child's adoption, marriage, death, or attainment of age  
 250 18, the child's pension shall terminate and it shall be

251 apportioned to the pensions payable to the deceased retirant's  
 252 remaining eligible children under age 18. In no case shall the  
 253 pension payable to any such child exceed 20 percent of the  
 254 deceased retirant's pension, or be less than \$15 per month.

255 3. In the event the deceased retirant does not leave a  
 256 surviving spouse or children eligible to a pension provided for  
 257 in subparagraphs 1. and 2. above, and he or she leaves a parent  
 258 or parents who the Board finds are dependent upon the retirant  
 259 for at least 50 percent of his, her, or their financial support,  
 260 each parent shall receive a pension of an equal share of two-  
 261 thirds of the deceased retirant's pension. Upon any parent's  
 262 remarriage or death, his or her pension shall terminate.

263 4. In the event the deceased member does not leave a  
 264 surviving spouse, children, or parents eligible to receive a  
 265 pension; then the death benefit, if any, shall be paid to the  
 266 estate of the deceased member. Any retirement income payments  
 267 due after the death of a vested member may, in the discretion of  
 268 the Board, be paid to the member's designated beneficiary or  
 269 beneficiaries.

270  
 271 In any of the above cases, the Board, in its discretion, may  
 272 direct that the actuarial value of the monthly benefit be paid  
 273 as a lump sum.

274 Section 2. This act shall take effect upon becoming a law.





## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 891 St. Lucie County  
**SPONSOR(S):** Harrell  
**TIED BILLS:** **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Renner <i>JR</i>	Miller <i>E. Miller</i>
2) Careers & Competition Subcommittee			
3) Government Accountability Committee			

### SUMMARY ANALYSIS

In 1967, the Legislature enacted ch. 67-1990, Laws of Florida, to provide specific requirements regarding the issuance of Special Restaurant Beverage (SRX) licenses in St. Lucie County. Under the special act, in St. Lucie County SRX licenses may be issued to any bona fide restaurant with service for 200 or more patrons at tables and occupying more than 4,000 square feet of floor space.

The bill repeals ch. 67-1990, Laws of Florida, relating to the issuance of SRX licenses for restaurants in St. Lucie County. The issuance of subsequent SRX licenses in the county will be as provided under general law.

The bill does not appear to have a fiscal impact on state or local government.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The Division of Alcoholic Beverages and Tobacco (DABT) of the Department of Business and Profession Regulation (DBPR) is responsible for the enforcement of Florida's Beverage Laws.<sup>1</sup>

Florida law limits the number of alcoholic beverage licenses that may be issued to one license for every 7,500 residents in a county, known as the "quota".<sup>2</sup> Special Restaurant Beverage (SRX) licenses may be issued in excess of the quota limitations in s. 561.20(1), F.S., and are regulated under Rule 61A-3.0141, F.A.C. To qualify for the SRX license, a restaurant must have a service area of at least 2,500 square feet, be equipped to serve at least 150 persons full meals at one time, and derive at least 51% of its revenue from the sale of food and nonalcoholic beverages.<sup>3</sup>

The specific requirements regarding the issuance of SRX licenses in St. Lucie County are found in ch. 67-1990, Laws of Florida.

In St. Lucie County, SRX licenses may be issued to any bona fide restaurant with service for 200 or more patrons at tables and occupying more than 4,000 square feet of floor space. Licensees are prohibited from selling alcoholic beverages in packages for consumption off of the premises and from operating as a package store.

##### Effect of Proposed Changes

The bill repeals ch. 67-1990, Laws of Florida, relating to the issuance of SRX licenses for bona fide restaurants in St. Lucie County. The issuance of subsequent SRX licenses in the county will be as provided under general law.

#### B. SECTION DIRECTORY:

Section 1 Repeals Chapter 67-1990, Laws of Florida, relating to the issuance of SRX licenses in St. Lucie County

Section 2 Provides an effective date upon becoming law.

### II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? September 24, 2017

WHERE? *St. Lucie News-Tribune*

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

---

<sup>1</sup> Chs. 561-568, F.S.

<sup>2</sup> Section 561.20(1), F.S.

<sup>3</sup> Section 561.20(2)(a)4., F.S.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Treasure Coast Newspapers | TCO PALM

St. Lucie News-Tribune  
1939 SE Federal Highway, Stuart, FL 34994

**AFFIDAVIT OF PUBLICATION**

STATE OF FLORIDA  
COUNTY OF ST. LUCIE

Before the undersigned authority personally appeared, Natalie Zollar, who on oath says that she is Classified Inside Sales Manager of the St. Lucie News-Tribune, a daily newspaper published at Fort Pierce in St. Lucie County, Florida: that the attached copy of advertisement was published in the St. Lucie News-Tribune in the following issues below. Affiant further says that the said St Lucie News-Tribune is a newspaper published in Fort Pierce, in said St. Lucie County, Florida, and that said newspaper has heretofore been continuously published in said St. Lucie County, Florida, daily and distributed in St. Lucie County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The St. Lucie News-Tribune has been entered as Periodical Matter at the Post Offices in Fort Pierce, St. Lucie County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

Customer	Ad Number	Copyline	PQ #
437762 - ST LUCIE COUNTY ATTORNEY'S OFF	1761689	NOTICE OF LEGISLATION NOTICE IS HERE	

Pub Dates  
September 24, 2017

Sworn to and subscribed before me this day of, September 29, 2017, by

*Natalie Zollar*

\_\_\_\_\_, who is  
Natalie Zollar  
 personally known to me or  
 who has produced \_\_\_\_\_ as identification.

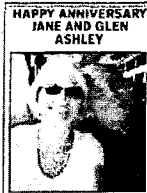
*Karol E Kangas*

Karol Kangas Notary Public



# Milestones

To have your milestones published email us at [TCNmilestones@tcpalm.com](mailto:TCNmilestones@tcpalm.com)



Happy 54th Mom and Dad Ashley! Love from ALL your kids!

### Non Profit/Volunteer

**ST. LUCIE VOLUNTEER** - A program of the United Way of St. Lucie County  
**THE SPECIAL OLYMPICS FLORIDA** - ST. LUCIE has begun training for our Summer Sports Programs. These sports include Soccer, Tennis, Volleyball, Bocce and Track & Field events. We are currently looking for volunteers and coaches with knowledge in these sports and other summer sports such as golf, swimming, and sailing. For more information please contact: Carolyn (772) 361-8972 or [information@specialolympicsfla.org](mailto:information@specialolympicsfla.org)

**HARVEST FOOD AND OUT-REACH CENTER** needs your help in our Cool Share Grocery Center. Help us store and keep our pantry organized, clean, and stocked with paperwork. We would love to have you join our volunteer family. For more details, contact Jessica at [Volunteers@harvestfood.org](mailto:Volunteers@harvestfood.org) or call (772) 468-8543. Groups and individuals are welcome. Assistance is needed daily.

**AUXILIARY BLED INDUSTRIES** needs garden helpers for our Community Garden, a recreational, event center, thrift store, and food pantry. We are currently looking for volunteers for events. For more information please call (772) 465-0021.

**COUNCIL ON AGING - SLC Drivers** needed for Area Delivery - Areas are determined Mon - Fri. Volunteers are needed for 1 or 2 days a week for 2 - 4 weeks maximum. Areas are determined throughout St. Lucie County. Mileage reimbursement provided. Level 1 Background Screening required. For more information please contact: Chandra (772) 336-9989 or [chandra@slca.org](mailto:chandra@slca.org)

**BIG BROTHERS BIG SISTERS** of SLC needs Community Based and School based volunteer mentors. Background Screening required for most information please contact: Sabrina (772) 868-0888 ext. 208 or [sabrina@bigbrothersbig.org](mailto:sabrina@bigbrothersbig.org)

**ST. LUCIE COUNTY CHAMBER OF COMMERCE/SEVEN COASTS HOUSE VISITORS CENTER** the visitor center needs individuals or couples to work part time in the area. It involves answering phones, greeting visitors and providing information. You may occasionally stock racks with various magazines and brochures. Training is provided. We also take field trips to various sites in the community. If you are interested in providing information about the community and our organization, please contact: (772) 465-2711

**SMITHSONIAN MARINE ECOSYSTEMS EXHIBIT** needs individuals or couples to work part time in the area. It involves answering phones, greeting visitors and providing information. You may occasionally stock racks with various magazines and brochures. Training is provided. We also take field trips to various sites in the community. If you are interested in providing information about the community and our organization, please contact: (772) 465-2711

**Wheels/Recreation**  
**Buy and Sell here!**  
**Local Finds**  
Restaurant/Food Serv.  
Experienced Seasonal Kitchen Staff needed. Please call: (772) 361-8972

### Real Estate

**MANAGER** - Manage past station/cow store and/or sales; manage inventory; manage staff; inventory; manage cash reconciliations; budget; light book; find revenue. Prep reports. Make w/ vendor. Insure deliveries a city for master dress orders. Prep records. Develop methods to increase sales & promote business. Increase safety, health, security rules. 40 hrs. Work's open for 40 hrs. 2 yrs exp. req. Mail returns & safety reports to: Lane Odehobee Inc. Attn: Mr. Islam, 14235 US Hwy 441 N. Odehobee, FL 34977. Job # Odehobee, FL.

### Merchandise

**ANTIQUES & ART WANTED** - Curious Palm Beach Buyer seeks quality paintings, sculpture, glass, jewelry, silver, jewelry, Tiffany, Cartier, modern art, Picasso, Warhol, etc. Did Masters, Chinese antiques, jade, Buddha, etc. Call: 561-461-0227

### Wanted to Buy

Have collectors for A.E. Backus & Highwaymen 1972-525-5015 or 772-696-4678

### Appliances

**APPLIANCE SALE** - Featuring New & Used Warming Appliances. Also buying Degr. 56 & Leman Cash paid. (772) 334-0374

### Skills/Trades

**PAINTERS - NEEDED** - Call: (772) 334-0374

### Painters - Needed

**PAINTERS** - Top pay for skilled painters. PD Vac. Hol. IRA, Apply at: 1165 Commerce Ave. V# 772-778-8552

### Sheet Metal Foreman/Mech/Helpers/Plumbers

Weld & install the extensive & international plumbing & mechanical contractor has openings on projects in Broward & Palm Beach Co. Must have commercial exp. Paid vacation, health, 401K, medical & dental insurance available. DW WP & EOL. Please call: 305-865-8158 ext. 1158 or [hr@hennel.com](mailto:hr@hennel.com) or send resume to: [HennelRecruiting@hennel.com](mailto:HennelRecruiting@hennel.com)

### Training & Education

**Schools & Instructions**  
**BECOME A CHAI** - No HS/GED required. Also Phlebotomy & HHA. [www.chai.com](http://www.chai.com) (772) 882-4212

### Estate Sales

**Kofski's Week-End Marketplace**  
After Hurricane Sale Everything 20% OFF This Week-End Only  
Open Today 10:00-4:00  
From Palm Beach houses: Furniture, Lighting, Mirrors, Lamps, Rugs, China and Decorative Accessories.  
5500 Georgia Avenue, WPB [www.kofskis.com](http://www.kofskis.com)

**VERO BEACH 7315 4TH LANE SW 9/27-9/28, 9AM-3PM**  
MOST COMMENTS ARE FINEY CLASSWARE, UNUSUAL DINING ROOM SET, SIGNED ART, ANTIQUE CLOCK, LIGHTING FIX, STORAGE CAB, PATIO FURN, ITALIAN MAILED WALL, WARDROBE, MATCHING KING BROWNWOOD SET GARAGE IS FULL, MUCH, MUCH MORE!

### Pets

**GERMAN SHEPHERDS** - Pups & young adults from Germany, high quality, Champion blood. \$1,800. 772-369-4194. WEBSITE: 176-4778

### Dogs

**POMERANIAN CKC MI**, 351 Shirts, hair hoodies, Bill of health \$150. (772) 409-4916

### Merchandise

**ANTIQUES & ART WANTED** - Curious Palm Beach Buyer seeks quality paintings, sculpture, glass, jewelry, silver, jewelry, Tiffany, Cartier, modern art, Picasso, Warhol, etc. Did Masters, Chinese antiques, jade, Buddha, etc. Call: 561-461-0227

### Wanted to Buy

Have collectors for A.E. Backus & Highwaymen 1972-525-5015 or 772-696-4678

### Appliances

**APPLIANCE SALE** - Featuring New & Used Warming Appliances. Also buying Degr. 56 & Leman Cash paid. (772) 334-0374

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**PAINTERS - NEEDED** - Call: (772) 334-0374

### Painters - Needed

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### Sheet Metal Foreman/Mech/Helpers/Plumbers

Weld & install the extensive & international plumbing & mechanical contractor has openings on projects in Broward & Palm Beach Co. Must have commercial exp. Paid vacation, health, 401K, medical & dental insurance available. DW WP & EOL. Please call: 305-865-8158 ext. 1158 or [hr@hennel.com](mailto:hr@hennel.com) or send resume to: [HennelRecruiting@hennel.com](mailto:HennelRecruiting@hennel.com)

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## MAKE EXTRA MONEY

# DELIVER TREASURE COAST NEWSPAPERS

We need responsible people who would like to earn extra income by being an independent contractor delivering newspapers in Martin County, St. Lucie County and Vero Area.

**The Stuart News**  
**St. Lucie News Tribune**

**CURBING LAKE OKEECHOBEE DISCHARGES**

**You can earn up to \$900.00 per month** in your spare time

You must have a telephone - valid driver license - automobile insurance - have reliable transportation

Must be available Monday - Sunday early mornings

If you are interested please stop by one of the Distribution Centers between the hours of 1:00am and 3:00am and fill out an information sheet

**MARTIN COUNTY** The Stuart News is located at 1939 SE Federal Hwy, Stuart, FL 34994  
The distribution centers in the area of the Lullburg

**ST. LUCIE COUNTY** The St. Lucie News Tribune is located at 760 NW Enterprise Dr., Port St. Lucie, FL 34986  
**VERO BEACH** The Press Journal is located at 1426 Old Dixie Hwy N, Vero Beach, FL 32960

**MARTIN COUNTY** The Stuart News is located at 1939 SE Federal Hwy, Stuart, FL 34994  
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**Palms City Auction**  
Always Buying Furniture, Electronics, Appliances, etc. Also buying Degr. 56 & Leman Cash paid. (772) 334-0374

**Med Equip & Supplies**  
Mobility Scooters - Price \$1000.00. 1 wheel, 1 yr old. Like New. Perfect Condition. Also buying Degr. 56 & Leman Cash paid. (772) 334-0374

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**Announcements**  
**GROWING MINDS** - Academic Center. English, Spanish, Math, Science, etc. Also buying Degr. 56 & Leman Cash paid. (772) 334-0374

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**Legal Notices**  
alcoholic beverage licenses DATED this 24th day of September, 2017. Board of County Commissioners St. Lucie County, Florida TCN 1762689

**Legal Notices**  
Seacoast Self Storage 2448 N US 1 Port Pierce FL 34946 Property name and unit number: James Amick #184 Andrew Vicar #101 Lillian Kaylor #62 Susan Perez #203

**Legal Notices**  
Seacoast Self Storage 2448 N US 1 Port Pierce FL 34946 Property name and unit number: James Amick #184 Andrew Vicar #101 Lillian Kaylor #62 Susan Perez #203

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Sales Rep: Mereida Cardenas (N9103)

Phone:

Email:

> Account Information

Date: 09/21/17

Account Number: 437762 (T15612366)

Name: ST LUCIE COUNTY ATTORNEY'S OFF

Contact:

Email: bishopc@stlucicco.org

Address: 2300 VIRGINIA AVE, FT PIERCE, FL, 34982-5653

Phone: (772) 462-1492

Fax: (000) 000-0000

> Insertion Information

This is a proof of your ad scheduled to run on the dates indicated below.

Please confirm placement prior to deadline by contacting your account rep at .

Ad Id: 1761689

P.O. No.:

Total Cost: \$33.00

Tag Line: NOTICE OF LEGISLATION NOTICE IS HERE

Start Date: 09/24/17

Stop Date: 09/24/17

Number of Times: 1

Class: 16100 - Legal Notices

Publications: TC-TC News-Press-Tribunc, TC-Internet tcpalm.com

> Ad Proof

I agree this ad is accurate and as ordered.

**NOTICE OF LEGISLATION**

**NOTICE IS HEREBY GIVEN**, of intent to apply to the 2018 Florida Legislature for passage of an act relating to St. Lucie County, repealing Chapter 1190, Laws of Florida, 1967, relating to the issuance of alcoholic beverage licenses.

**DATED** this 24th day of September, 2017.

Board of County Commissioners  
St. Lucie County, Florida  
TCN 1761689

Thank you for your business. Our commitment to a quality product includes the advertising in our publications. As such, Gannett reserves the right to categorize, edit and refuse certain classified ads. Your satisfaction is important. If you notice errors in your ad, please notify the classified department immediately so that we can make corrections before the second print date. The number to call is 877-247-2407. Allowance may not be made for errors reported past the second print date. The Treasure Coast Newspapers may not issue refunds for classified advertising purchased in a package rate; ads purchased on the open rate may be pro-rated for the remaining full days for which the ad did not run.

HOUSE OF REPRESENTATIVES

2017 - 2018 LOCAL BILL CERTIFICATION FORM

BILL #: 891

SPONSOR(S): Representative Gayle Harrell

RELATING TO: St. Lucie County, FL

[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: St. Lucie County Delegation

CONTACT PERSON: Karen Sweeney

PHONE NO.: (772)221-4011 E-Mail: karen.sweeney@myfloridahouse.gov

I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:

- (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;
- (2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and
- (3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.
- (4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES  NO

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level: This requires a repeal of the Special Act within St. Lucie County.

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES  NO

Date hearing held: October 19, 2017

Location: Indian River State College

(3) Was this bill formally approved by a majority of the delegation members?

YES  NO  UNANIMOUSLY APPROVED

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee?

YES  NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or



*the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE 9/24/17

Where? TC Palm County St. Lucie County

Referendum in lieu of publication: YES  NO

Date of Referendum \_\_\_\_\_

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES  NO

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES  NO

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES  NO

Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee.

Gayle Harrell  
Delegation Chair (Original Signature)

12/5/2017  
Date

Representative Gayle Harrell  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2018 ECONOMIC IMPACT STATEMENT FORM**

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

**BILL #:** 891

**SPONSOR(S):** Rep. Gayle Harrell

**RELATING TO:** St. Lucie County - repeals Florida Chapter 67-1990, Laws of Florida.  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 18-19</u>	<u>FY 19-20</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 18-19</u>	<u>FY 19-20</u>
	\$ <u>0</u>	\$ <u>0</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

Currently, St. Lucie County does not collect an application processing fee, therefore the impact is revenue neutral.

**III. FUNDING SOURCE(S):**

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 17-18</u>	<u>FY 18-19</u>
Local:	\$ <u>0</u>	\$ <u>0</u>
State:	\$ <u>0</u>	\$ <u>0</u>
Federal:	\$ <u>0</u>	\$ <u>0</u>

**IV. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: This bill will increase dining options for restaurant patrons in St. Lucie County.
2. Advantages to Businesses: This bill will increase business opportunities for restaurant operators, both new and current, with the ability to operate full-service restaurants creating a level playing field for St. Lucie County businesses.
3. Advantages to Government: The changes would eliminate additional regulation duplicative to services provided by other governmental agencies.

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None foreseen.

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2. Disadvantages to Businesses: None foreseen.

3. Disadvantages to Government: None foreseen.

**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

None.

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**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

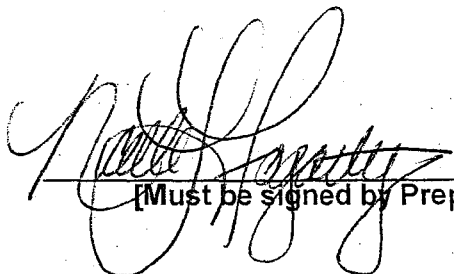
Florida Statutes, Florida Administrative Code, St. Lucie County Comprehensive Plan and St. Lucie County Planning and Development Services Department.

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**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:

  
[Must be signed by Preparer]

Print preparer's name:

Nicole Fogarty

November 16, 2017

Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Legislative Affairs Director

REPRESENTING:

St. Lucie County Board of County Commissioners

PHONE:

(772) 462-6406

E-MAIL ADDRESS:

fogartyn@stlucieco.org

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A bill to be entitled  
An act relating to St. Lucie County; repealing ch. 67-  
1990, Laws of Florida, relating to the issuance of  
alcoholic beverage licenses; providing an effective  
date.

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

- Section 1. Chapter 67-1990, Laws of Florida, is repealed.  
Section 2. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1015 Florida Keys Mosquito Control District, Monroe County

**SPONSOR(S):** Raschein

**TIED BILLS:** None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Rivera <i>ajr</i>	Miller <i>EJM</i>
2) Government Accountability Committee			

### SUMMARY ANALYSIS

The Florida Keys Mosquito Control District (District) is an independent special district, created in 1949 and tasked with controlling and eliminating mosquitoes and other arthropods of public health importance in Monroe County. The District is governed by a board of commissioners composed of five members elected in a general election to serve terms of 4 years. Members are not subject to restrictions to the number of terms or total number of years they may serve under the charter.

The bill imposes a limit on the number of terms and total number of years a member is allowed to serve on the District's board of commissioners. Future board members would be limited to serving three 4-year terms for a total of 12 years for their lifetime. Members appointed to a vacant seat who serve more than one-half of the remaining term of the vacancy would have the entire 4-year term counted toward the 12-year maximum limit.

The bill is not retrospective and board members who served prior to October 4, 2018 would not have their prior service counted toward the term limits. Similarly, board members in office as of October 4, 2018 would not have their current terms counted toward the imposed term limits. October 4, 2018 is one month prior to the November 6, 2018 general election which is the next possible election of board members.

The bill provides the act takes effect upon becoming law.



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Special Districts

The Legislature adopted ch. 189, F.S., to provide uniform statutes for the definition, creation, and operation of special districts.<sup>1</sup> A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.<sup>2</sup> A special district may be created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.<sup>3</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.<sup>4</sup> Each special district existing prior to the enactment of ch. 189, F.S. was required to submit a draft codified charter to the Legislature incorporating all of the special acts pertaining to its operation into a single act.<sup>5</sup>

A "dependent special district" is a district of which the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of the governing body of a single county or municipality.<sup>6</sup> An "independent special district" is any district that is not a dependent special district or includes more than one county unless the district lies wholly within a single municipality.<sup>7</sup>

A special district is required to have a governing body.<sup>8</sup> The members of the governing body serve terms of no more than 4 years.<sup>9</sup> Chapter 189, F.S., is silent as to restrictions on the number of terms or total number of years a member may serve on the board of a district.

##### Mosquito Control Districts

A "mosquito control district" is a special district established by law for the express purpose of controlling certain insects within its boundaries.<sup>10</sup> Any municipality or county, in whole or part, regardless of whether the area encompasses an incorporated territory or two or more counties, may be incorporated into a single mosquito control district.<sup>11</sup> After July 1, 1980, mosquito control districts may only be created by counties.<sup>12</sup>

Mosquito control districts are governed by a board of commissioners composed of three or five members elected in a general election.<sup>13</sup> Members serve terms of 4 years.<sup>14</sup> The statute does not limit the number of terms or total number of years members may serve.

---

<sup>1</sup> Section 189.011(1), F.S.

<sup>2</sup> Section 189.012(6), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> See Sections 189.02(4)-(5) and 189.031(3), F.S.

<sup>5</sup> Section 189.019(1), F.S.

<sup>6</sup> Section 189.012(2), F.S.

<sup>7</sup> Section 189.012(3), F.S.

<sup>8</sup> See Sections 189.02(4)-(5) and 189.031(3), F.S.

<sup>9</sup> Section 189.041(3)(b), F.S. The section provides for two instances where the term may be less than the full 4 years, after the first election or the first landowners' meeting following a referendum carried out as prescribed earlier in the statute.

<sup>10</sup> Section 388.011(5), F.S.

<sup>11</sup> Section 388.021(1), F.S.

<sup>12</sup> Section 388.021(2), F.S.

<sup>13</sup> Section 388.101(1)-(2), F.S.

<sup>14</sup> Section 388.101(1), F.S.

Florida Keys Mosquito Control District

The Florida Keys Mosquito Control District (District) is a special district, created in 1949 and currently operating under a charter codified in 2002, tasked to control and eliminate mosquitoes and other arthropods of public health importance in Monroe County.<sup>15</sup> The District has the authority to use all the privileges and powers of a mosquito control district under ch. 388, F.S.<sup>16</sup> The District is an independent special district as it does not meet any of the criteria to be a dependent special district.<sup>17</sup>

The District is governed by a board of commissioners composed of five members elected in a general election.<sup>18</sup> Members generally serve terms of 4 years.<sup>19</sup> Members are not subject to restrictions to the number of terms or total number of years they may serve under the charter.

**Effect of Proposed Changes**

The bill imposes a limit on the number of terms and total number of years a member is allowed to serve on the District's board of commissioners. Board members serving after October 4, 2018, would be limited to serving three 4-year terms, consecutive or not, for a total of 12 years. Members appointed to serve more than one-half of the remaining term of a vacated seat would have the entire 4-year term counted toward the 12-year lifetime maximum limit.

The bill is not retrospective and board members who served prior to October 4, 2018 would not have their prior service count toward the term limits. Similarly, board members in office as of October 4, 2018 would not have their current terms count toward the imposed term limits. The October 4, 2018 date is one month prior to the next possible election for board members and ensures members elected in the November 6, 2018 general elections will be the first members subject to the new lifetime term limits.<sup>20</sup>

B. SECTION DIRECTORY:

Section 1. Amends ch. 2002-346, Laws of Fla., as amended, providing term limits for board members.

Section 2. Provides that the bill shall take effect upon becoming a law.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? October 25, 017

WHERE? *The Key West Citizen*, Monroe County, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

<sup>15</sup> See generally ch. 26042, Laws of Fla. (1949), as amended, ch. 2002-346, Laws of Fla., as amended, and s.189.019, F.S. The Florida Keys Mosquito Control District was created in 1949 by special act and subsequent amendments which were codified into a single charter in 2002 as required pursuant to ch. 189, F.S.

<sup>16</sup> Ch. 2002-346, s.5, Laws of Fla.

<sup>17</sup> See ch. 2002-346, Laws of Fla., and 189.012(2), F.S.

<sup>18</sup> Ch. 2002-346, ss.2 and 3(3), Laws of Fla. Members must be residents and registered electors of the area from which they are elected and each member represents a district corresponding to one of the five county commission districts of Monroe County.

<sup>19</sup> Ch. 2002-346, s.3(3), Laws of Fla. Members serve 4 years or until a successor is duly elected and qualified.

<sup>20</sup> Email from Rep. Rashcein's office, RE: HB 1015 – Term Limits for Mosquito District Commissioners, dated Jan. 5, 2018. (on file with the Local, Federal, and Veterans Affairs Subcommittee).

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Rep. Raschein LB  
HB 1015



STATE OF FLORIDA  
COUNTY OF MONROE

PO Box 1800  
Key West FL 33041  
Office....305-292-7777  
Extension...x219  
Fax.....305-295-8025  
[legals@keysnews.com](mailto:legals@keysnews.com)

Before the undersigned authority personally appeared Paul Clarin, who on oath says that he is Publisher of the Key West Citizen, a daily newspaper published in Key West, in Monroe County, Florida; that the attached copy of advertisement, being a legal notice in the matter of

Notice of Hearing and Intent  
Legislation to provide Term Limits - Mosquito Control

INTERNET PUBLISHING  
keywest.com  
keysnews.com  
floridakeys.com  
key-west.com  
Web Design Services

was published in said newspaper in the issue(s) of


October 25, 2017

NEWSPAPERS  
The Citizen  
Florida Keys Free Press

Affiant further says that the Key West Citizen is a newspaper published in Key West, in said Monroe County, Florida and that the said newspaper has heretofore been continuously published in said Monroe County, Florida every day, and has been entered as second-class mail matter at the post office in Key West, in said Monroe County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

MARKETING SERVICES  
Commercial Printing  
Direct Mail

FLORIDA KEYS OFFICES  
Printing / Main Facility  
3420 Northside Drive  
Key West, FL  
33040-1800  
Tel 305-292-7777  
Fax 305-294-0768  
[citizen@keywest.com](mailto:citizen@keywest.com)

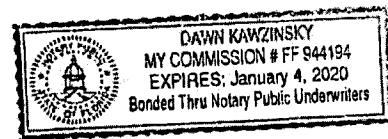
  
Signature of Affiant

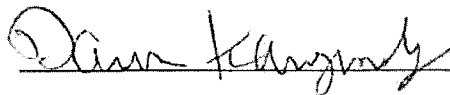
Internet Division  
Tel 305-292-1880  
Fax 305-294-1699  
[sales@keywest.com](mailto:sales@keywest.com)

Sworn and subscribed before me this 25 day of October, 2017

Upper Keys Office  
91731 Overseas Hwy  
Tavernier, FL 33070  
Tel 305-853-7277  
Fax 305-853-0556  
[freepress@floridakeys.com](mailto:freepress@floridakeys.com)

Notary Public:





Dawn Kawzinsky  
Expires: 1/4/2020

Notary Seal

Personally Known   x   Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

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1

**NOTICE OF HEARING AND  
NOTICE OF INTENT TO SEEK  
LEGISLATION**

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2018 Florida Legislature for passage of an act relating to The Florida Keys Mosquito Control District, Monroe County, Florida amending Chapter 2002-Section 1. Subsection (4) is added to section 3 of section 3 of Chapter 2002-346, Laws of Florida, as amended by Chapters 2003-387 and 2003-388, Laws of Florida:

The legislation is sought to provide Term Limits for the Florida Keys Mosquito Control District Board Members.

For those who wish to comment on the above, there will be a local bill hearing scheduled at the Monroe County Legislative Delegation on Wednesday, November 1, 2017 at 10:00 a.m. at the Marathon City Hall, Council Chambers, 9805 Overseas Highway, Marathon, Florida. For more details, please call Executive Assistant, Chrissy Bloxom at 305-292-7190 x 128, Monday thru Friday between 8:00 a.m. and 5:00 p.m.

In accordance with the Americans with Disabilities Act, persons needing special accommodations or an interpreter to participate in this proceeding should contact Executive Assistant, Chrissy Bloxom at 305-292-7190 x 128, at least 3 days prior to the hearing.

HOUSE OF REPRESENTATIVES

2017 - 2018 LOCAL BILL CERTIFICATION FORM

BILL #: 1015
SPONSOR(S): Holly Raschein
RELATING TO: Florida Keys Mosquito Control District and Board Member Term Limits
NAME OF DELEGATION: Monroe County Legislative Delegation
CONTACT PERSON: Kate DeLoach
PHONE NO.: (850) 717-5120 E-Mail: kate.deloach@myfloridahouse.gov

- I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:
(1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;
(2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and
(3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.
(4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?
YES [checked] NO [ ]

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level: Since the Florida Legislature created the Florida Keys Mosquito Control District and provided for the specific authority through a comprehensive special act charter for the district which included composition of the Board of Commissioners and their terms, only the Florida Legislature has the power and authority to amend the charter.

(2) Did the delegation conduct a public hearing on the subject of the bill?
YES [checked] NO [ ]

Date hearing held: November 1, 2017 at 10:00 a.m.
Location: Marathon City Hall, Council Chambers, 9805 Overseas Highway, Marathon, FL 33050

(3) Was this bill formally approved by a majority of the delegation members?
YES [ ] NO [ ] UNANIMOUSLY APPROVED [checked]

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee?
YES [checked] NO [ ]

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or

*the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE October 25, 2017

Where? The Key West Citizen County Monroe County

Referendum in lieu of publication: YES  NO

Date of Referendum N/A

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES  NO

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES  NO

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES  NO

Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee.

  
Delegation Chair (Original Signature)

12/15/17  
Date

Holly Raschein  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES  
2018 ECONOMIC IMPACT STATEMENT FORM**

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

**BILL #:** 1015  
**SPONSOR(S):** Raschein  
**RELATING TO:** Florida Keys Mosquito Control District and Board Member Term Limits  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 18-19</u>	<u>FY 19-20</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 18-19</u>	<u>FY 19-20</u>
	\$ <u>0</u>	\$ <u>0</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

No impact

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**III. FUNDING SOURCE(S):**

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 18-19</u>	<u>FY 19-20</u>
Local:	\$ <u>0</u>	\$ <u>0</u>
State:	\$ <u>0</u>	\$ <u>0</u>
Federal:	\$ <u>0</u>	\$ <u>0</u>

**IV. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

- 1. Advantages to Individuals: NA  
\_\_\_\_\_  
\_\_\_\_\_
- 2. Advantages to Businesses: NA  
\_\_\_\_\_  
\_\_\_\_\_
- 3. Advantages to Government: NA  
\_\_\_\_\_  
\_\_\_\_\_

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

- 1. Disadvantages to Individuals: NA  
\_\_\_\_\_

2. Disadvantages to Businesses: NA

3. Disadvantages to Government: NA

**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

No impact

**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

Not applicable

**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:   
[Must be signed by Preparer]

Print preparer's name: Andrea L. Leal  
December 11, 2017  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):  
Executive Director

REPRESENTING: Florida Keys Mosquito Control District

PHONE: (305) 292-7190

E-MAIL ADDRESS: aleal@keysmosquito.org

1                                   A bill to be entitled  
 2           An act relating to the Florida Keys Mosquito Control  
 3           District, Monroe County; amending ch. 2002-346, Laws  
 4           of Florida, as amended; providing term limits for  
 5           board members; providing an effective date.

6  
 7 Be It Enacted by the Legislature of the State of Florida:  
 8

9           Section 1. Subsection (4) is added to section 3 of section  
 10          3 of chapter 2002-346, Laws of Florida, as amended by chapters  
 11          2003-387 and 2003-388, Laws of Florida, to read:

12          Section 3. Board of commissioners; election; terms of  
 13          office; qualification.-

14                (4) Members of the board shall serve no more than three 4-  
 15          year terms of office for a total of 12 years. An appointed  
 16          member who serves more than one-half of the term of the seat  
 17          vacated will be considered to have served the entire 4-year term  
 18          for purposes of the maximum 12 years. These term limits will not  
 19          have retroactive effect and computation of time for term limits  
 20          of current members will commence at the conclusion of their  
 21          present terms of office. In addition, members who served on the  
 22          board before October 4, 2018, will not have their prior service  
 23          counted for purposes of term limits.

24          Section 2. This act shall take effect upon becoming a law.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1017 Seminole County  
**SPONSOR(S):** Cortes, B.  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Miller <i>E.H.M.</i>	Miller <i>E.H.M.</i>
2) Tourism & Gaming Control Subcommittee			
3) Government Accountability Committee			

**SUMMARY ANALYSIS**

Florida law authorizes a licensed pari-mutuel permitholder to apply to operate a cardroom at the permitholder's pari-mutuel facility. The games authorized for play in a cardroom include poker and dominos. The pari-mutuel permitholder must apply for a separate license to operate a cardroom. The Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (DPW) may only issue a cardroom license after the applicant proves the applicable local government has approved the operation of the cardroom, in addition to other statutory criteria. The local government approval may be by majority vote of the governing body of the municipality where the pari-mutuel facility is located. If the facility is not within a municipality, the approval must be obtained from the applicable county commission.

Seminole County has three licensed pari-mutuel permitholders operating at two facilities. Two of the permits are for greyhound racing at the Sanford Orlando Kennel Club located in Sanford, FL. The third permit is for jai alai performances in a facility located in Fern Park, an unincorporated area of Seminole County. None of the facilities is licensed for the operation of a cardroom.

In 1996, Seminole County amended its home rule charter to provide a specific process to approve any proposed casino gambling operation within the County. The procedure first requires the proposed casino operation be approved in a referendum of the county electors. If so, the Board of County Commissioners may then adopt an ordinance approving the proposed gambling operation.

The bill creates an exception to general law by requiring the necessary local government approval for operation of a cardroom at either of the facilities in Seminole County be obtained only by complying with the referendum procedures for approval of casino gambling under the Seminole County Home Rule Charter, regardless of whether the facility is located in a municipality.

**According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since the bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Florida statutes generally prohibit gambling, defined as a game of chance played in any place by any device for money.<sup>1</sup> Exceptions to the general prohibition include pari-mutuel<sup>2</sup> wagering on various types of horseracing,<sup>3</sup> greyhound dog racing,<sup>4</sup> and jai alai,<sup>5</sup> allowed penny-ante games played in a dwelling under specific conditions,<sup>6</sup> slot machines allowed under certain circumstances,<sup>7</sup> and games allowed at authorized cardrooms.<sup>8</sup>

Only a licensed pari-mutuel permitholder may apply to operate a cardroom.<sup>9</sup> If the separate cardroom license is issued by the Department of Business & Professional Regulation, Division of Pari-Mutuel Wagering (DPW), the cardroom may be operated only in the same facility where the license holder is authorized to conduct its pari-mutuel activities.<sup>10</sup> The statute considers authorized cardroom games<sup>11</sup> as pari-mutuel style games because the participants play against each other instead of the house.<sup>12</sup>

Application to operate a cardroom is made on forms specified by DPW.<sup>13</sup> In addition to any other information required by statute or administrative rule, DPW may not issue an initial license to operate a cardroom without proof that the governing body of the local government where the pari-mutuel facility of the applicant is located has approved the operation of the proposed cardroom by a majority vote. If the facility is to be operated within a municipality, the approval would require a majority vote of the governing body of the municipality. If the facility was not located within a municipality, then approval by majority vote of the governing body of the county would be required.<sup>14</sup> Approval by referendum of the county electors is required only if the cardroom licensee seeks to change the location of the cardroom to a different facility.<sup>15</sup>

##### *Seminole County*

Seminole County currently has three pari-mutuel licensees operating at two facilities. None has a valid license to operate a cardroom. The three licensees are:

- SOKC, LLC, authorized to conduct greyhound racing at Sanford Orlando Kennel Club located in Sanford, Florida. PMW license number 152 (2017-2018).

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<sup>1</sup> Section 849.08, F.S. The statute was first enacted codified as Revised Statutes 2651, s. 1, ch. 4514 (1895).

<sup>2</sup> "Pari-mutuel" means a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. Section 550.002(22), F.S.

<sup>3</sup> The definition of "horserace permitholder" specifies thoroughbred racing, harness racing, and quarter horse racing. Section 550.002(15), F.S.

<sup>4</sup> See s. 550.002(29), F.S.

<sup>5</sup> A ball game of Spanish origin played on a court with three walls. Section 550.002(18), F.S.

<sup>6</sup> Section 849.085, F.S.

<sup>7</sup> See art. X, s. 23, Fla. Const.; ch. 551, F.S.

<sup>8</sup> Section 849.086, F.S.

<sup>9</sup> Sections 849.086(2)(f), (5)(a), F.S.

<sup>10</sup> Sections 849.086(5)(a), (7)(a)F.S.

<sup>11</sup> (A) "game or series of games of poker or dominoes which are played in a nonbanking manner." Section 849.086(2)(a), F.S.

<sup>12</sup> Section 849.086(1), F.S.

<sup>13</sup> Section 849.086(5)(c), F.S.; Rule 61D-11.007(2), F.A.C.

<sup>14</sup> Section 849.086(16), F.S.

<sup>15</sup> Section 849.086(17), F.S.

- Penn Sanford, LLC, authorized to conduct greyhound at Sanford Orlando Kennel Club located in Sanford, Florida. PMW license number 158 (2017-2018).
- RB Jai Alai, LLC, authorized to conduct jai alai games at Orlando Live Events located in Fern Park, an unincorporated area of Seminole County, Florida. PMW license number 270 (2017-2018).<sup>16</sup>

The Seminole County Home Rule Charter specifically prohibits any form of casino gambling in the County unless "first authorized by an approving vote of a majority of the qualified electors residing in the County and voting on the question at a referendum separate and apart from any other referendum, statewide or otherwise, on the question."<sup>17</sup> The charter defines casino gambling as "'playing or engaging in any game of chance for money or any other thing of value, regardless of how such game is named, labeled or otherwise characterized, which game was unlawful under the Constitution or laws of the State of Florida as of July 1, 1996."<sup>18</sup> As of July 1, 1996, Florida law permitted participation in certain penny-ante games conducted in a dwelling, including poker and dominoes.<sup>19</sup> Although the cardroom statute went into effect on January 1, 1997,<sup>20</sup> after the charter was amended to include Article V,<sup>21</sup> the current general law process for approval of a cardroom license application would control over the provisions of the charter.<sup>22</sup>

### Effect of the Bill

The bill creates an exception to general law by limiting the process for obtaining the required local approval for operation of a cardroom only to the referendum procedures under article V, s. 5.1, of the Seminole County Home Rule Charter. For purposes of such referendum, the bill substitutes the statutory definition of "cardroom"<sup>23</sup> for the term "casino gambling" used in the charter.

### B. SECTION DIRECTORY:

Section 1: Creates an exception to s. 849.086(16), F.S., by requiring a referendum of the county voters in accordance with article V, section 5.1 of the Seminole County Home Rule Charter to provide the local approval of a proposed cardroom before DPW may issue a cardroom licensee to a pari-mutuel licensee in Seminole County.

Section 2: Provides the act shall take effect upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 13, 2017

WHERE? Orlando Sentinel, published in Orange County and generally circulated in Seminole County

<sup>16</sup> See pari-mutuel licensing information at <http://www.myfloridalicense.com/dbpr/pmw/documents/CurrentPermitholdersList.pdf> (accessed 12/31/2017).

<sup>17</sup> Art. V, s. 5.1.A., Seminole County Home Rule Charter, at [https://library.municode.com/fl/seminole\\_county/codes/code\\_of\\_ordinances?nodeId=SECOHORUCH\\_ARTVMIPR](https://library.municode.com/fl/seminole_county/codes/code_of_ordinances?nodeId=SECOHORUCH_ARTVMIPR) (accessed 12/31/2017).

<sup>18</sup> Art. V, s. 5.1.B., Seminole County Home Rule Charter.

<sup>19</sup> Section 849.085(2)(a), F.S. (1995). Penny-ante games had been allowed by statute since 10/1/1989. See ch. 89-366, Laws of Fla.

<sup>20</sup> Ch. 96-364, s. 20, Laws of Fla.

<sup>21</sup> Article V went into effect on 11/6/1996. See art. V, s. 5.1.A., Seminole County Home Rule Charter.

<sup>22</sup> Charter counties have all powers of local self-government not inconsistent with general law. Art. VIII, s. 1(g), Fla. Const.

<sup>23</sup> See s. 849.086(2)(c), F.S.



B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Art. V, s. 5.1, of the Seminole County Home Rule Charter requires approval by referendum of the County electors before the County Commission may consider and approve any form of casino gambling. The bill does not clearly require the same two-step process as the charter.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since the bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

# Orlando Sentinel

Rep. B. Cortes

LB

AB 1017

Published Daily  
ORANGE County, Florida

STATE OF FLORIDA

COUNTY OF ORANGE

Before the undersigned authority personally appeared Aracelis Crespo / Karen Pistone / Maria Torres, who on oath says that he or she is an Advertising Representative of the ORLANDO SENTINEL, a DAILY newspaper published at the ORLANDO SENTINEL in ORANGE County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter of 11150-Public Hearing Notice, **Seminole County Legislative Delegation local bill hearing** was published in said newspaper in the issues of Nov 13, 2017.

Affiant further says that the said ORLANDO SENTINEL is a newspaper published in said ORANGE County, Florida, and that the said newspaper has heretofore been continuously published in said ORANGE County, Florida, each day and has been entered as periodicals matter at the post office in ORANGE County, Florida, in said ORANGE County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

**NOTICE OF PUBLIC HEARING**  
The following announcement is notification that the Seminole County Legislative Delegation will meet to consider a local bill hearing. The bill is an act relating to Seminole County creating an exception to general law and providing for approval of courtroom zoning within Seminole County under the requirements of the Seminole County Charter. This meeting is free and open to the public. The meeting will be held on Wednesday, November 22, 2017 from 9:00 AM to 11:00 AM at the Seminole County Commission Chambers, 1101 E. First Street, Sanford, FL 32771. Any questions or concerns should be sent to Murphy.Kennedy@myfloridahouse.gov or 407 262-7420.

OS5298751

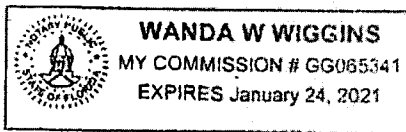
11/13/2017

Aracelis Crespo  
Signature of Affiant

Aracelis Crespo  
Printed Name of Affiant

Sworn to and subscribed before me on this 13 day of November, 2017, by above Affiant, who is personally known to me ( X ) or who has produced identification ( ).

Wanda Wiggins  
Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped

HOUSE OF REPRESENTATIVES

2017 - 2018 LOCAL BILL CERTIFICATION FORM

BILL #: 1017
SPONSOR(S): Rep B. Cortes
RELATING TO: Seminole County
NAME OF DELEGATION: Seminole County Legislative Delegation
CONTACT PERSON: Murphy Kennedy
PHONE NO.: 8507175030 E-Mail: Murphy.Kennedy@MyFloridaHouse.gov

- I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:
(1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;
(2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and
(3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.
(4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?
YES [checked] NO [ ]

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level: Discrepancy between FS849.086(16) and Seminole County Charter Section 5.

Local bill clarifies the local definition of gambling.

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES [checked] NO [ ]

Date hearing held: November 22, 2017

Location: Seminole County Chambers, 1101 E 1st St, Sanford, FL 32771

(3) Was this bill formally approved by a majority of the delegation members?

YES [checked] NO [ ] UNANIMOUSLY APPROVED [ ]

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee?

YES [checked] NO [ ]

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or

*the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.*

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE Monday, November 13, 2017

Where? Orlando Sentinel County Seminole/Orange

Referendum in lieu of publication: YES  NO

Date of Referendum \_\_\_\_\_

III. *Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.*

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES  NO

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES  NO

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES  NO

Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee.

  
\_\_\_\_\_  
Delegation Chair (Original Signature)

1/8/2018  
\_\_\_\_\_  
Date

Chair Scott Plakon  
\_\_\_\_\_  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES  
2018 ECONOMIC IMPACT STATEMENT FORM**

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

**BILL #:** HB 1017  
**SPONSOR(S):** Representative Bob Cortes  
**RELATING TO:** Seminole County Cardroom Gaming Exception to General Law  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 18-19</u>	<u>FY 19-20</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 18-19</u>	<u>FY 19-20</u>
	\$ <u>0</u>	\$ <u>0</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

No known impact.

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**III. FUNDING SOURCE(S):**

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 18-19</u>	<u>FY 19-20</u>
Local:	\$ <u>0</u>	\$ <u>0</u>
State:	\$ <u>0</u>	\$ <u>0</u>
Federal:	\$ <u>0</u>	\$ <u>0</u>

**IV. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

- 1. Advantages to Individuals: Citizens reserve the power to approve or disapprove cardroom gaming through referendum. Majority approval.
- 2. Advantages to Businesses: N/A
- 3. Advantages to Government: N/A

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

- 1. Disadvantages to Individuals: N/A

2. Disadvantages to Businesses:

N/A

3. Disadvantages to Government:

N/A

**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

None

**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

There is no known economic data on this issue. The foregoing impact statement is based on a logical analysis of the bill.

**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:   
[Must be signed by Preparer]

Print preparer's name: Edward D. Bass II  
January 8, 2018  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):  
Director, Resource Management

REPRESENTING: Seminole County BCC

PHONE: 407-665-7172

E-MAIL ADDRESS: ebass@seminolecountyfl.gov



**HOUSE OF REPRESENTATIVES**  
**2017 – 2018 LOCAL BILL AMENDMENT FORM**

*Prior to consideration of a substantive amendment to a local bill, the chair of the legislative delegation must certify, by signing this Amendment Form, that the amendment is approved by a majority of the legislative delegation. House local bill policy does not require a delegation meeting to formally approve an amendment. All substantive committee, subcommittee, and floor amendments must be accompanied by a completed original Amendment Form which has been provided to and reviewed by Local, Federal & Veterans Affairs Subcommittee staff prior to consideration. An Amendment Form is not required for technical amendments.*

**BILL NUMBER:** HB 1017  
**SPONSOR(S):** Rep. B. Cortes  
**RELATING TO:** Seminole County

[Indicate Area Affected (City, County or Special District) and Subject]

**SPONSOR OF AMENDMENT:** Rep. B. Cortes

**AMENDMENT FOR:**  **Committee:** Local, Federal & Veterans Affairs Subcommittee  
(Check One) (Name of Committee or Subcommittee)  
 **Floor**

**CONTACT PERSON:** Murphy Kennedy, Legislative Aide

**PHONE NO:** 850-717-5030      **E-MAIL:** Murphy.Kennedy@myfloridahouse.gov

**Reviewed by staff of the Local, Federal & Veterans Affairs Subcommittee**  \*Must Be Checked\*

**I. BRIEF DESCRIPTION OF AMENDMENT:**  
*(Attach additional page(s) if necessary)*

Clarifies the local approval for a card room in Seminole County shall be granted only by the Seminole County Commission pursuant Seminole County Home Rule Charter art. V, s. 5.1.

**II. REASON/NEED FOR AMENDMENT:**  
*(Attach additional page(s) if necessary)*

To state expressly the local approval for a card room in Seminole County must be obtained only by the procedures in art. V, s. 5.1 of the Home Rule Charter.

**III. NOTICE REQUIREMENTS**

- A. Is the amendment consistent with the published notice of intent to seek enactment of the local bill?  
YES     NO     NOT APPLICABLE
- B. If the amendment is not consistent with the published notice, was a revised notice published in the area affected by the bill at least 30 days prior to the bill being amended?  
YES     NO     NOT APPLICABLE
- C. If the amendment is not consistent with the published notice, does the amendment require voter approval in order for the bill to become effective?  
YES     NO     NOT APPLICABLE

**IV. DOES THE AMENDMENT ALTER THE ECONOMIC IMPACT OF THE BILL?**

YES  NO

**NOTE:** If the amendment alters the economic impact of the bill, a revised Economic Impact Statement describing the impact of the amendment must be submitted to the Local, Federal and Veterans Affairs Subcommittee prior to consideration of the amendment.

**If yes, was the Revised Economic Impact Statement submitted as follows?**

**Committee Amendment:** EIS filed with staff of committee/subcommittee hearing the bill.

**Floor Amendment:** EIS filed with staff of Local, Federal and Veterans Affairs Subcommittee.

YES  NO

**V. HAS THE AMENDMENT AS DESCRIBED ABOVE BEEN APPROVED BY A MAJORITY OF THE DELEGATION?**

YES  NO  UNANIMOUSLY APPROVED

For substantive amendments considered in committee or subcommittee, the properly-executed original of this form must be filed with the committee or subcommittee staff prior to the amendment being heard.

[Note to committee staff: after receiving this form the original must be filed with the House Clerk.]

For substantive floor amendments, the properly-executed original of this form must be filed with the House Clerk prior to the amendment being heard.

  
Delegation Chair (Original Signature)

Date 1/9/2018

SCOTT PLAKON  
Print Name of Delegation Chair

1                                   A bill to be entitled  
 2           An act relating to Seminole County; providing an  
 3           exception to general law; providing for approval of  
 4           cardroom gaming within Seminole County under the  
 5           requirements of the county charter; providing  
 6           definitions; providing an effective date.

7  
 8   Be It Enacted by the Legislature of the State of Florida:

9  
 10           Section 1. Notwithstanding s. 849.086(16), Florida  
 11 Statutes, before the Division of Pari-mutuel Wagering may issue  
 12 any initial license for a pari-mutuel facility in Seminole  
 13 County to operate a cardroom, the required local government  
 14 approval shall be granted only pursuant to the reservation of  
 15 power and referendum procedures provided in article V, section  
 16 5.1 of the Seminole County Home Rule Charter, in effect as of  
 17 January 1, 2018, excluding the definition of "casino gambling"  
 18 in article V, subsection 5.1.B of the charter. For purposes of  
 19 this act, the term "cardroom" shall have the same meaning as  
 20 provided in s. 849.086(2)(c), Florida Statutes, and shall be  
 21 substituted for the term "casino gambling" when the referendum  
 22 procedures in article V, section 5.1 of the Seminole County Home  
 23 Rule Charter are used to consider local approval for operation  
 24 of a cardroom under s. 849.086, Florida Statutes.

25           Section 2. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1017 (2018)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Local, Federal & Veterans  
 2 Affairs Subcommittee  
 3 Representative Cortes, B. offered the following:

**Amendment**

Remove lines 14-24 and insert:

4  
 5  
 6 approval shall be granted with respect to such pari-mutuel  
 7 facility only by the Seminole County Board of County  
 8 Commissioners pursuant to the requirements of article V, section  
 9 5.1 of the Seminole County Home Rule Charter, in effect as of  
 10 January 1, 2018. For purposes of this act only, the term "casino  
 11 gambling" as defined in article V, subsection 5.1.B of the  
 12 Seminole County Home Rule Charter is deemed to include all  
 13 activities authorized by or conducted pursuant to s. 849.086,  
 14 Florida Statutes.  
 15



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HR 1027 Capital of Israel  
**SPONSOR(S):** Moskowitz and others  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Miller <i>E.H.M.</i>	Miller <i>E.H.M.</i>
2) Government Accountability Committee			

### SUMMARY ANALYSIS

The city of Jerusalem is located on one of the oldest continuously occupied sites in the world, with a history extending back over 3,000 years. In 1917, Great Britain issued the Balfour Declaration, stating support for a Jewish homeland in Palestine. At the end of World War I, the League of Nations placed Jerusalem and the larger area of Palestine under British control with a mandate to administer the area for the benefit of the residents. After World War II, Great Britain brought the issue of the Palestine mandate before the United Nations (U.N.) and in 1948, the U.N. proposed a partition of Palestine into two separate nations, with Jerusalem to be under international administration. With the declaration of the State of Israel in the partition area set aside for a Jewish nation, war broke out resulting in an armistice that divided Jerusalem between Israeli and Jordanian sections. In the Six Day War of 1967, Israel gained control of the entire city and has administered Jerusalem, and its key holy and historical sites, ever since.

In 1950, the State of Israel declared Jerusalem as its national capital. This position has always been opposed by the U.N., which insists that Israel is an occupying power that should return to its prior borders in keeping with U.N. resolutions. The U.N. continues to call for Jerusalem to be a separate area under international administration.

The United States was the first country to recognize the State of Israel as a nation. The U.S. Congress passed the Jerusalem Embassy Act of 1995, directing the U.S. Embassy to the State of Israel to be moved to Jerusalem. The Act allowed the President to waive its requirements for a period of six months if found to be necessary for national security purposes, which waivers were continued by each administration. On December 6, 2017, President Trump issued a Presidential Proclamation recognizing Jerusalem as the undivided capital of the State of Israel and stating the U.S. Embassy would be relocated to Jerusalem as soon as practicable.

The resolution recognizes the historical, religious, and cultural importance of Jerusalem; supports recognizing Jerusalem as the undivided capital of the State of Israel; and supports relocating the U.S. Embassy to Jerusalem. The resolution does not provide for its transmission to any specific authority.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Jerusalem is located within the State of Israel (Israel),<sup>1</sup> adjacent to the west of the area known as the West Bank. The city sits on one of the oldest continuously occupied sites in the world, with a history extending back over 3,000 years. Originally recorded as occupied by a Canaanite people known as the Jebusites, Jerusalem in turn has been occupied by Hebrew (later known as Jewish), Babylonian, Persian, Hellenistic, Roman, Byzantine, Muslim, Christian, and Ottoman rulers. As noted by the International Council on Monuments and Sites:

The site of Jerusalem, which has been continuously inhabited from prehistory, presents a series of exceptional testimonies to its vanished civilizations: that of the Jebusites (from the third millennium to ca. 1,000 before Christ); also, that of the Hebrews, from David to the siege of Titus in 70 A.D.; that of the Roman Empire, of which Aelia Capitolina, from 135, became one of the most important Eastern colonies; and, of course, that of Byzantium, not to mention the successive medieval civilizations characterized by the co-existence of Arabs and Christians from 638 to 1099, by a short western interlude terminated definitively in 1244 and by the Turkish domination which reached its peak under the reign of Sulaiman the Magnificent.<sup>2</sup>

From ancient times to the present, Jerusalem occupies a central historical, religious, and political role in the Jewish, Christian, and Muslim faiths.

##### First Mandate for Palestine and the Balfour Declaration

Jerusalem and the surrounding area known as Palestine remained within the Ottoman Empire until the upheavals of the First World War and the collapse of the Empire. Among the diplomatic complexities of World War I were the internal discussions of the major allies about the disposition of the Ottoman possessions in the event of the Empire's defeat. After two months of negotiations, on January 3, 1916, Great Britain and France entered a preliminary agreement dividing into respective spheres of influence the area south of present day Turkey and north of present day Saudi Arabia. France would control the area north of an artificial boundary (present day Lebanon and Syria) and Britain would control the southern area (present day Jordan and Iraq). Palestine, defined to include Jerusalem, would be administered by some sort of international body.<sup>3</sup>

In a letter dated November 2, 1917, the British Foreign Secretary, Arthur Balfour,<sup>4</sup> wrote "[h]is Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine..."<sup>5</sup> Known as the Balfour Declaration, this principle would inform and confound British action in Palestine after the War. Concurrent with the final peace

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<sup>1</sup> In Hebrew, Medinat Yisra'el. See at <https://www.britannica.com/place/Israel> (accessed 1/6/2018).

<sup>2</sup> Report on Application C 148 (April 1981), at <http://whc.unesco.org/en/list/148> (accessed 1/6/2018). The application was submitted by the Kingdom of Jordan for the Old City of Jerusalem and its Walls to be placed on the List of World Heritage in Danger. See at *id.*

<sup>3</sup> David Fromkin, *A Peace to End All Peace*, 192 (Holt Paperbacks, NY 1989). This is the Sykes-Picot agreement, named for the principal negotiators: Sir Mark Sykes for Great Britain and François Georges Picot for France.

<sup>4</sup> Arthur James Balfour, First Earl of Balfour. Fromkin, at 631.

<sup>5</sup> Fromkin, at 297.

settlement entered with the new nationalist Turkish government, Great Britain received the League of Nations mandate to administer Palestine and Jerusalem.<sup>6</sup>

### Division of Palestine and Jerusalem, Creation of Nation of Israel

Britain administered the Mandate for Palestine until relinquishing the issue for resolution by the newly formed United Nations (U.N.). On November 26, 1947, the U.N. adopted Resolution 181, providing for the division of Palestine into two separate Jewish and Arab states. Jerusalem would be a separate region administered by the U.N. and not included in either of the new nations.<sup>7</sup> On May 14, 1948, Great Britain withdrew its forces. On the same day, a Jewish state was proclaimed in the areas allotted under U.N. Resolution 181. After extensive fighting that saw the State of Israel forces occupy additional areas originally allotted to the Palestine sector, as well as the western portion of Jerusalem, an armistice was imposed by the U.N.

### Jerusalem as the Capital of Israel

On December 5, 1949, the Israeli Cabinet declared Jerusalem to be the capital of Israel. A similar proclamation was issued by the Knesset<sup>8</sup> on January 23, 1950.<sup>9</sup> As recited on the website of Israel's Knesset, "[o]n December 13th 1949, the first Prime Minister of Israel, David Ben Gurion, stated that 'Jewish Jerusalem is an organic and inseparable part of the State of Israel, just as it is inseparable from Israeli history, from the faith of Israel and from the soul of our people.'<sup>10</sup> The Knesset moved its place of meeting from Tel Aviv to Jerusalem in 1950.<sup>11</sup>

After years of armed tension with its neighbors Egypt, Jordan, and Syria, Israel determined a series of actions taken principally by Egypt's head of state, Gamel Nasser, constituted existential threats to the nation. War broke out on June 5, 1967, ending with a cease fire on June 11. During the Six Day War Israel captured the West Bank from Jordan, Gaza from Egypt, and the Golan Heights from Syria. On June 6, 1967, Israeli forces captured the eastern portions of Jerusalem, giving the nation control of the entire city.<sup>12</sup>

### Response of the United Nations

For its part, the U.N. continues to adhere to the general outline of Resolution 181, calling for a partition into two states with Jerusalem as a separate area under international administration.<sup>13</sup> Responding to the changed situation brought about by the Six Day War, the U.N. General Assembly called on Israel to return to its 1948 borders and reaffirmed the desirability of international regime for Jerusalem.<sup>14</sup> On August 20, 1980, the General Assembly adopted Resolution 478, refusing to recognize the Knesset vote declaring Jerusalem as the capital of Israel and directing all member nations not to place diplomatic missions to Israel in Jerusalem.

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<sup>6</sup> Fromkin, at 558-559. *See also* The Palestine Mandate adopted by the League of Nations (7/24/1922), at [http://avalon.law.yale.edu/20th\\_century/palmanda.asp](http://avalon.law.yale.edu/20th_century/palmanda.asp) (accessed 1/6/2018).

<sup>7</sup> U.N. Resolution 181, Parts II & III. *See also* U.N. Brochure DPI/2157/Rev. 1 "The Question of Palestine and the United Nations," ch. 2 (2003), at <http://www.un.org/Depts/dpi/palestine/> (accessed 1/6/2018).

<sup>8</sup> The Knesset is the parliament of the State of Israel. *See* [https://www.knesset.gov.il/description/eng/eng\\_mimshal0.htm](https://www.knesset.gov.il/description/eng/eng_mimshal0.htm) (accessed 1/6/2018).

<sup>9</sup> Martin Gilbert, *Jerusalem in the Twentieth Century* (New York, 1996), pp. 243-244.

<sup>10</sup> At [https://www.knesset.gov.il/birthday/eng/EarlyYears\\_eng.htm](https://www.knesset.gov.il/birthday/eng/EarlyYears_eng.htm)

<sup>11</sup> *Id.*

<sup>12</sup> John Westwood, *The History of the Middle East Wars*, 80-107 (World Publications Group, Inc., Boston 2002).

<sup>13</sup> Since 1947, the General Assembly has considered 368 reports and resolutions pertaining to the status of Jerusalem. *See* listing at [http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=15150576L7585.2672&profile=bib&page=8&group=0&term=Jerusalem&index=.GW&uindex=&aspect=subtab124&menu=search&ri=2&limitbox\\_2=TM01+%3D+tm\\_b01&source=~!horizon&1515257677439](http://unbisnet.un.org:8080/ipac20/ipac.jsp?session=15150576L7585.2672&profile=bib&page=8&group=0&term=Jerusalem&index=.GW&uindex=&aspect=subtab124&menu=search&ri=2&limitbox_2=TM01+%3D+tm_b01&source=~!horizon&1515257677439) (accessed 1/6/2018).

<sup>14</sup> General Assembly, A/L.523/Rev.1, 4 July 1967, at <https://unispal.un.org/DPA/DPR/unispal.nsf/0/510EF41FAC855100052566CD00750CA4> (accessed 1/6/2018).



Since 1982 the World Heritage Commission (WHC) of the United Nations Educational, Scientific and Cultural Organization (UNESCO) has maintained the eastern part of Jerusalem captured in the Six Day War on the List of World Heritage in Danger.<sup>15</sup> The WHC continually renews this status in a series of resolutions referring to Israel as the “occupying power,” criticizing the archaeological, urban renewal, and general administration under Israel’s control of the area, and using almost exclusively the Arabic names for various significant locations.<sup>16</sup>

### U.S. Recognition of Jerusalem as Capital

After Israel’s founding in 1948, the United States was the first country to recognize the State of Israel.<sup>17</sup> United States-Israel relations are characterized by support, cultural resonance, and cooperative mutual interests. The shared democratic values and religious affinities of the two countries have contributed to the bilateral ties.<sup>18</sup> Regarding the Israeli-Palestinian conflict, official United States policy continues to favor a two-state solution to “address core Israeli security demands as well as Palestinian aspirations for national self-determination.”<sup>19</sup> The United States, together with the European Union and the U.N., continues to advocate for Israeli-Palestinian talks in order to broker a peace deal.

In 1995, Congress enacted the Jerusalem Embassy Act of 1995 (Act).<sup>20</sup> Congress made numerous findings supporting the Act, including:

- Israel, as a sovereign nation, has designated Jerusalem as its capital since 1950.
- Not only is Jerusalem home to the three main branches of Israel’s government, it is the spiritual center of Judaism and holy to members of other religious faiths.
- Divided in 1948, since 1967 Jerusalem has been a united city administered by Israel.
- Under Israeli administration, members of all religious faiths are guaranteed access to the holy sites in the city.
- The United States maintains its embassy in the functioning capital of every nation except in the case of the State of Israel.<sup>21</sup>

The Act states the policy of the United States is for Jerusalem to remain an undivided city and to be recognized as the capital of the State of Israel, and to establish the U.S. Embassy in Jerusalem. If the embassy is not so established by the deadline in the bill, 50 percent of the funds appropriated to the State Department for “Acquisition and Maintenance of Buildings Abroad” may not be obligated until the Secretary of State reports to Congress that the Embassy in Jerusalem is officially opened.<sup>22</sup> The Act further provides that the President may suspend the limitation on the use of funds for six months if the President determines such suspension is necessary to protect national security and so reports to Congress in advance. The suspension may be renewed at the end of any six-month period if necessary

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<sup>15</sup> The application, C 148, was filed in 1980 by the Kingdom of Jordan under the name “Old City of Jerusalem and its Walls.” See documents listed generally at <http://whc.unesco.org/en/list/148> (accessed 1/6/2018).

<sup>16</sup> See 2017 UNESCO World Heritage Committee Decision 41 COM 7A.36, “Old City of Jerusalem and its Walls (site proposed by Jordan) (C 148 rev),” at <http://whc.unesco.org/en/decisions/6982> (accessed 1/6/2018); 2015 UNESCO World Heritage Committee Decision 39 COM 7A.27, “Old City of Jerusalem and its Walls (site proposed by Jordan) (C 148 rev),” at <http://whc.unesco.org/en/decisions/6243/> (accessed 1/6/2018).

<sup>17</sup> U.S. Department of State, *U.S. Relations with Israel*, available at <https://www.state.gov/r/pa/ei/bgn/3581.htm> (last visited January 30, 2017).

<sup>18</sup> Congressional Research Service report, *Israel: Background and U.S. Relations*, October 28, 2016, available at <https://webcache.googleusercontent.com/search?q=cache:kCSNhSZZquUJ:https://fas.org/sgp/crs/mideast/RL33476.pdf+&cd=1&hl=en&ct=clnk&gl=us> (last visited February 3, 2017).

<sup>19</sup> *Supra* note 2

<sup>20</sup> Pub. L. 104-45, Nov. 8, 1995, 109 Stat. 398. See at <https://www.congress.gov/bill/104th-congress/senate-bill/1322/text> (accessed 1/6/2018).

<sup>21</sup> 109 Stat. 398, s. 2.

<sup>22</sup> 109 Stat. 398, s. 3.

to protect national security.<sup>23</sup> The Act became law without the President's signature.<sup>24</sup> In a 1995 Memorandum, the Justice Department expressed significant concerns that the requirements of the Act may violate the President's exclusive constitutional authority over foreign affairs, including the appointment of ambassadors and recognition of foreign governments.<sup>25</sup> Since the 1995 enactment of the Act, every President has renewed the waiver every six months.

On June 1, 2017, President Trump signed another waiver of the Act.<sup>26</sup> On June 5, 2017, by a 90 – 0 vote the U.S. Senate passed Senate Resolution 176, acknowledging the 50<sup>th</sup> anniversary of the reunification of Jerusalem and reaffirming the 1995 Act.<sup>27</sup> On December 6, 2017, President Trump issued a Presidential Proclamation recognizing Jerusalem as the capital and stating the U.S. Embassy will be moved to Jerusalem “as soon as practicable.” The Proclamation provided that the move is a determination of the President “consistent with the will of Congress, as expressed in the Act.”<sup>28</sup> On the same date, the President issued a Memorandum to the Secretary of State renewing the waiver under section 7(a) of the Act due to national security concerns.<sup>29</sup>

In an emergency special session held on December 21, 2017, the U.N. General Assembly adopted draft resolution ES-10/L.22, declaring the U.S. decision recognizing Jerusalem as the capital of the State of Israel to be “null and void.”<sup>30</sup> As with any other nation joining the U.N., the United States did not relinquish sovereignty over its own affairs, the U.S. is the sovereign equal of any other nation, and the resolution does not appear to impair the efficacy of the President's actions.<sup>31</sup>

### Effect of the Resolution

The resolution recognizes the historical, religious, and cultural importance of Jerusalem; supports recognizing Jerusalem as the undivided capital of the State of Israel; and supports relocating the U.S. Embassy to Jerusalem. The resolution further approves the actions of the federal government recognizing Jerusalem as the undivided capital of the State of Israel.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

#### B. SECTION DIRECTORY:

Not applicable.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

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<sup>23</sup> 109 Stat. 398, s. 7(a).

<sup>24</sup> See at <https://www.congress.gov/bill/104th-congress/senate-bill/1322/text> (accessed 1/6/2018).

<sup>25</sup> Walter Dellinger, Asst. Attorney General, “Memorandum Opinion For The Counsel To The President” (May 16, 1995), at <https://web.archive.org/web/20100209074518/http://www.justice.gov/olc/s770.16.htm> (accessed 1/6/2018).

<sup>26</sup> At <https://www.whitehouse.gov/briefings-statements/statement-american-embassy-israel/> (accessed 1/6/2018).

<sup>27</sup> S.R. 176, at <https://www.congress.gov/bill/115th-congress/senate-resolution/176/text> (accessed 1/6/2018). Sen. Rubio was a co-sponsor of the resolution and Sen. Nelson voted for it.

<sup>28</sup> Presidential Proclamation Recognizing Jerusalem as the Capital of the State of Israel and Relocating the United States Embassy to Israel to Jerusalem, at <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-recognizing-jerusalem-capital-state-israel-relocating-united-states-embassy-israel-jerusalem/> (accessed 1/6/2018).

<sup>29</sup> *Presidential Determination No. 18-02*, at <https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-5/> (accessed 1/6/2018).

<sup>30</sup> The vote was 128 For and 9 Against, with 35 abstentions. At <http://research.un.org/en/docs/ga/quick/emergency> (accessed 1/6/2018).

<sup>31</sup> Art. II, principle 1, U.N. Charter, at <http://www.un.org/en/sections/un-charter/un-charter-full-text/> (accessed 1/6/2018).

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The resolution neither provides authority nor requires rulemaking by executive branch entities.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The resolution does not provide for its transmission to any specific authority in the United States Government or to Ambassadorial or Consular officials of the State of Israel.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

HR 1027

2018

## House Resolution

1  
2 A resolution recognizing the historical, religious,  
3 and cultural importance of Jerusalem, supporting the  
4 recognition of Jerusalem as the capital of Israel and  
5 the relocation of the United States Embassy in Israel  
6 to Jerusalem, and applauding the Federal Government  
7 for recognizing Jerusalem as the capital of Israel.  
8

9 WHEREAS, for over 3,000 years, Jerusalem has played a  
10 central role in the history and identity of the Jewish people,  
11 and

12 WHEREAS, Jerusalem is the location of the holiest site for  
13 the Jewish people, the Temple Mount, as well as the Western  
14 Wall, where people from around the world come to pray, and

15 WHEREAS, Jerusalem has been a Christian pilgrimage site for  
16 over 2,000 years, and holds considerable religious significance  
17 for Christians, and

18 WHEREAS, Jerusalem is home to the third holiest site in  
19 Islam, and holds considerable religious significance for  
20 Muslims, and

21 WHEREAS, Jerusalem serves as a cultural and religious  
22 inspiration to billions of people around the world, and

23 WHEREAS, the United Nations Educational, Scientific, and  
24 Cultural Organization (UNESCO) has passed a series of anti-  
25 Israel resolutions in recent years regarding Jerusalem, and

26 WHEREAS, these biased resolutions are attempts to erase or  
 27 minimize Jewish and Christian historical and religious ties to  
 28 Jerusalem and unjustly single out our close ally Israel with  
 29 false accusations and criticism, and

30 WHEREAS, numerous archeological excavations, such as those  
 31 taking place in the City of David, Israel's most  
 32 archaeologically excavated site, have uncovered a myriad of  
 33 antiquities which scientifically reaffirm Jerusalem's historical  
 34 significance to Judaism and Christianity, and

35 WHEREAS, the City of David is believed to be the site  
 36 recorded in the Bible upon which King David established the  
 37 capital of ancient Israel, and

38 WHEREAS, since 1867, international delegations of  
 39 archaeologists from the United States, England, France, and  
 40 Germany have conducted excavations of the City of David, and

41 WHEREAS, these excavations have unearthed antiquities from  
 42 over 10 different civilizations, including Canaanite, Israelite,  
 43 Roman, Byzantine, and Persian, and

44 WHEREAS, the current excavations of the City of David are  
 45 conducted under the auspices of the Israel Antiquities  
 46 Authority, and held to the highest scientific standards, and

47 WHEREAS, among the most significant archaeological  
 48 discoveries unearthed from the City of David are the Siloam  
 49 Inscription (8th century B.C.E.), which recounts the  
 50 preparations made by King Hezekiah of Judah for the impending

51 Assyrian siege against Jerusalem, consistent with the biblical  
 52 account from 2 Kings; clay seal impressions/bullae (6th century  
 53 B.C.E.) bearing the names of two Judean government officials who  
 54 are mentioned in Jeremiah 38:1; the Pool of Siloam (1st century  
 55 B.C.E.), which, during the Second Temple period, served as a  
 56 ritual bath for the hundreds of thousands of Jewish pilgrims  
 57 ascending annually to the temple atop the Temple Mount; and the  
 58 Second Temple Pilgrimage Road (1st century C.E.), which began at  
 59 the Pool of Siloam and served as the main thoroughfare of Second  
 60 Temple period Jerusalem, carrying hundreds of thousands of  
 61 people on their annual pilgrimages to the temple, and

62         WHEREAS, the Pilgrimage Road located within the City of  
 63 David, which stretches 600 meters from the Pool of Siloam to the  
 64 footsteps of the Western Wall, will be open to visitors upon  
 65 completion of excavation, and

66         WHEREAS, these discoveries affirm the undeniable truth that  
 67 the City of David, the Western Wall, and the Temple Mount are  
 68 inextricably linked together, physically, historically, and  
 69 symbolically, as the bedrock of the connection between the  
 70 Jewish people and Jerusalem and have been for millennia, and

71         WHEREAS, these discoveries further affirm the importance of  
 72 Jerusalem within Israel, such that Jerusalem should be  
 73 rightfully recognized as the capital of Israel and the United  
 74 States Embassy in Israel should be relocated to Jerusalem, and

75 WHEREAS, the Federal Government has recently recognized  
76 Jerusalem as the undivided capital of Israel and plans to  
77 relocate the United States Embassy in Israel from Tel Aviv to  
78 Jerusalem, NOW, THEREFORE,

79

80 Be It Resolved by the House of Representatives of the State of  
81 Florida:

82

83 That the State of Florida recognizes the historical,  
84 religious, and cultural importance of Jerusalem and supports  
85 both the recognition of Jerusalem as the undivided capital of  
86 Israel and the relocation of the United States Embassy in Israel  
87 from Tel Aviv to Jerusalem. Furthermore, the State of Florida  
88 supports and applauds the recent action taken by the Federal  
89 Government to recognize Jerusalem as the undivided capital of  
90 Israel.