



Local, Federal & Veterans Affairs Subcommittee

January 16, 2018
11:30 PM – 2:30 PM
12 HOB

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Local, Federal & Veterans Affairs Subcommittee

Start Date and Time: Tuesday, January 16, 2018 11:30 am

End Date and Time: Tuesday, January 16, 2018 02:30 pm

Location: 12 HOB

Duration: 3.00 hrs

Consideration of the following bill(s):

HB 607 Housing Finance Authorities by Santiago

HB 883 Community Development Districts by Ingoglia

HB 963 Towing and Immobilizing Fees and Charges by Cortes, B.

HB 987 Affordable Housing by Cortes, B.

HB 1113 Palm Beach County Housing Authority by Silvers, Berman

HB 1115 Indian River Farms Water Control District, Indian River County by Grall

HB 1137 Pinellas County Construction Licensing Board, Pinellas County by Peters

HB 1139 City Pension Fund for Firefighters and Police Officers in the City of Tampa, Hillsborough County by Cruz, Harrison

HB 1141 Firefighters' Relief and Pension Fund of the City of Pensacola, Escambia County by White

NOTICE FINALIZED on 01/11/2018 4:05PM by Herndon.Angela

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 607 Housing Finance Authorities
SPONSOR(S): Santiago
TIED BILLS: IDEN./SIM. **BILLS:** SB 730

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

SUMMARY ANALYSIS

The Florida Housing Finance Authority Act authorizes each county to create by ordinance a Housing Finance Authority (HFA) to encourage investment in construction and rehabilitation of suitable affordable housing units. This is done through public financing and the use of low cost loans. HFAs are authorized to issue bonds to raise capital for financing qualifying projects and loans. By statute, the notes, mortgages, and other documents associated with loan transactions using bond proceeds are exempt from all taxes other than applicable Florida income taxes for interest and income earned.

In recent years HFAs have relied more on funding from other sources than bond proceeds because market interest rates were lower than the rates that could be attained for bonds. These other sources may include funds distributed from the State Housing Trust Fund or Local Government Housing Trust Fund and administered by HFAs through interlocal agreements with counties or municipalities. Loans made using such funds cannot utilize the tax exemptions available for loans using bond proceeds, so the documents created as part of such loans are subject to documentary stamp taxes.

The bill exempts loans made by HFAs using funds other than bond proceeds from taxes on the same basis as bond proceeds loans. The December 5, 2017 Revenue Estimating Conference projected a loss of \$800,000 in recurring revenues for each of the next five fiscal years.

The bill takes effect on July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Housing Finance Authorities

The Florida Housing Finance Authority Act¹ (Act) was enacted in 1978 in response to shortages both of affordable housing and capital for investment in such housing.² The Act would encourage “investment by private enterprise and (stimulate) construction and rehabilitation of housing through the use of public financing and...low cost loans...”³ in part by authorizing local governments to issue obligations the interest on which would be exempt from federal income taxation.⁴ Counties are authorized to create by ordinance a “Housing Finance Authority” (HFA) to carry out the powers under the Act.⁵

Currently, there are 24 HFAs registered with the Special District Accountability Program in the Department of Economic Opportunity.⁶ Each HFA is composed of a board of at least 5 members appointed by the governing body of the county to serve 4 year terms. A majority of the members must be knowledgeable in the field of labor, finance, or commerce.⁷ In addition to the usual authority of a public body corporate and politic,⁸ each HFA is authorized to:

- Acquire and own real and personal property under specific conditions;⁹
- Purchase, commit to purchase, make, or otherwise transact in mortgage loans and accompanying promissory notes for the construction, purchase, reconstruction, or rehabilitation of qualified property; however, sales proceeds must be reinvested in mortgage loans;¹⁰
- Issue bonds to raise capital for qualified housing and development;¹¹
- Lend funds to lending institutions under terms requiring the proceeds be used for making new mortgages for housing developments qualifying under the statute as affordable housing;¹²
- Make loans directly to eligible persons who otherwise cannot borrow from conventional lending services, such loans to be secured by mortgages on qualified property;¹³
- Loan funds to not for profit corporations to develop affordable housing;¹⁴ and
- Own, maintain, operate, control, and capitalize a savings and loan association with the limited purpose to provide low cost loans and related services for eligible persons to obtain affordable housing.¹⁵

¹ Ch. 78-89, s. 1, Laws of Fla., codified at ch. 159, Part IV, F.S.

² Section 159.602(1), F.S.

³ Section 159.602(2), F.S.

⁴ Section 159.602(4), F.S.

⁵ Section 159.604(1), F.S.

⁶ The following counties have active HFAs: Alachua, Brevard, Broward, Collier, Duval (Jacksonville), Escambia, Clay, Hillsborough, Lee, Leon, Manatee, Marion, Miami-Dade, Nassau, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, St. Johns, St. Lucie, Santa Rosa, Volusia. At <http://specialdistrictreports.floridajobs.org/webreports/criteria.aspx> (accessed 12/12/2017).

⁷ Section 159.605(1), F.S.

⁸ Including the power to sue and be sued, to enter into contracts and execute instruments necessary to the exercise of its powers, to receive and deposit funds. *See* s. 159.608, F.S.

⁹ Section 159.608(2), F.S.

¹⁰ Section 159.608(3), F.S.

¹¹ Section 159.608(4), F.S.

¹² Section 159.608(5), F.S.

¹³ Section 159.608(6), F.S.

¹⁴ Section 159.608(10)(a), F.S.

¹⁵ Section 159.608(9), F.S.

Housing Finance Authorities have no power of eminent domain.¹⁶ To raise capital a HFA may issue revenue and other types of bonds, the repayment of which may be from repayments received by the HFA or the sale of housing loans or commitments purchased by the HFA.¹⁷ Bonds must be secured,¹⁸ may not be paid from the general revenues of the HFA,¹⁹ and may not be a personal liability of the board members of the HFA.²⁰

Bonds issued by a HFA, and all notes, mortgages, or other instruments given to secure repayment of the bonds, are exempt from all taxes.²¹ However, this exemption does not extend to the state income tax on interest, income, or profits on debt obligations owned by a corporation.²²

Taxable Transactions by HFAs

Even though bonds issued by each HFA and financial instruments given to secure repayment of the bonds are tax exempt, mortgages, promissory notes, and other instruments pertaining to loans made by a HFA other than as part of a bond transaction remain subject to documentary stamp and intangible taxes.²³ This results in certain conventional loans made by a HFA with funds derived from sources other than bond proceeds being subject to payment of documentary stamp taxes.

For example, a portion of all documentary stamp taxes collected are credited to the State Housing and Local Government Housing Trust Funds.²⁴ These funds in turn are distributed by the Florida Housing Finance Corporation to the eligible counties and municipalities.²⁵ Local governments are encouraged and authorized to make agreements with other local entities in using the funds to provide affordable housing assistance.²⁶ HFAs are authorized to make agreements that are necessary for the exercise of their powers.²⁷

During the period August 22, 2016 – August 22, 2017, the HFAs financed 751 loans with public funds other than bond proceeds, with a total lending volume of \$124,502,930. The average amount of documentary stamps collected per loan was \$1,158.27.²⁸

Effect of Bill

The bill creates an exemption from all taxes for any note or mortgage given in connection with a loan made by a HFA that is not derived from bond proceeds. The exemption does not apply to income taxes imposed on interest, income, or profits on debt obligations owned by a corporation or on a deed for property financed by a HFA. The exemption applies if at the time the note or mortgage is recorded in the public records the HFA submits documentation affirming the loan was made by or on behalf of the HFA.

B. SECTION DIRECTORY:

¹⁶ Section 159.61, F.S.

¹⁷ Section 159.612(1), F.S.

¹⁸ Section 159.612(2), F.S.

¹⁹ Section 159.612(3), F.S.

²⁰ Section 159.612(4), F.S.

²¹ Section 159.621, F.S.

²² Section 159.621, F.S. *See also* ss. 220.11, 220.12, F.S.

²³ *See* ss. 199.133, 201.01, 201.02, F.S.

²⁴ Section 201.15(4)(c), (4)(d), F.S. The Local Government Housing Trust Fund was created as part of The William E. Sadowski Affordable Housing Act, Ch. 92-317, s. 32, Laws of Fla., codified at s. 420.9079, F.S.

²⁵ Section 420.9072(4), F.S.

²⁶ Section 420.9072, F.S.

²⁷ Section 159.608(1), F.S.

²⁸ *See* attached Appendix A, chart prepared and submitted on behalf of the Hillsborough County Housing Finance Authority.

Section 1: Amends s. 159.621, F.S., to create an exemption from all taxes on any note or mortgage given in connection with a loan made by a Housing Finance Authority, excluding income taxes.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the December 5, 2017 Revenue Estimating Conference,²⁹ the bill will have a negative recurring impact of \$500,000 in General Revenue and \$300,000 in trust fund revenues for a total impact of \$800,000 FY 2018-2019. The same impact was projected for FYs 2019-2020, 2020-2021, 2021-2022, and 2022-2023.

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 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:

²⁹ Revenue Estimating Conference Report for 12/5/2017, at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/Impact1201.pdf (accessed 12/16/2017).

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

At line 25 the bill exempts from taxation “any interest and income therein...” This could be construed as inconsistent with the exclusion of income taxes from the exemption. At line 26 the bill references “all taxes” when the purpose of the bill is represented by proponents as exempting documentary stamp taxes.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

APPENDIX A

LOAN ACTIVITY BY LOCAL HFA'S: AUGUST 22, 2016 TO AUGUST 22, 2017 - TBA (NON-BOND) LOANS

COUNTY	FIRST TIME HOMEBUYER	INCOME LIMIT (Non Targeted Area 1-2 ppl)	INCOME LIMIT (Non Targeted Area 3+ ppl)	PURCHASE PRICE LIMIT (non Targeted Area)	MIN FICO	MAX DTI	TBA FINANCED LOANS	TOTAL VOLUME	AVERAGE LOAN SIZE	AVERAGE DOC STAMP PER LOAN
ALACHUA	Yes	\$ 65,200	\$ 74,980	\$ 253,809	640	45%	4	\$ 466,296.00	\$ 116,574.00	\$ 816.02
BREVARD	Yes	61,700	70,955	253,809	640	45%	4	619,339.00	154,834.75	1,083.84
BROWARD	Yes *1	96,150	96,150	317,646	640	45%	11	2,512,276.00	228,388.73	1,598.72
CHARLOTTE	Yes *2	88,500	88,500	253,809	640	45%	11	1,626,927.00	147,902.45	1,035.32
CLAY	Yes	69,176	79,552	298,192	640	45%	27	4,021,547.00	148,946.19	1,042.62
COLLIER	No	104,550	104,550	415,058	640	45%	23	5,500,079.00	239,133.87	1,673.94
DUVAL	Yes	70,178	80,705	199,000	640	45%	34	4,282,555.00	125,957.50	881.70
ESCAMBIA	Yes	62,000	71,300	253,809	640	45%	45	5,042,735.00	112,060.78	784.43
GADSDEN	Yes	68,400	78,660	253,809	640	45%	5	654,523.00	130,904.60	916.33
HILLSBOROUGH	Yes	58,660	67,060	225,000	640	45%	108	18,648,225.00	172,668.75	1,208.68
INDIAN RIVER	Yes	61,900	71,185	253,809	640	45%	1	147,184.00	147,184.00	1,030.29
LEE	Yes *1	88,500	88,500	253,809	640	45%	191	30,923,179.00	161,901.46	1,133.31
LEON	Yes	68,400	78,660	253,809	640	45%	54	6,722,167.00	124,484.57	871.39
MANATEE	Yes *1	65,500	75,325	264,706	640	45%	57	9,423,063.00	165,316.89	1,157.22
MARION	Yes	59,156	68,029	253,809	640	45%	4	425,138.00	106,284.50	743.99
MARTIN	Yes	67,641	77,787	291,176	640	45%	1	108,007.00	108,007.00	756.05
MIAMI DADE	Yes	75,500	86,825	317,646	660*	45%	10	2,314,573.00	231,457.30	1,388.74
OKALOOSA	Yes	71,556	82,519	314,471	640	45%	11	1,771,666.00	161,060.55	1,127.42
PALM BEACH	Yes *2	101,850	101,850	317,646	640	45%	68	13,088,347.00	192,475.69	1,347.33
PINELLAS	Yes	70,800	82,600	255,573	660	45%	9	1,523,410.00	169,267.78	1,184.87
POLK	Yes	70,800	82,600	255,573	660	45%	10	1,752,048.00	175,204.80	1,226.43
SANTA ROSA	Yes	62,000	71,300	253,809	640	45%	5	1,844,458.00	368,891.60	2,582.24
SARASOTA	Yes *2	98,250	98,250	264,746	640	45%	33	6,264,675.00	189,838.64	1,328.87
ST JOHNS	Yes *1	96,600	96,600	303,882	640	45%	22	4,341,976.00	197,362.55	1,381.54
WAKULLA	Yes	63,900	73,485	253,809	640	45%	2	287,168.00	143,584.00	1,005.09
WALTON	Yes	70,560	82,320	314,471	640	45%	1	191,369.00	191,369.00	1,339.58
							751	\$ 124,502,930.00	\$ 165,782.86	\$ 1,158.27

*640 for Conventional Loans

Yes *1 Permit non-first time homebuyer loans, but in past year, only one such loan has been originated in the County

Yes *2 Permit non-first time homebuyer loans, but in past year, no such loan has been originated in the County

BOND LOANS

COUNTY	FIRST TIME HOMEBUYER	INCOME LIMIT		PURCHASE PRICE LIMIT	MIN FICO	MAX DTI	# OF BOND LOANS	TOTAL VOLUME	AVERAGE LOAN SIZE	AVERAGE DOC STAMP PER LOAN
LAKE	Yes	59,000	70,800	255,176	640	45%	1	\$ 166,045.00	\$ 166,045.00	\$ 1,162.32
ORANGE	Yes	59,000	70,800	255,176	640	45%	4	718,879.00	179,719.75	1,258.04
OSCEOLA	Yes	59,000	70,800	255,176	640	45%	1	166,045.00	166,045.00	1,162.32
PINELLAS	Yes	70,800	82,600	255,573	660	45%	1	235,653.00	235,653.00	1,649.57
SEMINOLE	Yes	59,000	70,800	255,176	640	45%	12	1,953,417.00	162,784.75	1,139.49
							19	\$ 3,240,039.00	170,528.37	1,193.70

1 A bill to be entitled

2 An act relating to housing finance authorities;
 3 amending s. 159.621, F.S.; exempting from taxation
 4 certain notes and mortgages, including interest or
 5 income, that are part of a loan made by or on behalf
 6 of a housing financing authority; providing
 7 requirements for exemption; providing exceptions to
 8 the exemption; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 159.621, Florida Statutes, is amended
 13 to read:

14 159.621 Housing bonds exempted from taxation; notes and
 15 mortgages exempt from taxation.-

16 (1) The bonds of a housing finance authority issued under
 17 this act, together with all notes, mortgages, security
 18 agreements, letters of credit, or other instruments which arise
 19 out of or are given to secure the repayment of bonds issued in
 20 connection with the financing of any housing development under
 21 this part, as well as the interest thereon and income therefrom,
 22 shall be exempt from all taxes.

23 (2) Any note or mortgage given in connection with a loan
 24 made by or on behalf of a housing finance authority under s.
 25 159.608(8), including any interest and income thereon, is exempt

26 from all taxes if, at the time the note or mortgage is recorded,
 27 the housing finance authority submits documentation that affirms
 28 that the loan was made by or on behalf of the housing finance
 29 authority.

30
 31 The exemption granted by this section does not apply ~~shall not~~
 32 ~~be applicable~~ to any tax imposed by chapter 220 on interest,
 33 income, or profits on debt obligations owned by corporations or
 34 to a deed for property financed by a housing finance authority.

35 Section 2. 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 Santiago offered the following:

Amendment (with title amendment)

Remove lines 25-26 and insert:

7 159.608(8) is exempt from excise taxes on documents under ch.
 8 201 if, at the time the note or mortgage is recorded,

10 -----
 11 **T I T L E A M E N D M E N T**

Remove lines 4-5 and insert:



13 certain notes and mortgages that are part of a loan made by or
 14 on behalf

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 883 Community Development Districts

SPONSOR(S): Ingoglia

TIED BILLS: IDEN./SIM. BILLS: SB 1348

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

SUMMARY ANALYSIS

Community development districts (CDD) are a type of special-purpose local government intended to provide basic urban community services in a cost-effective manner. The operation of CDDs is governed by Chapter 190, F.S., the "Uniform Community Development District Act of 1980." Depending on their size, CDDs are created by a county or municipal ordinance or the adoption of a rule by the Florida Land and Water Adjudicatory Commission (FLWAC). There are currently 641 active CDDs in Florida.

The bill would enable CDDs created by a county government to include a list of parcels in the creation petition that the district expects to annex within the next ten years. A parcel may only be included with the consent of the landowner. The bill provides a process for expanding the boundaries of the CDD to include parcels identified for annexation within the next ten years at the time of creation. The bill provides that the expansion of district boundaries to include these parcels does not alter the time period for transition from a landowner board to a board composed of qualified electors under s. 190.006, F.S and states that the parcels may be annexed even if the resulting CDD is greater than 2,500 acres.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 190, F.S., the "Uniform Community Development District Act of 1980,"¹ sets forth the exclusive and uniform procedures for establishing and operating a community development district (CDD).² This type of independent special district³ is an alternative method to manage and finance basic services for community development.⁴ There are currently 641 active CDDs in Florida.⁵

A CDD must act within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general purpose government.⁶ CDDs have certain general powers, including the authority to assess and impose ad valorem taxes upon lands in the CDD, sue and be sued, participate in the state retirement system, contract for services, borrow money, accept gifts, adopt rules and orders pursuant to the Administrative Procedure Act (APA),⁷ maintain an office, lease, issue bonds, raise money by user charges or fees, and levy and enforce special assessments.⁸

The statute also authorizes additional special powers pertaining to public improvements and facilities, such as systems for water management, water supply, sewer, and wastewater management, as well as roads, bridges, culverts, street lights, buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, signage, environmental contamination, conservation areas, mitigation areas, and wildlife habitat.⁹ With the consent of the applicable local general-purpose government with jurisdiction over the affected area, a CDD may plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for improvements such as parks and recreational areas, fire prevention and control, school buildings and related structures; security; control and elimination of mosquitoes and other arthropods of public health importance; waste collection and disposal.¹⁰

¹ Section 190.001, F.S.

² Sections 190.004 & 190.005, F.S.

³ A "special district" is "a unit of local government created for a special purpose... within a limited geographic boundary ... created by general law, special act, local ordinance, or by rule of the Governor and Cabinet." Section 189.012(6), F.S. An "independent special district" is characterized by having a governing body the members of 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. Section 189.012(3), F.S. Any special district including more than one county is an independent special district, unless the district lies wholly within a single municipality. Section 189.012(3), F.S.

⁴ Section 190.003(6), F.S.

⁵ Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx> (last visited Dec, 27, 2017).

⁶ Section 190.004(3), F.S.

⁷ Ch. 120, F.S.

⁸ Section 190.011, F.S.

⁹ Section 190.012(1), F.S. The rule or ordinance establishing the CDD may restrict the special powers authorized in this subsection. Section 190.005(1)(f), (2)(d), F.S.

¹⁰ Section 190.012(2), F.S.

Establishing a CDD

Petition for Rulemaking by the Florida Land and Water Adjudicatory Commission

The method for establishing a CDD depends upon its size. CDDs of 2,500 acres or more are established by petitioning the Florida Land and Water Adjudicatory Commission (FLWAC)¹¹ to adopt an administrative rule creating the district.¹² The statute requires each petition to contain specific information, including the written consent to establishing the CDD by all landowners¹³ of real property to be included in the district.¹⁴ Prior to filing, the petitioner must submit copies of the petition and pay separate filing fees of \$15,000 each to the county and any municipality in which the proposed CDD will be located and also to each municipality contiguous with or containing a portion of the land proposed for inclusion in the district.¹⁵ The counties and municipalities required to receive copies of the petition may conduct public hearings and express support or objection to the proposed district by resolution and by stating their position before the FLWAC.¹⁶ Additionally, a public hearing on the petition must be held in the county where the CDD will be located; these hearings are conducted under the requirements of the APA¹⁷ before an administrative law judge.¹⁸ Once the hearing process is complete, the entire record is submitted to the FLWAC, reviewed by staff, and placed on the FLWAC meeting agenda for final consideration with the petition.¹⁹ If the petition is approved, staff of the FLWAC initiates proceedings to adopt the rule creating the CDD.

Petition for Ordinance Creating a CDD

CDDs of less than 2,500 acres are established by ordinance of the county having jurisdiction over the majority of land in the area in which the CDD is to be located, with certain exceptions.²⁰ A petition to establish a CDD is filed with the county commission.²¹ After conducting a local public hearing before an administrative law judge,²² the commission may adopt an ordinance creating the CDD.²³ If any of the land proposed for inclusion in the CDD lies within the area of a municipality the county cannot create the district without approval of the affected municipality.²⁴

If all the land proposed for inclusion in the CDD lies within the territorial jurisdiction of a municipality, the petition is filed with that municipality which then exercises the duties otherwise performed by the county

¹¹ Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least 2 Cabinet members.

¹² Section 190.005(1), F.S.

¹³“Landowner” means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. Landowner shall also mean the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.” Section 190.003(14), F.S.

¹⁴ Section 190.005(1)(a), F.S.

¹⁵ Section 190.005(1)(b), F.S.

¹⁶ Section 190.005(1)(c), F.S.

¹⁷ The general hearing requirements are stated in ss. 120.569 and 120.57(1), F.S.

¹⁸ Section 190.005(1)(d), F.S.; Rules 42-1.009 & 42-1.012, F.A.C. Chapter 42-1, F.A.C., the procedural rules of the FLWAC, remains substantially unchanged since its adoption in 1982.

¹⁹ Section 190.005(1)(e), F.S. A similar process is followed when the FLWAC considers a proposed merger of existing CDDs. See FLWAC Agenda Item 1 and attachments (Aug. 16, 2011), at <http://www.myflorida.com/myflorida/cabinet/agenda11/0816/FLWAC0816.pdf> (last visited Dec. 27, 2017).

²⁰ Section 190.005(2), F.S.

²¹ Section 190.005(2)(a), F.S. The petition must contain the same information as required for submission to the FLWAC.

²² Section 190.005(2)(b), F.S. The hearing must follow the same notice and procedural requirements as the local hearing for petitions before the FLWAC.

²³ See s. 190.005(2)(d), F.S.

²⁴ Section 190.005(2)(e), F.S.

commission.²⁵ In this case, the CDD would be created by municipal ordinance. Within 90 days of receiving the petition, the county commission (or municipality, as applicable) may transfer the petition to the FLWAC.²⁶ Finally, if all the land of the proposed CDD lies within the territorial jurisdiction of two or more municipalities or two or more counties, the petition must be filed with the FLWAC even if the total area is less than 2,500 acres.²⁷

Requirements for Notice, Meeting, and Vote of Landowners in a CDD

The powers of a CDD are exercised by the board of supervisors elected by the landowners of the district.²⁸ The board must have five members serving two or four year terms.²⁹ The initial members of the board are designated in the original petition to create the CDD and serve until new members are elected after the district is established.³⁰ A meeting of landowners for the purpose of electing the board must be held within 90 days of the effective date of the rule or ordinance creating the district.³¹ Each landowner is entitled to one vote for each acre owned.³² The top two candidates are elected to four year terms, while the next three candidates are elected to two year terms.³³ A new board election, held among the qualified electors of the district, occurs when either the board proposes to exercise its ad valorem taxing authority or six years after the formation of the district (ten years for districts exceeding 5,000 acres).³⁴ Once the statutory requirements are met for election of one or more board member by all qualified electors in the district, such elections are non-partisan general elections conducted by the supervisor of elections.³⁵

Financial Reporting by a CDD

CDDs are subject to the financial reporting requirements of Chapters, 189, 190, and 218, F.S.³⁶ The district manager is responsible for drafting a proposed budget on or before June 15 of each year.³⁷ The board of the CDD considers the proposed budget, makes amendments (as necessary), and adopts the budget by resolution.³⁸ After the board adopts the budget, a public hearing on the budget is held and the board may make further changes as it deems necessary.³⁹ At least sixty days prior to adoption, the district is required to submit its budget to the local government entities having jurisdiction over the area.⁴⁰ This submission is for the purposes of disclosure and information only, but the local government entities may submit written comments to the CDD board.⁴¹ CDDs are also required to take affirmative steps to provide full disclosure of information related to public financing and maintenance of improvements constructed by the district.⁴² The district must furnish any developer of residential property in the district with sufficient copies of this information to be able to provide a copy to each

²⁵ *Id.*

²⁶ Section 190.005(2)(f), F.S.

²⁷ Section 190.005(2)(e), F.S.

²⁸ Section 190.006(1), F.S.

²⁹ *Id.*

³⁰ Sections 190.005(1)(a)3., 190.005(2)(a), F.S.

³¹ Section 190.006(2)(a), F.S.

³² Section 190.006(2)(b), F.S.

³³ *Id.*

³⁴ Sections 190.006(3)(a)1.-2., F.S.. For CDDs with less than certain minimum numbers of qualified electors after 6 or 10 years, as applicable, the district landowners shall continue to elect the board members (s. 190.006(3)(a)2.a., F.S.) until the number of qualified electors in the district exceeds the statutory minimum (s. 190.006(3)(a)2.b., F.S.).

³⁵ Section 190.006(3)(b), F.S. The statute does not specify which supervisor of elections conducts the board election if the district encompasses property in more than one county.

³⁶ Sections 189.013, 190.008(1), F.S.

³⁷ Section 190.008(2)(a), F.S.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Section 190.008(2)(b), F.S.

⁴¹ Section 190.008(2)(b)-(c), F.S.

⁴² Section 190.009(1), F.S.

prospective initial purchaser of property.⁴³ Districts must file disclosures of this information in the property records of each county in which the district is located.⁴⁴ The Department of Economic Opportunity (DEO) is required to keep a current list of districts and their disclosures of public financing.⁴⁵

CDDs, like other special districts, also must comply with the annual financial reporting and financial audit reporting requirements of Chapter 218, F.S.⁴⁶ A CDD with revenues or total expenditures or expenses in excess of \$100,000 is required to have an annual audit conducted by an independent certified public accountant.⁴⁷ The auditor shall review the financial accounts and records of the district, reports on compliance and internal control, management letters, and financial statements, as required by rules adopted by the Auditor General.⁴⁸ The auditor must present these findings to the chair of the district's governing board and submit a copy of the report to the Auditor General.⁴⁹ The audit report is a public record once the report is submitted by the auditor to the district.⁵⁰ All CDDs are required to file an annual financial report with the Department of Financial Services.⁵¹

Expansion or Contraction of a CDD

A landowner or the board of a CDD may petition for the boundaries of the district to be expanded or contracted.⁵² This petition must contain the same information as is required to form a district and follows the same hearing process.⁵³ If the petition seeks to expand the district boundaries, the petition must include a proposed timetable for the construction of any district services in the new area, the estimated cost of constructing the proposed services, and the designation of the future land use plan for the area from the relevant local government local comprehensive plan.⁵⁴ If the petition seeks to contract the district boundaries, the petition must include a list of services and facilities currently provided by the district to the removed area, as well as the future land use plan for the area from the relevant local government local comprehensive plan.

For districts established by county ordinance, the petition for expansion or contraction must be filed with the county commission; there is no filing fee requirement.⁵⁵ The county commission then conducts a public hearing on the petition in the same manner as for other ordinance amendments. For districts established by FLWAC rule, the petitioner must pay a \$1,500 filing fee to each county or municipality in which the proposed resulting CDD will be located and also to each municipality contiguous with or containing a portion of the land proposed for inclusion in the district, and the required public meeting is conducted by the board of the CDD instead of a hearing officer.⁵⁶

The amount of land that can be added to a CDD is restricted. Whether a district was initially established by FLWAC rule or county or municipal ordinance, the cumulative additions to the district may not be greater than the lesser of fifty percent of the land area of the initial district or 1,000 acres.⁵⁷

⁴³ *Id.*

⁴⁴ Section 190.009(1), F.S.

⁴⁵ Section 190.009(2), F.S.

⁴⁶ Section 189.016(9), F.S., s. 190.008(1), F.S.

⁴⁷ Section 218.39(1), F.S. An entity is exempt from this requirement if it is informed by the first day of the fiscal year that the Auditor General will be conducting an audit of the entity for that fiscal year.

⁴⁸ Section 218.39(2), F.S. The rules of the Auditor General are Rules 10.550, 10.650, 10.700, 10.800, and 10.850, F.A.C. *See* Rule 61H1-20.0093, F.A.C.

⁴⁹ Sections 218.39(5), (7), F.S.

⁵⁰ *See* s. 119.0713(3), F.S.

⁵¹ Section 218.32(1)(a), F.S.

⁵² Section 190.046(1), F.S.

⁵³ Sections 190.046(1)(a)-(d), F.S.

⁵⁴ Section 190.046(1)(a), F.S.

⁵⁵ Section 190.046(1)(b), F.S.

⁵⁶ Section 190.046(1)(d)1.-4., F.S.

⁵⁷ Section 190.046(1)(e), F.S.

Merger of a CDD

A CDD may be merged with another CDD with the filing of a petition for merger that states the elements for establishing a new CDD, including being evaluated by the criteria for creating a new district and the submission of the filing fee.⁵⁸ The petition must state whether one of the existing districts will be considered the surviving district or if a new district is being created. A CDD may also be merged with other types of special districts using the process for creating a new district, with the CDD inheriting the rights and associated obligations of property and creditors of the merged special district(s). A CDD merging with another type of special district is required to enter a merger agreement to allocate indebtedness to be assumed by the new CDD and the process for retiring the debt. The approval of the merger agreement and the petition by the board of supervisors of the CDD is deemed to constitute the consent of the district landowners.

A CDD may also be merged with up to four other CDDs created by the same local general-purpose government, as long as the membership of each board of directors is composed entirely of qualified electors.⁵⁹ This method may be used even if the merged district would have been required to receive FLWAC approval if the CDD was being newly created. The filing of a petition approved by the board of each CDD applying constitutes consent of the landowners within each district.

The CDDs planning to merge must meet the requirements of s. 190.046(3), F.S. and must enter into a merger agreement specifying that:⁶⁰

- The merged district's board will consist of five members;
- Each at-large member of the merged district's board represents the entire district;
- Each former district is entitled to elect at least one board member from its former boundary;
- The member of the merged district's interim board will consist of:
 - If two CDDs merge, two members from each former district and one at-large member
 - If three CDDs merge, one member from each former district and two at-large members
 - If four CDDs merge, one member from each former district and one at-large member
 - If five CDDs merge, one member from each former district; and
- All pre-existing board members' terms will end at the next general election and a new board representing the entire district will be elected.

Before filing the merger petition, each CDD must hold a public hearing to take comment on the proposed merger, the merger agreement, and the assignment of board seats.⁶¹ The hearing must be noticed at least 14 days beforehand. If any CDD withdraws after the public hearing, the remaining districts considering merger must hold a public hearing on a revised merger agreement between the remaining parties. The petition may not be filed for at least 30 days after the last public hearing.

Dissolution of a CDD

A CDD remains in existence unless the district is merged with another district, all community development services associated with the district have been transferred to a county or municipal government, or the district is dissolved as provided in statute.⁶² A CDD may be dissolved in one of three ways:

⁵⁸ Section 190.046(3), F.S.

⁵⁹ Section 190.046(4)(a), F.S.

⁶⁰ Section 190.046(4)(b), F.S.

⁶¹ Section 190.046(4)(c), F.S.

⁶² Section 190.046(2), F.S.

- Automatic dissolution: If a landowner does not receive a development permit for some part of the area covered by the CDD within five years of the effective date of the rule or ordinance establishing the district, the CDD is automatically dissolved.⁶³
- Action by local government: If a CDD is declared inactive by DEO pursuant to s. 189.062, F.S., the county or municipal government that created the district must be informed and is required to take "appropriate action."⁶⁴
- Petition for dissolution: A CDD with no outstanding financial obligations and no operating or maintenance responsibilities may petition the authority that created the district to dissolve the district by appropriate action.⁶⁵ If the district was created by a county or municipal government, the CDD may be dissolved by a non-emergency ordinance.⁶⁶ If the district was created by FLWAC rule, the CDD may petition the commission to repeal the rule.

Effect of Proposed Changes

The bill provides that the petition to a county government to create a CDD may include a list of parcels adjacent to the district within the same county or municipality that the petitioner expects to include in the district boundaries within ten years. The petition must include the legal description of the parcels, the name of the current landowners, the acreage of each parcel, and the current land use designation of each parcel. Current landowners must receive notice of the filing of the petition, the date and time of the public hearing on the petition, and the name and address of the petitioner at least 14 days period to the public hearing concerning the creation of the CDD. A parcel may only be included with written consent of the landowner.

The bill creates a procedure for expansion the boundaries of a CDD to include parcels listed in the petition to create the district. The bill allows a person to file a petition with the county commission to amend the ordinance creating the CDD to expand the boundaries to include the parcels which were identified in the petition creating the district. The annexation petition must include:

- A metes and bounds description of each parcel to be annexed;
- A new legal description of the district including the annexed parcels;
- Written consent of all landowners of the parcels to be annexed;
- A map of the district including the annexed parcels;
- A description of the development proposed for each parcel to be annexed; and
- A copy of the original petition establishing the CDD.

The county commission would be prohibited from charging a filing fee for the petition to include within the CDD the parcels listed in the petition to create the district.

The petitioner is required to provide a copy of the petition to the district and each landowner of a parcel to be included in the district before the petition is filed with the county commission.

If the petition requirements are met, the county commission would be required to amend the ordinance creating the district to include the new parcels. The additional parcels may be added to the boundaries of the district even if the merged district would have been required to receive FLWAC approval if the district were being newly created. The petitioner is required to provide at least 10 days notice in a newspaper of general circulation within the county of the scheduled hearing to amend the ordinance. The notice must include a general description of parcel(s) to be included in the district and the date and time of the scheduled hearing. The petitioner is also required to provide 14 days notice, by mail, of the

⁶³ Section 190.046(7), F.S. This subsection also requires a "judge of the circuit shall cause a statement (of dissolution) to be filed in the public records." No guidance is provided as to whether a party must ask the court for the statement, who is authorized to ask, or the procedure to bring the matter before the court.

⁶⁴ Section 190.046(8), F.S.

⁶⁵ Section 190.046(9), F.S.

⁶⁶ *Id.*

hearing to the district and each landowner of a parcel to be included in the district. These notice requirements are in addition to any notices otherwise required to adopt an ordinance.

The bill provides that the expansion of district boundaries by the method established by the bill does not change the time period for transitioning from a landowner to a qualified elector board under s. 190.006, F.S.

The bill requires the petitioner to file a notice of boundary amendment with the FLWAC after adoption of the ordinance amendment.

The bill states that a CDD created by a petition including a list of parcels may use other expansion procedures provided by ch. 190 in addition to the expansion method created by the bill.

B. SECTION DIRECTORY:

Section 1: Amends s. 190.005, F.S., to authorize petitioners for a new community development district to include a list of parcels for future expansion of the district.

Section 2: Amends s. 190.046, F.S., providing procedures for the inclusion in the district of parcels included in the petition to create a community development district.

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:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor 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:

Line 25 of the bill states the petition may include parcels the district expects to add "within the next 10 years." It is unclear if this time period refers to ten years after the date of the petition or ten years after the creation of the district.

Line 43 states that "a person" may file a petition for a CDD to annex property included in the petition creating the district. It is unclear if this provision could be exercised by persons other than the board of the district or the landowner of the property to be annexed.

Lines 69-71 require the petitioner for annexation to publish notice of intent to amend the ordinance that created the district to include the annexed parcels. It may provide greater clarity to require the county to publish notice of the intent to amend the ordinance, with any associated expenses being paid by the petitioner.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled

2 An act relating to community development districts;
 3 amending s. 190.005, F.S.; specifying a procedure for
 4 establishing certain new community development
 5 districts; amending s. 190.046, F.S.; providing
 6 procedures for adding parcels to certain community
 7 development districts; providing noticing and filing
 8 requirements; specifying that the expansion of a
 9 district's boundaries does not alter certain voting
 10 methods; authorizing the use of existing procedures
 11 for adding parcels to such community development
 12 districts; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsection (3) of section 190.005, Florida
 17 Statutes, is renumbered as subsection (4), and a new subsection
 18 (3) is added to that section to read:

19 190.005 Establishment of district.—

20 (3) A petition to establish a new community development
 21 district of less than 2500 acres as set forth in subsection (2)
 22 over land located solely in one county or one municipality may
 23 identify adjacent parcels located within that county or
 24 municipality that the petitioner expects to add to the
 25 district's boundaries within the next 10 years. Such petition

26 shall include the legal description, the name of the current
 27 landowner, the acreage, and the current land use designation of
 28 each additional parcel to be added to the district. The current
 29 landowners shall receive notice of the filing of the petition to
 30 establish the district, the date and time of the public hearing
 31 on the petition, and the name and address of the petitioner at
 32 least 14 days before the hearing required by paragraph (2)(b). A
 33 parcel may not be included in the petition without the written
 34 consent of the landowner.

35 Section 2. Paragraph (h) is added to subsection (1) of
 36 section 190.046, Florida Statutes, to read:

37 190.046 Termination, contraction, or expansion of
 38 district.—

39 (1) A landowner or the board may petition to contract or
 40 expand the boundaries of a community development district in the
 41 following manner:

42 (h)1. For those districts established using the procedures
 43 under s. 190.005(2) and (3), a person may file a petition with
 44 the applicable county commission to amend the district's
 45 boundaries to include parcels that were identified in the
 46 petition that established the district. The county commission
 47 may not charge a filing fee for the petition. Each petition must
 48 include:

49 a. A metes and bounds description of each parcel to be
 50 added to the district.

51 b. A new legal description by metes and bounds of the
 52 district with the parcels added.

53 c. Written consent of 100 percent of the landowners of the
 54 parcels to be added to the district.

55 d. A map of the district with the parcels added.

56 e. A description of the development proposed on each
 57 parcel to be added to the district.

58 f. A copy of the original petition.

59 2. Before filing the petition with the establishing county
 60 commission, the petitioner shall provide a copy of the petition
 61 to the district and to the landowner of each parcel to be added
 62 to the district.

63 3. Once the petition is determined to be sufficient and
 64 complete, the county commission shall process the addition of
 65 the parcels to the district as an amendment to the ordinance
 66 that established the district. The county commission may process
 67 each petition to amend such ordinance even if adding a parcel
 68 would cause the district to be larger than 2500 acres.

69 4. The petitioner shall cause a notice of intent to amend
 70 the ordinance that established the district to be published in a
 71 newspaper of general circulation within the county. The notice
 72 must be published at least 10 days before the scheduled hearing
 73 on the ordinance amendment and may be published in that portion
 74 of the newspaper where legal notices appear. The notice must
 75 include a general description of the parcel to be added to the

76 district and the date and time of the scheduled hearing to amend
 77 the ordinance. The notice shall also be mailed by the petitioner
 78 to the district and, if applicable, to each landowner of each
 79 parcel to be added to the district at least 14 days before the
 80 scheduled hearing. The notice required in this subparagraph is
 81 in addition to any notice required to adopt the ordinance
 82 amendment.

83 5. The expansion of a district's boundaries by the
 84 addition of a parcel does not alter the method of transitioning
 85 from landowner to qualified elector voting as set forth in s.
 86 190.006, even if the total size of the district after the
 87 addition of the parcel exceeds 5000 acres. Upon adoption of the
 88 ordinance amendment expanding the district's boundaries, the
 89 petitioner must file a notice of boundary amendment with the
 90 Florida Land and Water Adjudicatory Commission identifying the
 91 district's new boundaries.

92
 93 Nothing contained in this paragraph prohibits a community
 94 development district established under s. 190.005(3) from adding
 95 parcels to the district using the procedures set forth in this
 96 section.

97 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 Ingolia offered the following:
 4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Paragraph (h) is added to subsection (1) of
 8 section 190.046, Florida Statutes, to read:

9 190.046 Termination, contraction, or expansion of
 10 district.—

11 (1) A landowner or the board may petition to contract or
 12 expand the boundaries of a community development district in the
 13 following manner:

14 (h) For a petition to establish a new community
 15 development district of less than 2,500 acres on land located
 16 solely in one county or one municipality, adjacent lands located



Amendment No. 1

17 within the county or municipality which the petitioner
18 anticipates adding to the boundaries of the district within the
19 next 10 years may also be identified. If such adjacent land is
20 identified, the petition must include a legal description of
21 each additional parcel within the adjacent land, the current
22 owner of the parcel, the acreage of the parcel, and the current
23 land use designation of the parcel. At least 14 days before the
24 hearing required under s. 190.005(2)(b), the petitioner must
25 give the current owner of each such parcel notice of filing the
26 petition to establish the district, the date and time of the
27 public hearing on the petition, and the name and address of the
28 petitioner. A parcel may not be included in the district without
29 the written consent of the owner of the parcel.

30 1. After establishment of the district, a person may
31 petition the county or municipality to amend the boundaries of
32 the district to include a previously identified parcel that was
33 a proposed addition to the district before its establishment. A
34 filing fee may not be charged for this petition. Each such
35 petition must include:

36 a. A legal description by metes and bounds of the parcel
37 to be added;

38 b. A new legal description by metes and bounds of the
39 district;

40 c. Written consent of all owners of the parcel to be
41 added;



Amendment No. 1

42 d. A map of the district including the parcel to be added;

43 e. A description of the development proposed on the
44 additional parcel; and

45 f. A copy of the original petition identifying the parcel
46 to be added.

47 2. Before filing with the county or municipality, the
48 person must provide the petition to the district and to the
49 owner of the proposed additional parcel, if the owner is not the
50 petitioner.

51 3. Once the petition is determined sufficient and
52 complete, the county or municipality must process the addition
53 of the parcel to the district as an amendment to the ordinance
54 that establishes the district. The county or municipality may
55 process all petitions to amend the ordinance for parcels
56 identified in the original petition, even if, by adding such
57 parcels, the district exceeds 2,500 acres.

58 4. The petitioner shall cause to be published in a
59 newspaper of general circulation in the proposed district a
60 notice of the intent to amend the ordinance that establishes the
61 district, which notice shall be in addition to any notice
62 required for adoption of the ordinance amendment. Such notice
63 must be published at least 10 days before the scheduled hearing
64 on the ordinance amendment and may be published in the section
65 of the newspaper reserved for legal notices. The notice must
66 include a general description of the land to be added to the

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Amendment No. 1

67 district and the date and time of the scheduled hearing to amend
68 the ordinance. The petitioner shall mail the notice of the
69 hearing on the ordinance amendment to the owner of the parcel
70 and to the district at least 14 days before the scheduled
71 hearing.

72 5. The amendment of a district by the addition of a parcel
73 pursuant to this paragraph does not alter the transition from
74 landowner voting to qualified elector voting pursuant to s.
75 190.006, even if the total size of the district after the
76 addition of the parcel exceeds 5,000 acres. Upon adoption of the
77 ordinance expanding the district, the petitioner must cause to
78 be recorded a notice of boundary amendment which reflects the
79 new boundaries of the district.

80 6. This paragraph is intended to facilitate the orderly
81 addition of lands to a district under certain circumstances and
82 does not preclude the addition of lands to any district using
83 the procedures in the other provisions of this section.

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

85
86 -----
87 **T I T L E A M E N D M E N T**

88 Remove everything before the enacting clause and insert:
89 An act relating to community development districts; amending s.
90 190.046, F.S.; authorizing adjacent lands located within the
91 county or municipality which a petitioner anticipates adding to



Amendment No. 1

92 the boundaries of a new community development district to also
93 be identified in a petition to establish the new district under
94 certain circumstances; providing requirements for the petition;
95 providing notification requirements for the petition;
96 prohibiting a parcel from being included in the district without
97 the written consent of the owner of the parcel; authorizing a
98 person to petition the county or municipality to amend the
99 boundaries of the district to include a certain parcel after
100 establishment of the district; prohibiting a filing fee for such
101 petition; providing requirements for the petition; requiring the
102 person to provide the petition to the district and to the owner
103 of the proposed additional parcel before filing the petition
104 with the county or municipality; requiring the county or
105 municipality to process the addition of the parcel to the
106 district as an amendment to the ordinance that establishes the
107 district once the petition is determined sufficient and
108 complete; authorizing the county or municipality to process all
109 such petitions even if the addition exceeds specified acreage;
110 providing notice requirements for the intent to amend the
111 ordinance establishing the district; providing that the
112 amendment of a district by the addition of a parcel does not
113 alter the transition from landowner voting to qualified elector
114 voting; requiring the petitioner to cause to be recorded a
115 certain notice of boundary amendment upon adoption of the



Amendment No. 1



116 ordinance expanding the district; providing construction;
117 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 963 Towing and Immobilizing Fees and Charges

SPONSOR(S): Cortes

TIED BILLS: IDEN./SIM. BILLS: SB 1632

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

SUMMARY ANALYSIS

County and municipal governments may contract with wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. Counties and municipalities may establish a wrecker operator system to apportion towing services across multiple wrecker operators. Wrecker operators who participate in the wrecker operator system are known as authorized wrecker operators.

Counties and municipalities are authorized to establish maximum rates for the towing and storage of vehicles pursuant to an ordinance or rule adopted pursuant to s. 125.0103, F.S., or s. 166.043, F.S.

Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The administrative fee is collected by the towing company on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the vehicle is released to the registered owner or lienholder.

The bill requires a county or municipality to establish maximum rates for the towing and storage of vessels, as well placing a cap on the maximum rate for immobilizing a vehicle or vessel.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The bill does not prohibit a county or municipality from levying a local business tax on authorized wrecker operators and does not impact the ability of a county or municipality to impose a reasonable administrative fee on the legal owner, legally authorized user, or lienholder of a vehicle or vessel to cover the cost of enforcement actions. The bill provides that an authorized wrecker operator may impose and collect the administrative fee and is only required to remit the fee to the county or municipality after it has been collected.

The bill prohibits counties and municipalities from adopting or enforcing ordinances or rules that impose fees on the registered owner or lienholder of a vehicle or vessel removed and impounded by an authorized wrecker operator.

The bill provides that a wrecker operator who recovers, removes, or stores a vehicle or vessel shall have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

The bill appears to have an indeterminate fiscal impact of local governments.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.¹ After the establishment of such contract(s), the county or municipality must create a "wrecker operator system" to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.² Any wrecker operator that is included in the wrecker operator system is an "authorized wrecker operator" in the jurisdiction, while any wrecker operation not included is an "unauthorized wrecker operator."³

Unauthorized wrecker operators are not permitted to initiate contact with the owner or operator of a wrecked or disabled vehicle.⁴ If the owner or operator initiates contact, the unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- Driver license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner's or operator's insurance company or lienholder;
- Whether he or she has an insurance policy providing \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.⁵

The unauthorized wrecker operator must disclose this information to the owner or operator in the presence of a law enforcement officer if an officer is present at the scene of the accident.⁶

It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.⁷ An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.⁸ In either instance, the unauthorized wrecker operator's wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.⁹

Unauthorized wrecker operators also are prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.¹⁰

¹ Section 323.002(1)(c), F.S. The definition of "vehicle" does not include a vessel or trailer intended for the transport on land of a vessel. *See s. 320.01, F.S.* (defining "motor vehicle" for the purpose of issuance of motor vehicle licenses and separately defining a "marine boat trailer dealer" as a person engaged in "business of buying ... trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.")

² *Id.*

³ Section 323.002(1)(a)-(b), F.S.

⁴ Section 323.002(2)(b), F.S.

⁵ Section 323.002(2)(c), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 323.002(2)(d), F.S.

⁹ Section 323.002(2)(c) and (d), F.S.

¹⁰ Section 323.002(2)(a), F.S.

Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or where the vehicle is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.¹¹ A county or municipality may not establish rates, including a maximum rate, for the towing of vessels.¹²

Vehicle Holds, Wrecker Operator Storage Facilities, and Liens

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.¹³ A hold may be applied where the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or Ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.¹⁴

An officer may also apply a hold when the vehicle is impounded pursuant to ss. 316.193 or 322.34, F.S., and when the officer is complying with a court order.¹⁵ The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle, the specific reason for the hold, the condition of the vehicle, the location where the vehicle is being held, and the name and contact information for the wrecker operator and storage facility.¹⁶

The investigating agency must inform the wrecker operator within the five day holding period if the agency intends to hold the vehicle for a longer period of time.¹⁷ The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle will be held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.¹⁸

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for a reasonable towing fee and storage fee, if the vehicle or vessel is removed upon instructions from:

- the owner of the vehicle or vessel,
- the owner, lessor, or authorized person acting on behalf of the owner/lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed pursuant to s. 715.07, F.S.),
- the landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to s. 83.806, F.S., or s. 715.104, F.S.), or
- any law enforcement agency.¹⁹

¹¹ Sections 125.0103(1)(c) and 166.043(1)(c), F.S.

¹² Compare 125.0103(1)(c), F.S. (requiring a county to establish maximum rates for towing of vehicles) with s. 715.07, F.S. (towing of vehicles or vessels parked on private property).

¹³ Section 323.001(1), F.S.

¹⁴ Section 323.001(4)(a)-(e), F.S.

¹⁵ Section 323.001(4)(f)-(g), F.S.

¹⁶ Section 323.001(5), F.S.

¹⁷ Section 323.001(2), F.S.

¹⁸ Section 323.001(2)(a)-(b), F.S.

¹⁹ Section 713.78(2), F.S.

Authority for Local Governments to Charge Fees

Counties and municipalities do not have authority to levy taxes, other than ad valorem taxes, except as provided by general law.²⁰ However, local governments possess the authority to impose user fees or assessments by local ordinance as such authority is within the constitutional and statutory home rule powers of local governments.²¹ The key distinction between a tax and a fee is that fees are voluntary and benefit particular individuals in a manner not shared by others in the public.²² On the other hand, a tax is a “forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed.”²³ Usually a fee is applied for the use of a service and is tied directly to the cost of maintaining the service. Money collected from a fee is not applied to uses other than to provide the service for which the fee is applied. An administrative fee for towing and storage services may be permissible to the extent the fee provides a specific benefit to vehicle owners.²⁴

Administrative Fees Related to Towing and Storage

Some municipalities charge administrative fees when a vehicle is towed in connection with certain misdemeanors or felonies.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.²⁵ The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act. The owner may post a bond equal to the civil penalty (\$500.00), hearing costs (\$50.00), and towing and storage fees (\$125.00 plus \$25.00 per day) to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees.
- The registered owner may waive the right to a hearing and pay the civil penalty (\$500.00).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The City of Bradenton uses the same process and rate structure.²⁶

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.²⁷

The City of Winter Springs imposes an administrative fee for impoundment arising from twelve offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.²⁸ The registered owner may request a hearing, either accruing additional storage fees pending the hearing or posting a bond equal to the amount of the administrative fee (\$550.00). If the registered owner waives the right to hearing, the administrative fee is reduced to \$250.00. These fees are payable to the city but are collected by towing companies.²⁹

²⁰ Art. VII, s. 1(a), Fla. Const.

²¹ *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

²² *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

²³ *Id.* at 758-59.

²⁴ *See Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).

²⁵ Sarasota Police Department, *Vehicle Seizure Program*, available at <http://www.sarasotapd.org/vehicle-seizure-program/> (last accessed Jan. 9, 2018).

²⁶ Bradenton, Fla. Code of Ordinances, ch. 54, art. IV (2016).

²⁷ Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c) (2017).

²⁸ Winter Springs, Fla. Ordinance No. 2016-01 (effective October 23, 2016).

²⁹ Winter Springs, Fla. Notice of Right to Hearing Form. A copy of this form is attached as Appendix A.

By contract, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city \$10,151 per month for "the opportunity to provide" wrecker services, as well as \$500 for each impounded vehicle sold by the wrecker service.³⁰

Effect of Proposed Changes

The bill authorizes a county or municipality to regulate the rates for the towing or immobilization of vessels. A county or municipality is required to establish a maximum rate that may be charged for the towing or immobilization of a vessel. The bill provides that the maximum rate to immobilize a vehicle or vessel may not exceed 20 percent of the maximum rate allowed by the county or municipality for towing a vehicle or vessel from private property. The bill defines immobilization as the act of rendering a vehicle or vessel inoperable by the use of a device such as a "boot," "club," "Barnacle," or any other device which renders the vehicle or vessel inoperable.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The prohibition would not impact the ability of the county or municipality to levy a business tax under ss. 205.0315, 205.033, or 205.0535, F.S. It also would not impact the ability of the county to impose a reasonable administrative fee or charge by ordinance on the legal owner of a vehicle if a county or municipal law enforcement officer has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality. The administrative fee imposed under this section may not exceed 25 percent of the maximum towing rate. The bill authorizes an authorized wrecker operator or towing business to impose and collect the administrative fee and provides that the authorized wrecker operator or towing business is not required to remit the fee to the county or municipality until it is actually collected. The bill provides that the administrative fee shall be included as part of the lien on the vehicle or vessel held by the towing operator.

The bill also prohibits a county or municipality from adopting or enforcing an ordinance that imposes any charge, cost, expense, fine, fee, or penalty, on the registered owner or lienholder of a vehicle removed and impounded by an authorized wrecker operator. This prohibition does not apply to a reasonable administrative fee or charge, limited to 25 percent of the maximum towing rate, to cover the cost of enforcement.

B. SECTION DIRECTORY:

- Section 1: Amends s. 125.0103, F.S., requiring counties to establish maximum rates for the towing of vessels and placing a cap on the maximum rate for immobilizing a vehicle or vessel.
- Section 2: Creates s. 125.01047, F.S., prohibiting counties from enacting ordinances imposing specific fees and charges on authorized wrecker operators.
- Section 3: Amends s. 166.043, F.S., requiring municipalities to establish maximum rates for the towing of vessels and placing a cap on the maximum rate for immobilizing a vehicle or vessel.
- Section 4: Creates s. 166.04465, F.S., prohibiting municipalities from enacting ordinances imposing specific fees and charges on authorized wrecker operators.
- Section 5: Amends s. 323.002, F.S., prohibiting counties and municipalities from imposing fees and charges on the registered owner or lienholder of a vehicle removed and impounded pursuant to Ch. 323, F.S.

³⁰ Agreement for Wrecker Towing and Storage Services, City of Sarasota and J&G WFR, Inc. dba Direct Towing. A copy of the relevant portions of the contract is attached as Appendix B.

Section 6: Amends s. 713.78, F.S., providing that a wrecker operation has a lien for a reasonable administrative fee or charge imposed by a county or municipality.

Section 7: Provides that the bill shall take effect 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:

The bill will have an indeterminate impact on local government revenue. The bill prohibits counties and municipalities from charging certain fees to authorized wrecker operators and towing companies which are currently charged by some jurisdictions, while authorizing the collection of administrative fees for the cost of enforcement.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce expenses for towing companies that are located in counties or municipalities currently charging a fee.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The 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:

Section 5 of the bill prohibits a county or municipality from adopting or maintaining an ordinance or rule that imposes a fee or charge other than a reasonable administrative fee for the costs of enforcement. This language appears to reference the administrative fee authorized by sections 2 and 4 of the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

APPENDIX A



NOTICE OF RIGHT TO HEARING

Case#: []
Dated this [] day of [], 20 []

HAND DELIVERED TO:

NAME: [] DOB []
ADDRESS: []
D/L # [] Sex: [] Race: []

SECTION 1:

The following property was taken on the [] day of [], 20 [], on or about [] hours by members of the Winter Springs Police in the vicinity of [] because the undersigned police officer has probable cause to believe that the vehicle:

- Was used to facilitate the commission or attempted commission of an act of prostitution, assignation or lewdness as defined in §796.07, F.S. or the exposure of sexual organs as set forth in section 800.03 F.S.
Was knowingly used in the commission of any misdemeanor act of possession or attempted possession of any controlled substance as defined in section 893.02 F.S.
Was used, intended or attempted to be used, to facilitate the commission of any misdemeanor violation of Chapter 893 F.S.
Was used, intended or attempted to be used, to facilitate the commission of any misdemeanor violation of section 316.061 F.S.
Was used, intended or attempted to be used, to facilitate the commission of any misdemeanor violation of section 322.34 F.S.
Was operated by a person driving under the influence defined in section 316.193 F.S. when such violation is a misdemeanor.
Was used in the commission of the offense of driving without a valid license or permit in violation of 322.03 F.S.
Was being operated on a public street and is not covered by liability insurance as required by Chapter 324 F.S.
Was used in the commission of the misdemeanor offense of criminal mischief in violation section 806.13 F.S.
Was used to dump litter in any manner prohibited by section 403.413(4) F.S. exceeding 15 lbs. or 27 cu. ft. in volume not exceeding 500 lbs. or 100 cu. ft. and not for commercial purposes.
Was being operated by a person presenting proof of insurance in violation of section 316.646(4) F.S. knowingly not in force.
Was parked in a way impeding traffic, creating a hazard, obstructing a street or city utility or left unattended because the driver was taken into custody by law enforcement.

Such property is being held pending civil proceedings under Winter Springs Code, Section 12 and is described as: YEAR [] MAKE [] MODEL [] COLOR [] TAG [] VIN/HIN [] STATE []

Other []

And is currently being held at:

Tri-County Towing
1155 Belle Ave.
Winter Springs, FL 32708
(407) 695-4400

Winter Springs Police Department
300 N. Moss Rd.
Winter Springs, FL 32708
(407) 327-1000

Received By (Operator/Owner) Signed

Received By (Operator/Owner) Print

Delivered By (Officer/Clerk) Signed

Delivered By (Officer/Clerk) Print

SECTION 2:

Pursuant to City Code, Section 12-100 the owner has the right to request a hearing in the following manner:

Within seven (7) business days of receipt of this notice, the owner, co-owner or lienholder may request a hearing by delivering to the Police Department, at 300 N. Moss Rd., Seminole County, Winter Springs, Florida 32708, a written request for a hearing.

Such request for a hearing shall include a valid telephone number and correct address where the owner, co-owner, or lienholder may be contacted.

The written notice must be received by the Police Department within the allotted time or the right to a hearing shall be deemed to be waived.

SECTION 3:

In order to retrieve the above described vehicle, the owner has the below options:

Owner, Co-Owner, or Lienholder Requesting a Hearing:

The Owner, Co-Owner, or Lienholder may secure release of the vehicle by posting a bond (cash, money order, or certified check payable to the City of Winter Springs) in the amount of \$550.00 submitted to the towing company. The Owner, Co-Owner, or Lienholder may then take possession of the vehicle from the towing company after payment of towing and storage charges payable to the towing company.

The Owner, Co-Owner, or Lienholder may leave the vehicle impounded and request a hearing directly from the police department Support Services Bureau.

Owner, Co-Owner, or Lienholder Waiving a Hearing and Submitting Civil Penalty:

The Owner, Co-Owner, or Lienholder may secure release of the vehicle by submitting a civil penalty (cash, money order, or certified check payable to the City of Winter Springs) in the amount of \$250.00 and submitted to the towing company during business hours.

The Owner, Co-Owner, or Lienholder then may receive the vehicle from the towing company after payment of towing and storage charges payable to the the towing company.

An executed written waiver shall bind both the owner and co-owner except as otherwise provided herein.

APPENDIX B

AGREEMENT FOR WRECKER TOWING AND STORAGE SERVICES

THIS AGREEMENT FOR WRECKER TOWING AND STORAGE SERVICES, made and entered into this 5 day of MAY, 2010 by and between the CITY OF SARASOTA, FLORIDA, a municipal corporation, hereinafter referred to as "CITY," and J & G WFR, INC. DBA DIRECT TOWING, a Florida corporation, hereinafter referred to as "DIRECT".

WITNESSETH:

WHEREAS, CITY has publicly announced an invitation to Bid to obtain annual wrecker towing and storage services on an as needed basis pursuant to invitation to Bid No. 10-08MK; and

WHEREAS, DIRECT has submitted a responsive bid which has been accepted by CITY to provide the CITY with the annual wrecker towing and storage services on an as needed basis; and

WHEREAS, CITY and DIRECT desire to formalize the terms and conditions of DIRECT's performance of such services as set forth herein; and

WHEREAS, the City Manager, pursuant to Sarasota City Code Section 2-5 (3) v. is authorized to administratively approve and execute this Agreement on behalf of CITY so long as the total compensation paid to DIRECT during the entire term of this Agreement, as may be extended, does not exceed Two Hundred Thousand Dollars (\$200,000.00).

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS CONTAINED HEREIN, IT IS AGREED AS FOLLOWS:

1. Definitions: The following terms shall have the meanings herein ascribed to them:

A. *City Manager* shall mean the City manager of the City of Sarasota, Florida, or his designee.

B. *Police Chief* shall mean the Chief of Police of the City of Sarasota, Florida, or his designee.

C. *Project* shall mean the Scope of Services to be performed by DIRECT in furtherance of this Agreement. The Scope of Services shall include all labor, materials, tools, equipment, insurance and the like required to perform vehicle and vessel towing and storage services within the boundaries of the towing area on an as needed basis for CITY. A more detailed description of the Scope of Services is set forth in the City of Sarasota Police Department Vehicle and Vessel Towing and Storage Services section found on pages 13 through 20, inclusive, of Invitation to Bid No. 10-08MK. A copy of Invitation to Bid No. 10-08MK, as well as the Bid Form submitted by DIRECT in response thereto, are on file in the offices of

the Financial Administration Purchasing Division of CITY, Invitation to Bid No. 10-08MK, as well as DIRECT's Bid Form submitted in response thereto are deemed incorporated by reference into this Agreement. DIRECT covenants to strictly comply with all of the terms and conditions of Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto. In the event of any conflict between the terms set forth in the main body of this Agreement and Invitation to Bid No. 10-08MK, the terms and conditions set forth in the main body of this Agreement shall control.

2. Scope of Services: DIRECT shall diligently and timely provide all labor, material and equipment required for the Scope of Services for the Project in strict conformance with Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto and in strict conformance with all the terms and conditions of this Agreement. The parties hereby agree to be bound by the terms and conditions set forth in Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto. The Police Chief will notify DIRECT when an assignment within the Project Scope of Services may be available. DIRECT covenants to provide the Project Scope of Services within the time limits set forth in Invitation to Bid No. 10-08MK.

3. Payment: In consideration for CITY providing DIRECT the opportunity to provide the Scope of Services, DIRECT agrees to pay CITY a fee in the amount of Ten Thousand One Hundred Fifty One and 00/100 Dollars (\$10,151.00) per month. Said payment shall be submitted to the CITY prior to the 10th day of each month. This monthly payment shall be due and payable by DIRECT to CITY in advance for each month during the term of this Agreement. Furthermore, in consideration of the CITY not placing, attempting to foreclose or foreclosing a vehicle impoundment lien upon a vehicle impounded pursuant to Section 33-271 of the Sarasota City Code, DIRECT agrees to waive any and all storage charges to which the CITY would be obligated to pay as a result of the operation of any provision of Chapter 323, Florida Statutes, on any vehicles impounded by the City and stored by DIRECT. As further

consideration, DIRECT shall pay CITY Five Hundred Dollars (\$500.00) for each sale by DIRECT of a vehicle that was sold subsequent to a seizure initiated by the police department of CITY. Said payment shall be made to CITY within thirty (30) days of DIRECT'S sale of a vehicle which had been seized.

4. Term: This Agreement shall be effective upon complete execution by each of the parties hereto. The initial term of this Agreement shall expire one year thereafter. This Agreement may be extended upon mutual agreement of the parties for up to two additional one year periods under the same terms and conditions pursuant to an amendment to this Agreement.

5. Public Records: DIRECT acknowledges that it shall be responsible to totally and fully comply with the Florida Public Records Law as set forth in Chapter 119, Florida Statutes and all other relevant laws, rules and regulations regarding public records.

6. Termination Without Default: The City Manager shall have the right at any time upon fifteen (15) days written notice to DIRECT to terminate the services of DIRECT hereunder for any reason whatsoever. If the City Manager terminates this Agreement pursuant to this Section 6, DIRECT shall be entitled to a pro-rated refund of the monthly payment required by Section 3 above. The amount of the refund shall be pro-rated based upon the number of days remaining in the calendar month starting with the day after the effective date of termination.

7. Termination With Default: DIRECT acknowledges that the conditions, covenants and requirements on its part to be kept, as set forth herein, are material inducements to CITY entering into this Agreement. Should DIRECT fail to perform any of the conditions, covenants and requirements on its part to be kept, the City Manager shall give written notice thereof to DIRECT specifying those acts or things which must occur in order to cure said default, including the time within which such cure shall occur. DIRECT shall have seventy two (72) hours measured from the date and time of the written notice within which to cure the default.

1 A bill to be entitled

2 An act relating to towing and immobilizing fees and
 3 charges; amending ss. 125.0103 and 166.043, F.S.;
 4 establishing a maximum rate that counties or
 5 municipalities may charge to immobilize vehicles or
 6 vessels under certain conditions; defining the term
 7 "immobilize"; creating ss. 125.01047 and 166.04465,
 8 F.S.; prohibiting counties or municipalities from
 9 enacting certain ordinances or rules that impose fees
 10 or charges on authorized wrecker operators or towing
 11 businesses; defining the term "towing business";
 12 providing exceptions; amending s. 323.002, F.S.;
 13 prohibiting counties or municipalities from imposing
 14 charges, costs, expenses, fines, fees, or penalties on
 15 registered owners, other legally authorized persons in
 16 control, or lienholders of vehicles or vessels under
 17 certain conditions; providing an exception; amending
 18 s. 713.78, F.S.; authorizing certain persons to place
 19 liens on vehicles or vessels to recover specified fees
 20 or charges; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Paragraphs (b) and (c) of subsection (1) of
 25 section 125.0103, Florida Statutes, are amended to read:

26 125.0103 Ordinances and rules imposing price controls;
 27 findings required; procedures.—

28 (1)

29 (b) The provisions of this section shall not prevent the
 30 enactment by local governments of public service rates otherwise
 31 authorized by law, including water, sewer, solid waste, public
 32 transportation, taxicab, or port rates, rates for towing of
 33 vehicles or vessels from or immobilization of vehicles or
 34 vessels on private property, or rates for removal and storage of
 35 wrecked or disabled vehicles or vessels from an accident scene
 36 or the removal and storage of vehicles or vessels in the event
 37 the owner or operator is incapacitated, unavailable, leaves the
 38 procurement of wrecker service to the law enforcement officer at
 39 the scene, or otherwise does not consent to the removal of the
 40 vehicle or vessel.

41 (c) Counties must establish maximum rates which may be
 42 charged on the towing of vehicles or vessels from or
 43 immobilization of vehicles or vessels on private property,
 44 removal and storage of wrecked or disabled vehicles or vessels
 45 from an accident scene or for the removal and storage of
 46 vehicles or vessels, in the event the owner or operator is
 47 incapacitated, unavailable, leaves the procurement of wrecker
 48 service to the law enforcement officer at the scene, or
 49 otherwise does not consent to the removal of the vehicle or
 50 vessel. The maximum rate to immobilize a vehicle or vessel on

51 public or private property may not exceed 20 percent of the
 52 maximum rate to tow a vehicle or vessel from private property.
 53 However, if a municipality chooses to enact an ordinance
 54 establishing the maximum rates ~~fees~~ for the towing or
 55 immobilization of vehicles or vessels as described in paragraph
 56 (b), the county's ordinance shall not apply within such
 57 municipality. For purposes of this paragraph, the term
 58 "immobilize" means the act of rendering a vehicle or vessel
 59 inoperable by the use of a device such as a "boot" or "club,"
 60 the "Barnacle," or any other device which renders a vehicle or
 61 vessel inoperable.

62 Section 2. Section 125.01047, Florida Statutes, is created
 63 to read:

64 125.01047 Rules and ordinances relating to towing
 65 services.-

66 (1) A county may not enact an ordinance or rule that would
 67 impose a fee or charge on an authorized wrecker operator, as
 68 defined in s. 323.002(1), or on a towing business for towing,
 69 impounding, or storing a vehicle or vessel. As used in this
 70 section, the term "towing business" means a business that
 71 provides towing services for monetary gain.

72 (2) The prohibition set forth in subsection (1) does not
 73 affect a county's authority to:

74 (a) Levy a reasonable business tax under s. 205.0315, s.
 75 205.033, or s. 205.0535.

76 (b) Impose and collect a reasonable administrative fee or
 77 charge on the registered owner or other legally authorized
 78 person in control of a vehicle or vessel, or the lienholder of a
 79 vehicle or vessel, not to exceed 25 percent of the maximum
 80 towing rate, to cover the cost of enforcement, including parking
 81 enforcement, by the county when the vehicle or vessel is towed
 82 from public property. However, an authorized wrecker operator or
 83 towing business may impose and collect the administrative fee or
 84 charge on behalf of the county and shall remit such fee or
 85 charge to the county only after it is collected.

86 Section 3. Paragraphs (b) and (c) of subsection (1) of
 87 section 166.043, Florida Statutes, are amended to read:

88 166.043 Ordinances and rules imposing price controls;
 89 findings required; procedures.—

90 (1)

91 (b) The provisions of this section shall not prevent the
 92 enactment by local governments of public service rates otherwise
 93 authorized by law, including water, sewer, solid waste, public
 94 transportation, taxicab, or port rates, rates for towing of
 95 vehicles or vessels from or immobilization of vehicles or
 96 vessels on private property, or rates for removal and storage of
 97 wrecked or disabled vehicles or vessels from an accident scene
 98 or the removal and storage of vehicles or vessels in the event
 99 the owner or operator is incapacitated, unavailable, leaves the
 100 procurement of wrecker service to the law enforcement officer at

101 the scene, or otherwise does not consent to the removal of the
 102 vehicle or vessel.

103 (c) Counties must establish maximum rates which may be
 104 charged on the towing of vehicles or vessels from or
 105 immobilization of vehicles or vessels on private property,
 106 removal and storage of wrecked or disabled vehicles or vessels
 107 from an accident scene or for the removal and storage of
 108 vehicles or vessels, in the event the owner or operator is
 109 incapacitated, unavailable, leaves the procurement of wrecker
 110 service to the law enforcement officer at the scene, or
 111 otherwise does not consent to the removal of the vehicle or
 112 vessel. The maximum rate to immobilize a vehicle or vessel on
 113 public or private property may not exceed 20 percent of the
 114 maximum rate to tow a vehicle or vessel from private property.
 115 However, if a municipality chooses to enact an ordinance
 116 establishing the maximum rates fees for the towing or
 117 immobilization of vehicles or vessels as described in paragraph
 118 (b), the county's ordinance established under s. 125.0103 shall
 119 not apply within such municipality. For purposes of this
 120 paragraph, the term "immobilize" means the act of rendering a
 121 vehicle or vessel inoperable by the use of a device such as a
 122 "boot" or "club," the "Barnacle," or any other device which
 123 renders a vehicle or vessel inoperable.

124 Section 4. Section 166.04465, Florida Statutes, is created
 125 to read:

126 166.04465 Rules and ordinances relating to towing
127 services.-

128 (1) A municipality may not enact an ordinance or rule that
129 would impose a fee or charge on an authorized wrecker operator,
130 as defined in s. 323.002(1), or on a towing business for towing,
131 impounding, or storing a vehicle or vessel. As used in this
132 section, the term "towing business" means a business that
133 provides towing services for monetary gain.

134 (2) The prohibition set forth in subsection (1) does not
135 affect a municipality's authority to:

136 (a) Levy a reasonable business tax under s. 205.0315, s.
137 205.043, or s. 205.0535.

138 (b) Impose and collect a reasonable administrative fee or
139 charge on the registered owner or other legally authorized
140 person in control of a vehicle or vessel, or the lienholder of a
141 vehicle or vessel, not to exceed 25 percent of the maximum
142 towing rate, to cover the cost of enforcement, including parking
143 enforcement, by the municipality when the vehicle or vessel is
144 towed from public property. However, an authorized wrecker
145 operator or towing business may impose and collect the
146 administrative fee or charge on behalf of the municipality and
147 shall remit such fee or charge to the municipality only after it
148 is collected.

149 Section 5. Subsection (4) of section 323.002, Florida
150 Statutes, is renumbered as subsection (5), and a new subsection

151 (4) is added to that section to read:

152 323.002 County and municipal wrecker operator systems;
153 penalties for operation outside of system.-

154 (4)(a) Except as provided in paragraph (b), a county or
155 municipality may not adopt or maintain in effect an ordinance or
156 rule that imposes a charge, cost, expense, fine, fee, or penalty
157 on a registered owner or other legally authorized person in
158 control of a vehicle or vessel, or the lienholder of a vehicle
159 or vessel, when the vehicle or vessel is towed by an authorized
160 wrecker operator under this chapter.

161 (b) A county or municipality may adopt or maintain an
162 ordinance or rule that imposes a reasonable administrative fee
163 or charge on the registered owner or other legally authorized
164 person in control of a vehicle or vessel, or the lienholder of a
165 vehicle or vessel, that is towed by an authorized wrecker
166 operator, not to exceed 25 percent of the maximum towing rate,
167 to cover the cost of enforcement, including parking enforcement,
168 by the county or municipality when the vehicle or vessel is
169 towed from public property. However, an authorized wrecker
170 operator or towing business may impose and collect the
171 administrative fee or charge on behalf of the county or
172 municipality and shall remit such fee or charge to the county or
173 municipality only after it is collected.

174 Section 6. Subsection (2) of section 713.78, Florida
175 Statutes, is amended to read:

176 713.78 Liens for recovering, towing, or storing vehicles
 177 and vessels.-

178 (2) Whenever a person regularly engaged in the business of
 179 transporting vehicles or vessels by wrecker, tow truck, or car
 180 carrier recovers, removes, or stores a vehicle or vessel upon
 181 instructions from:

182 (a) The owner thereof;

183 (b) The owner or lessor, or a person authorized by the
 184 owner or lessor, of property on which such vehicle or vessel is
 185 wrongfully parked, and the removal is done in compliance with s.
 186 715.07;

187 (c) The landlord or a person authorized by the landlord,
 188 when such motor vehicle or vessel remained on the premises after
 189 the tenancy terminated and the removal is done in compliance
 190 with s. 83.806 or s. 715.104; or


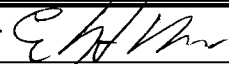
191 (d) Any law enforcement agency,

192
 193 she or he shall have a lien on the vehicle or vessel for a
 194 reasonable towing fee, for a reasonable administrative fee or
 195 charge imposed by a county or municipality, and for a reasonable
 196 storage fee; except that no storage fee shall be charged if the
 197 vehicle or vessel is stored for less than 6 hours.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 987 Affordable Housing
SPONSOR(S): Cortes, B.
TIED BILLS: **IDEN./SIM. BILLS:** SB 1328

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

SUMMARY ANALYSIS

Florida has extensive programs for funding and overseeing the development and delivery of affordable housing to residents qualifying for such services. The recent impacts of hurricanes Irma and Maria have disclosed significant needs for additional affordable housing in this State. The bill revises several key provisions of law and creates additional processes to expedite the creation of affordable housing in Florida. The bill also creates the Hurricane Housing Recovery Program and the Recovery Rental Loan Program to expedite the creation of additional affordable housing in response to the needs created by the recent hurricanes.

The bill creates new provisions on the use of local and state government-owned surplus land, the assessment of impact and mobility fees by local government entities, and local government permitting as it relates to the development of affordable housing.

The bill requires the Departments of Environmental Protection and Transportation and the Water Management Districts, in conjunction with the Florida Housing Finance Corporation, to evaluate all nonconservation surplus lands for suitability for residential use and the development of permanently affordable housing and offer such parcels to the county or municipality where the land is located. The bill provides for additional evaluation criteria intended to address specific needs and characteristics for development of affordable housing.

The bill prohibits a county or municipality from charging impact fees and mobility fees for the development of affordable housing for a five-year period beginning July 1, 2018. Local government entities are required to include in their annual financial reports data on the specific purpose of each impact fee, the impact fee schedule policy, the method of calculating impact fees, the amount assessed for each purpose and type of dwelling, and each exception and waiver provided for affordable housing developments. The bill also provides for an expedited local permit approval process for affordable housing by reducing the time a local government entity has to approve or deny permit applications from 120 days to 60 days. Additionally, the bill requires the evaluation of additional components related to local government contribution in the State Apartment Incentive Loan (SAIL) program.

In addition to creating the hurricane recovery programs named above, the bill provides an appropriation of 20 percent of the funds available in the Local Government Housing Trust Fund and State Housing Trust Fund. The August 2017 REC estimated \$314.08 million to be available for distribution to the Housing Trust Funds. The estimated impact of this bill is \$62.82 million. However, the bill has a negative fiscal impact on local governments due to the prohibition on collection of impact and mobility fees. SEE FISCAL ANALYSIS AND COMMENTS.

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

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:

Present Situation

Affordable housing is defined in terms of household income. Housing is considered affordable when monthly rent or mortgage payments including taxes, insurance and utilities do not exceed 30 percent of the household income.¹ Resident eligibility for Florida's state and federally funded housing programs is typically governed by area median income (AMI) levels, published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area. The following are standard household income level definitions and their relationship to the 2017 Florida state median of \$59,000 for a family of four (as family size increases or decreases, the income range also increases or decreases):²

- Extremely low income – earning up to 30 percent AMI (at or below \$17,700);³
- Very low income – earning from 30.01 to 50 percent AMI (\$17,701 to \$29,500);⁴
- Low income – earning from 50.01 to 80 percent AMI (\$29,501 to \$47,200);⁵ and
- Moderate income – earning from 80.01 to 120 percent of AMI (\$47,201 to \$70,800).⁶

The two primary state housing assistance programs are the State Housing Initiatives Partnership (SHIP)⁷ and the State Apartment Incentive Loan (SAIL)⁸ programs. The SHIP program provides funds to eligible local governments, allocated using a population-based formula, to address local housing needs as adopted in the Local Housing Assistance Plan. Eligible local government entities must develop and adopt local housing assistance plans that include, but are not limited to, strategies and incentives for the construction, rehabilitation, repair, or financing of affordable housing production.⁹ The SAIL program provides low interest loans on a competitive basis as gap financing for the construction or substantial rehabilitation of multifamily affordable housing developments.¹⁰

Local Government Surplus Land

Present Situation

Since July 1, 2007, all counties and municipalities have been required to prepare, every three years, an inventory list of all real property held in fee simple by the respective government entity that is appropriate for use as affordable housing. The list must be reviewed at a public hearing of the appropriate local governing body and may be revised at the conclusion of the public hearing. The governing body must adopt a resolution that includes the inventory following the meeting.¹¹

¹ Section 420.9071(2), F.S. Public housing, commonly referred to as Section 8 Housing, is provided by local housing agencies (HAs) for low-income residents. Funding for HAs is provided directly from HUD.

² U.S. Department of Housing and Urban Development, Office of Policy Research and Development, *FY 2017 HUD Income Limits Briefing Material*, available at <https://www.huduser.gov/portal/datasets/il/il17/IncomeLimitsBriefingMaterial-FY17.pdf> (last visited January 4, 2018).

³ Section 420.0004(9), F.S.

⁴ Section 420.9071(28), F.S.

⁵ Section 420.9071(19), F.S.

⁶ Section 420.9071(20), F.S.

⁷ Sections 420.907-9089, F.S.

⁸ Section 420.5087, F.S.

⁹ Section 420.9071(14), (15), & (16), F.S. These local housing plans must also align with the requirements for housing under the Local Government Comprehensive Planning and Land Development Regulation Act of 1985. Chapter 163, Part II, F.S.

¹⁰ Section 420.5087, F.S.

¹¹ Sections 125.379 and 166.0451, F.S.

Properties identified as appropriate for affordable housing may be offered for sale by the local government and the proceeds may be used:

- To purchase land for the development of affordable housing;
- To increase the local government fund earmarked for affordable housing;
- For sale with a restriction that requires the development of the property as permanent affordable housing; or
- For donation to a nonprofit housing organization for the construction of permanent affordable housing.

Alternatively, the county or municipality may make the property available for use for the production and preservation of permanent affordable housing.¹²

Effect of the Bill

The bill requires each county and municipality to include the following criteria when preparing the inventory list of real property and evaluating for use as affordable housing:

- Environmental suitability for construction;
- Site characteristics;
- Current land use designation;
- Current or anticipated zoning;
- Inclusion in at least one special district;
- Existing infrastructure; and
- Proximity to employment opportunities, public transportation, and existing services.

Transportation Concurrency and Mobility Fees

Present Situation

Transportation concurrency is a growth management strategy aimed at ensuring that transportation facilities and services are available concurrent with the impacts of development. To carry out concurrency, local governments must define what constitutes an adequate level of service (LOS) for the transportation system and measure whether the service needs of a new development exceed existing capacity and scheduled improvements for that period. If adequate capacity is not available, then the developer must provide the necessary improvements, provide monetary contribution toward the improvements, or wait until government provides the necessary improvements.¹³

Level of Services (LOS) is a technical measure of the quality of service provided by a roadway. LOS is graded on an A through F scale based on the average arterial speed of a roadway. An uncongested roadway with a high average arterial speed will receive an A, while a congested roadway with a low average arterial speed will receive an F.¹⁴ Local governments, in conjunction with the Florida Department of Transportation, are responsible for setting LOS standards for roadways.¹⁵

Proportionate share is the amount of money a developer must contribute to mitigate the transportation impacts of a new development. Proportionate share contributions are triggered when a new development will cause a decrease in the LOS grade below a set standard. When a proportionate share contribution is triggered, a developer must, at minimum, contribute money toward one or several mobility improvements. However, developers are only required to contribute toward deficiencies they create and are not required to correct existing deficiencies.¹⁶

¹² *Id.*

¹³ Fla. Dep't of Community Affairs, *Transportation Concurrency: Best Practices Guide* pg. 5 (2007), retrieved from <https://www.cutr.usf.edu/oldpubs/TCBP%20Final%20Report.pdf> (1/3/2018).

¹⁴ *Id.* At 53.

¹⁵ Section 163.3180(5)(b), Florida Statutes

¹⁶ Section 163.3180(5)(h), Florida Statutes

A mobility fee is a transportation system charge on development that allows local governments to assess the proportionate cost of transportation improvements needed to serve the demand generated by development projects. The specificity of a mobility fee allows funds to be expended not only on roadways, but also on transit-supportive investments such as bus shelters/amenities and bicycle and pedestrian infrastructure. Mobility fees also may be expended on buses, stations, and rail infrastructure. Statute requires that mobility fee programs meet the following requirements:

- Any alternative mobility funding system adopted may not be used to deny, time, or phase an application for site plan approval, building permits, or the functional equivalent of such approvals provided that the developer agrees to pay for the development's identified transportation impacts via the funding mechanism implemented by the local government.
- The revenue from the funding mechanism used in the alternative system must be used to implement the needs of the plan which serves as the basis for the fee imposed.
- A mobility fee-based funding system must comply with the rational nexus test applicable to impact fees.
- An alternative system that is not mobility fee-based shall not be applied in a manner that imposes upon new development any responsibility for funding an existing transportation deficiency.¹⁷

Effect of the Bill

The bill prohibits a local government from charging a mobility fee for the development or construction of affordable housing for a five year period beginning July 1, 2018 and ending June 30, 2023.

Local Government Impact Fees

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.¹⁸ 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.¹⁹

The types of impact fees, amounts, and timing of collection are within the discretion of the local government authorities choosing to impose the fees.²⁰ 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

¹⁷ Fla. Department of Transportation, *A Guidebook: Using Mobility Fees to Fund Transit Improvements* pg. 11-12 (2016), retrieved from <http://www.fdot.gov/transit/Pages/FinalMobilityFeeGuidebook111816.pdf> (1/3/2018)

¹⁸ Section 163.31801(2), F.S.

¹⁹ Section 163.31801(3), F.S.

²⁰ 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/loaddoc.aspx?PublicationType=Committees&CommitteeId=2911&Session=2018&DocumentType=GeneralPublications&FileName=2017-2018LocalGovernmentFormationManualFinalPub.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).

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.²¹

Some local governments require payment of impact fees prior to the issuance of a development or building permit.²² In general, a building permit must be obtained before the construction, erection, modification, repair, or demolition of any building.²³ 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.²⁴

A certificate of occupancy is required before a building or structure may be used or occupied.²⁵ 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.²⁶

The Affordable Housing Workgroup, created in ch. 2017-71, Laws of Florida, was charged with providing recommendations for, among other components, a review of land use for affordable housing developments.²⁷ Included in the discussion of land use was the impact of fees, including impact fees, exactions, mitigation fees and development fees.²⁸ In an effort to provide context to workgroup members, staff at the Florida Housing Finance Corporation queried local SHIP Administrators regarding impact fee calculations and waivers in their locales. Based on responses from approximately two-thirds of those surveyed, nearly 25 percent do not currently assess any impact fees. For the remaining cities and counties that do impose impact fees, they are calculated using a combinations of methodologies, including by square footage, number of bedrooms, geographic location, resident status as a senior citizen, or as a flat fee. Approximately 30 percent of the reporting entities indicated the existence of mechanisms to waive fees in part or whole for affordable housing development. Based on their review and discussion, the workgroup report recommends that local governments currently assessing impact fees either waive fees for affordable housing or establish local dedicated funds to make such waivers possible.²⁹

Effect of the Bill

The bill prohibits a local government from charging an impact fee for the development or construction of affordable housing for a five year period beginning July 1, 2018 and ending June 30, 2023.

²¹ 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).

²² 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 (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 (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).

²³ Section 553.79, F.S.

²⁴ Section 163.3164(16), F.S.

²⁵ 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).

²⁶ Section 111.2, Florida Building Code (6th ed. 2017). See also Broward County Amendments to the 5th 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).

²⁷ Section 46, Ch. 2017-71, L.O.F.

²⁸ Florida Housing Finance Corporation, *Affordable Housing Workgroup Final Report 2017* pg. 23 (2017), retrieved from https://issuu.com/fhfc/docs/ah-study_commission_2017-web?e=16933686/56642924 (1/4/2017).

²⁹ *Id.* pg. 25-27

The bill also requires each local government entity to include, in their annual financial reports, the following pertaining to impact fees imposed for construction other than affordable housing:

- The specific purpose of each impact fee, including the specific infrastructure need to be met, such as transportation, parks, water, sewer, and schools;
- The Impact Fee Schedule Policy, describing the method of calculating impact fees, such as flat fee, tiered scale based on number of bedrooms, and tiered scale based on square footage;
- The amount assessed for each purpose and type of dwelling; and
- Each exception and waiver provided for affordable housing developments.

Local Permit Approval Process

Present Situation

As noted in the previous section, a building permit must be obtained before the construction, erection, modification, repair, or demolition of any building. 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. Local governments may enforce these requirements, including the processing of applications and granting building permits.³⁰

Counties, municipalities, and most special districts are not required to comply with the notice and procedural requirements of ch. 120, F.S., the Administrative Procedure Act.³¹ For certain types of building permit applications³² the local government must meet certain deadlines:

- Within ten days of the application being submitted, the local government must inform the applicant in writing of what information is needed to complete the application, if any.
- If no written notice of deficiency is provided, the application is deemed properly completed and accepted.
- Within forty-five days of receiving a completed application, the local government must notify the applicant if additional information is needed to determine whether the application is sufficient.
- Within 120 days from receiving a completed application, the local government must approve, approve with conditions, or deny the application.³³

Effect of the Bill

The bill creates s. 420.0007, F.S., providing a new process for local government consideration of applications for development or building permits or for certificates of occupancy pertaining to affordable housing construction. A local government receiving an application for permit to develop, build, or occupy an affordable housing construction must comply with the following requirements and deadlines:

- The local government has fifteen days from receiving the application to notify the applicant of any errors or omissions. The local government may require any additional information to be submitted within ten days from the date of this notice, and may extend this time for good cause shown.
- Failure to request additional information within this time prevents the local government from denying the permit if the applicant fails to correct an error or omission or to supply additional information.
- Once the application is completed, the local government has sixty days to approve or deny the application unless a shorter period is provided by law.

³⁰ Sections 553.79 & 553.792, F.S.

³¹ See s. 120.52(1), F.S.

³² The list includes permits for the following types of construction: accessory structure, alarm, nonresidential buildings less than 25,000 square feet, electric, irrigation, landscaping, mechanical, plumbing, residential units other than a single family unit, multifamily residential not exceeding 50 units, roofing, signs, site-plan approvals and subdivision plats not requiring public hearings or public notice, lot grading and site alteration associated with the permit application. See s. 553.792(2), F.S.

³³ Section 553.792(1), F.S.

- Failure of the local government to approve or deny the application within the sixty day or shorter period means the permit is considered approved and must be issued by the local government, subject to reasonable conditions authorized by law.
- The bill further provides that an applicant seeking to assert a permit received by default due to the failure of the local government to meet the sixty day or shorter deadline may not act upon the default permit until the applicant receives notice or a receipt showing the local government received the applicant's notice of relying on the default permit.

State Apartment Incentive Loan Program Local Government Contribution

Present Situation

The State Apartment Incentive Loan (SAIL) program provides low-interest loans on a competitive basis to affordable housing developers each year. This money often serves to bridge the gap between the primary financing and the total cost of the development. SAIL dollars are available to individuals, public entities, not-for-profit or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very low income individuals and families.³⁴

The Florida Housing Finance Corporation administers the SAIL program and is required to establish a review committee for the competitive evaluation and selection of applications submitted in this program. The evaluation criteria considered include, but are not limited to, local government contributions and local government comprehensive planning and activities that promote affordable housing.³⁵

Effect of the Bill

The bill requires the evaluation of additional components related to local government contribution, including policies that promote access to public transportation, reduce the need for on-site parking, and expedite permits for affordable housing projects.

Using Surplus State Lands for Affordable Housing

Present Situation

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees),³⁶ the five water management districts (WMDs), and the Department of Transportation (DOT) may each acquire and hold real property for various public purposes.³⁷ Each agency must follow certain procedures to dispose of property that is no longer needed.

Board of Trustees

The Board of Trustees may determine which state lands may be surplus. To dispose of conservation lands, the Board of Trustees must determine whether the land is no longer needed for conservation purposes and may dispose of such lands by an affirmative vote of at least three members. To dispose of nonconservation lands, the Board of Trustees must determine whether the land is no longer needed and may dispose of such lands by an affirmative vote of at least three members.³⁸

³⁴ Florida Housing Finance Corporation, State Apartment Incentive Loan, Background, <http://www.floridahousing.org/programs/developers-multifamily-programs/state-apartment-incentive-loan> (last visited 1/3/2018).

³⁵ Section 420.5087(6)(c), F.S.

³⁶ The Board of Trustees consists of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. Art. IV, s. 4(f), Fla. Const., s. 253.02(1), F.S. The Department of Environmental Protection, through its Division of State Lands, performs all staff duties and functions related to the acquisition, administration, and disposition of state lands. Section 253.002(1), F.S.

³⁷ Sections 253.001, 253.02, 337.25(1), and 373.089, F.S.

³⁸ Section 253.0341(1), F.S.

"Conservation lands" are lands managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands acquired solely to facilitate the acquisition of other conservation lands. Lands acquired for uses other than conservation, outdoor resource-based recreation, or archaeological or historic preservation are "nonconservation lands." Nonconservation lands include the following: correction and detention facilities, military installations and facilities, state office buildings, maintenance yards, State University or Florida College System institution campuses, agricultural field stations or offices, tower sites, law enforcement and license facilities, laboratories, hospitals, clinics, and other sites that possess no significant natural or historical resources.³⁹

At least every ten years, the land manager evaluates and indicates whether state lands are still being used for the purposes for which they were originally leased from the Board of Trustees. For conservation lands, the Acquisition and Restoration Council (ARC)⁴⁰ reviews the land manager's findings and then provides a recommendation to the Board of Trustees whether the lands can be surplus. For nonconservation lands, the Division of State Lands (DSL), within the Department of Environmental Protection (DEP), reviews the findings and then provides a recommendation to the Board of Trustees whether the lands may be surplus.⁴¹ The Board of Trustees may surplus lands that are not actively being managed or when a land management plan has not been adopted, if recommended by the Acquisition and Restoration Council.⁴²

Any public or private entity or person may ask the Board of Trustees to surplus lands. The lead managing agency must review the request and make a recommendation to ARC within 90 days. ARC must immediately schedule a hearing to review the request at the next regularly scheduled hearing for any surplus requests that have not been acted upon within 90 days.⁴³

Before a building or parcel of land is offered for lease or sale, DSL must first offer the land for lease to state agencies, state universities, and Florida College System institutions. Within 60 days of such offer, the interested state agencies, state universities, or Florida College System institutions must submit a plan outlining the intended use, including future use, of the building or parcel of land for review by the Board of Trustees before approval of a lease. The Board of Trustees must then compare the estimated value of the building or parcel to any submitted business plan to determine if the lease or sale is in the best interest of the state.⁴⁴

DSL must determine the sale price of the land by considering an appraisal. If the value of the land is estimated at \$500,000 or less, DSL may use a comparable sales analysis or broker's opinion.⁴⁵ DSL must offer parcels valued at more than \$500,000 by competitive bid first. If the parcel is not successfully sold by competitive bid, or the parcel is valued at \$500,000 or less, then DSL may sell the property by any reasonable means.⁴⁶

Water Management Districts

A WMD may sell lands its governing board determines to be surplus at any time.⁴⁷ These lands must be sold at the highest price obtainable, but not less than the appraised value of the land determined by a certified appraiser 360 days before the sale.⁴⁸ Such sales must be in cash and on the terms set by the governing board of the WMD.⁴⁹ The WMD must publish notice of its intent to sell the land in a newspaper in the county where the land is located. The notice of intent must be published three times for three successive weeks at least 30

³⁹ Section 253.034(2)(c), F.S.

⁴⁰ Section 259.035, F.S.

⁴¹ Section 253.0341(4), F.S.

⁴² Section 253.0341(5), F.S.

⁴³ Section 253.0341(11), F.S.

⁴⁴ Section 253.0341(7), F.S.

⁴⁵ Section 253.0341(8), F.S.

⁴⁶ Section 253.0341(9), F.S.

⁴⁷ Section 373.089(1), F.S.

⁴⁸ Section 373.089(1), F.S.

⁴⁹ Section 373.089(2), F.S.

days, and not more than 360 days, before any sale. The notice of intent must describe the land or the interest or rights to be sold.⁵⁰

Public and private entities may request that a WMD make its lands available for purchase when those lands are not essential or necessary to meet conservation purposes and when:

- The land is located in a county with a population of 75,000 or fewer or within a county with a population of 100,000 or fewer that is contiguous to a county with a population of 75,000 or fewer; and
- More than 50 percent of the lands within the county boundary are federal lands and lands titled in the name of the state, a state agency, a WMD, or a local government.⁵¹

If so requested and the lands are determined to be surplus, the WMD must give priority consideration to public or private buyers who are willing to return the property to productive use so long as the property can reenter the county ad valorem tax roll.⁵²

When deciding whether to sell lands designated as acquired for conservation purposes, the governing board of the WMD must determine by a two-thirds vote that the land is no longer needed for conservation purposes.⁵³ For all other lands, the governing board of the WMD must determine by a majority vote that the land is no longer needed.⁵⁴

Prior to selling land, a WMD must first offer title to lands acquired in whole or in part with Florida Forever funds⁵⁵ to the Board of Trustees unless:

- The land will be used for linear facilities, including electric transmission and distribution facilities, telecommunication transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances;
- The WMD will sell the fee interest in the land and retain a conservation easement to fulfill the conservation objectives for which the land was acquired;
- The land will be exchanged for other lands that meet or exceed the conservation objectives for which the original land was acquired;
- The land will be used by a governmental entity for a public purpose; or
- The portion of an overall purchase deemed surplus at the time of the acquisition.⁵⁶

If the Board of Trustees declines to accept title to the land, the WMD may dispose of the land.⁵⁷

A WMD may expedite the disposal of land valued at \$25,000 or less. If a parcel of land is no longer essential or necessary for conservation purposes and is valued at \$25,000 or less as determined by a certified appraisal obtained within 360 days before the effective date of a contract for the sale, the governing board of the WMD may determine that the parcel of land is surplus. Unlike other surplus parcels, the WMD must publish the notice of intention to sell in the newspaper in the county where the land is located only one time. The WMD must send the notice of intention to sell the parcel to adjacent property owners by certified mail and publish the notice on its website. Fourteen days after publication of notice, the WMD may sell the parcel to an adjacent property owner. If there are two or more owners of adjacent property, the WMD may accept sealed bids and sell the parcel to the highest bidder or reject all offers. Thirty days after publication of notice, the WMD must accept sealed bids and may sell the parcel to the highest bidder or reject all offers.⁵⁸

⁵⁰ Section 373.089(3), F.S.

⁵¹ Section 373.089(5), F.S.

⁵² *Id.*

⁵³ Section 373.089(6)(a), F.S.

⁵⁴ Section 373.089(6)(b), F.S.

⁵⁵ *See* ss. 259.105, 259.1051, F.S.

⁵⁶ Section 373.089(7), F.S.

⁵⁷ Section 373.089, F.S.

⁵⁸ Section 373.089(8), F.S.

Department of Transportation

DOT may convey any land, building, or other property, real or personal, when it determines the property is not needed for the construction, operation, and maintenance of a transportation facility. DOT may dispose of its surplus property through negotiations, sealed competitive bids, auctions, or any other means it deems to be in its best interest. DOT must advertise the sale of property valued by DOT at greater than \$10,000.⁵⁹ DOT may not sell property for less than DOT's current estimate of value, except when:

- The property was donated to the state for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor. The governmental entity may authorize reconveyance of the donated property for no consideration to the original donor or the donor's heirs, successors, assigns, or representatives;⁶⁰
- The property will be used for a public purpose. In this situation, the property may be conveyed without consideration to a governmental entity;⁶¹
- DOT originally acquired the property specifically to provide replacement housing for persons displaced by transportation projects. As compensation for the conveyance, the state must receive at least its investment in such property or DOT's current estimate of value, whichever is lower. DOT may only extend this benefit to persons actually displaced by the project. Dispositions to any other person must be for at least DOT's current estimate of value;⁶² or
- DOT determines that continued ownership of the property will cause DOT to incur significant costs or exposes DOT to significant liability risks. DOT may use the projected maintenance costs over the next 10 years to offset the property's value in establishing a value for disposal of the property, even if that value is zero.⁶³

DOT may afford a right of first refusal to the local government or other political subdivision in the jurisdiction where the parcel is situated, except when:

- The property was donated to the state for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor;⁶⁴
- DOT originally acquired the property specifically to provide replacement housing for persons displaced by transportation projects;⁶⁵ or
- DOT determines a sale to a person other than an abutting owner would be inequitable, the property may be sold to the abutting owner for DOT's current estimate of value.⁶⁶

Effect of the Bill

The bill creates s. 420.56, F.S., to make all surplus lands designated as nonconservation available for affordable housing before making the parcels available for purchase by other governmental entities or the public. As nonconservation land becomes available for surplus, the DEP, acting on the behalf of the Board of Trustees, the WMDs, and DOT must notify the Florida Housing Finance Corporation (FHFC) that the land is available for surplus before making the parcel available for any other use, including for purchase by other governmental entities or the public. WMDs must only identify nonconservation surplus lands originally acquired using state funds.

⁵⁹ Section 337.25(4), F.S.

⁶⁰ Section 337.25(4)(a), F.S.

⁶¹ Section 337.25(4)(b), F.S.

⁶² Section 337.25(4)(c), F.S.

⁶³ Section 337.25(4)(d), F.S.

⁶⁴ Section 337.25(4)(a), F.S.

⁶⁵ Section 337.25(4)(c), F.S.

⁶⁶ Section 337.25(4)(e), F.S.

The bill requires FHFC to evaluate, in consultation with DEP, the WMDs, and DOT, whether the surplus lands identified by DEP, the WMDs, and DOT are suitable for affordable housing based on the following characteristics of the property:

- Environmental suitability for construction;
- Current and anticipated land use and zoning;
- Inclusion in one or more special districts meant to revitalize the community;
- Existing infrastructure on the land such as roads, water, sewer, and electricity;
- Access to grocery stores within walking distance or by public transportation;
- Access to employment opportunities within walking distance or by public transportation;
- Access to public transportation within one half mile; and
- Access to community services such as public libraries, food kitchens, and employment centers.

If FHFC determines the nonconservation surplus land is suitable for affordable housing, the bill requires the Board of Trustees, the WMDs, and DOT to first offer the land to the county and municipality where the land is located to be used for affordable housing before the entity offers the land to other governmental entities or the public. If the county and municipality where the parcel is located do not wish to use the parcel for affordable housing, the Board of Trustees, the WMDs, or DOT may dispose of the parcel using the procedures in existing law.

The bill authorizes the Board of Trustees, the WMDs, and DOT to sell the parcels for less than the appraised value to any party. If the agency sells the parcels for less than appraised value, the agency must place an encumbrance on the parcels to ensure the purchaser uses the land for affordable housing for a period of not less than 99 years.

The bill exempts the Board of Trustees, the WMDs, and DOT from certain disposal procedures to expedite the sales of surplus land for affordable housing, specifically:

- The Board of Trustees does not need to follow the appraisal and competitive bidding procedures;
- The WMDs do not need to follow their appraisal and advertising requirements and the procedures for selling land valued at \$25,000 or less; and
- DOT does not need to follow its disposal procedures.

The bill authorizes the Board of Trustees, the WMDs, and DOT to determine the sale price of the parcels. The bill requires Board of Trustees, the WMDs, and DOT to consider at least one appraisal, or if the estimated value of the land is \$500,000 or less, a comparable sales analysis or a broker's opinion of value.

The bill amends s. 253.0341(4), F.S., to require the land manager of Board of Trustees owned land to evaluate and indicate whether state lands it manages are still being used for the purpose for which they were originally leased from the Board of Trustees every three years instead of every ten. This change appears to be inconsistent with the Board of Trustee's duty to review the management of its lands at least every ten years in s. 253.034(5), F.S.

The bill amends s. 253.0341(7), F.S., to require the Board of Trustees to offer nonconservation surplus lands to the county and municipality where the land is located for use as affordable housing as identified by the FHFC before offering it to other potential buyers. This will give those counties and municipalities the opportunity to purchase nonconservation lands for affordable housing prior to state agencies, state universities, and Florida College System institutions, who currently have the first opportunity to either lease or buy surplus lands. All lands not needed for affordable housing will still be offered first to state agencies, state universities, and Florida College System institutions.

The bill amends s. 337.25(3), F.S., to require DOT to evaluate all of its land not within a transportation corridor or within the right-of-way of a transportation facility at least every ten years on a rotating basis to determine

whether DOT should retain the property. This change is consistent with the Board of Trustee's current duty to review the management of its lands every ten years in s. 253.0341(4), F.S., to determine if the lands should be kept.

The bill creates s. 337.25(12), F.S., to require DOT to offer nonconservation surplus lands to the county and municipality where the land is located for use as affordable housing as identified by the FHFC before offering it to other potential buyers except when:

- The property was donated to the state for transportation purposes and a transportation facility has not been constructed for at least 5 years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor;
- DOT originally acquired the property specifically to provide replacement housing for persons displaced by transportation projects; or
- DOT determines a sale to a person other than an abutting owner would be inequitable, the property may be sold to the abutting owner for DOT's current estimate of value.

The bill amends s. 373.089(1), F.S., to require the WMDs review all lands and interests or rights in lands every ten years on a rotating basis to determine whether the lands are still needed for the purpose for which they were acquired. This change is consistent with the Board of Trustee's current duty to review the management of its lands every ten years in s. 253.0341(4), F.S., to determine if the lands should be kept.

The bill creates s. 373.089(9), F.S., to require WMDs to offer nonconservation surplus lands to the county and municipality where the land is located for use as affordable housing as identified by the FHFC before offering it to other potential buyers. This requirement only applies to nonconservation surplus lands originally acquired using state funds.

Hurricane Recovery Programs

Present Situation

Following the 2004 Hurricane Season, a statewide Hurricane Housing Work Group was created to recommend how best to leverage funding recommended by the Governor for hurricane housing recovery needs. A Work Group recommended at that time, and the Legislature subsequently funded, the Hurricane Housing Recovery Program and the Rental Recovery Loan Program.

Hurricane Housing Recovery Program (HHRP)

The Hurricane Housing Recovery Program (HHRP) was created as a local housing recovery program and modeled after the existing State Housing Incentive Program (SHIP) aimed at assisting homeowners with post-hurricane recovery efforts. HHRP funds were distributed to local governments using a need-based formula to allow local communities to evaluate and address needs as appropriate. Eligible uses of the funds included, but were not limited to:

- Repair and replacement of site built housing;
- Land acquisition, through community land trusts or other means, for properties that may include scattered sites, community revitalization sites, and older manufactured home parks;
- Construction and development financing;
- Down payment, closing cost, and purchase price assistance for site-built and post-1994 manufactured homes where the wind load rating is sufficient for the location;
- Repair, replacement, and relocation assistance for post-1994 manufactured homes where the wind load rating is sufficient for the location, including those on leased land in stable park situations;
- Limited repair and relocation assistance on a case by case basis to pre-1994 manufactured homes;
- The acquisition of building materials for home repair and construction;

- Implementation of long-term recovery plans prepared through a locally initiated collaborative community partnership or in conjunction with the Department of Community Affairs and FEMA;
- Housing re-entry assistance, such as security deposits, utility deposits, and temporary storage of household furnishings;
- Foreclosure eviction prevention, including monthly rental assistance for limited periods of time; and
- Capital to leverage other private and public resources.⁶⁷

Rental Recovery Loan Program

The Rental Recovery Loan Program (RRLP) was created to provide affordable rental units needed to promote the housing recovery needs of local communities. Modeled in part after the State Apartment Incentive Loan (SAIL) Program, the RRLP program allowed the state to leverage existing federal rental financing programs to provide units that served a range of incomes, including extremely low income households, throughout the areas impacted by the hurricanes.

Effects of the Bill

The bill creates the Hurricane Housing Recovery Program and the Rental Recovery Loan Program to provide funds to local governments for affordable housing recovery efforts due to impacts of Hurricanes Irma and Maria.

The HHRP will provide resources to local governments according to a need-based formula that reflects affordable housing damage estimates. Eligible local governments must submit a strategy outlining proposed recovery actions, income levels and number of units to be served, and funding requests. Program funds will be used as follows:

- To serve households with incomes up to 120 percent of the area median income (AMI), except that at least thirty percent of program funds should be reserved for households with incomes up to fifty percent AMI and an additional thirty percent of program funds reserved for households with incomes up to eighty percent AMI.
- At least sixty-five percent of the funds shall be used for homeownership.
- Up to fifteen percent may be used for administrative expenses.

The RRLP will provide resources to build additional rental housing and allow the state to leverage federal rental financing similar to the SAIL program. The bill requires that each participating local entity submit a report of its housing recovery program and accomplishments by September 15, 2019 and each year thereafter. The bill provides FHFC the authority to adopt emergency rules pursuant to s. 120.54, F.S. for the purpose of implementing these programs.

The bill also provides for an appropriation from the Local Government Housing Trust Fund and State Housing Trust Fund to implement these programs. (SEE FISCAL COMMENTS).

B. SECTION DIRECTORY:

- Section 1: Amends s. 125.379, F.S., requiring certain evaluation criteria of real property by counties when developing surplus land inventory lists.
- Section 2: Amends s. 163.3180, F.S., prohibiting a local government from charging a mobility fee for the development of affordable housing for a five year period beginning July 1, 2018.
- Section 3: Amends s. 163.31801, F.S., prohibiting a local government from charging impact fees for the development of affordable housing for a five year period beginning July 1, 2018; requiring additional annual financial reporting requirements

- Section 4: Amends s. 166.0451, F.S., requiring certain evaluation criteria of real property by municipalities when developing surplus land inventory lists.
- Section 5: Creates s. 420.0007, F.S., providing a local permit approval process for affordable housing.
- Section 6: Amends s. 420.5087, F.S., requiring consideration of certain criteria when evaluating applications under the State Apartment Incentive Loan (SAIL) program.
- Section 7: Creates s. 420.56, F.S., providing a process for the disposal of surplus lands for use as affordable housing.
- Section 8: Amends s. 420.9071, F.S., correcting a technical cross-reference.
- Section 9: Amends s. 253.0341, F.S., requiring nonconservation surplus state lands be offered for affordable housing purposes first to the county or municipality where the land is located before generally offering the land to state universities, etc.
- Section 10: Amends s. 337.25, F.S., requiring certain surplus state lands within a transportation corridor be offered for affordable housing purposes first to the county or municipality where the land is located.
- Section 11: Amends s. 373.089, F.S., requiring nonconservation surplus state lands within a water management district be offered for affordable housing purposes first to the county or municipality where the land is located. The nonconservation lands affected by this section are only those originally acquired using state funds.
- Section 12: Creates the Hurricane Housing Recovery Program and Rental Loan Recovery Program; provides emergency rulemaking authority for Florida Housing Finance Corporation.
- Section 13: Provides an appropriation for the Hurricane Housing Recovery Program and Rental Loan Recovery Program.
- Section 14: Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Revenue for the Local Government Housing Trust Fund and State Housing Trust Fund are provided from allocations of the Documentary Stamp Tax Collections. The August 2017 Revenue Estimating Conference estimated \$314.08 million to be available for distribution to these trust funds for Fiscal Year 2018-19.

The bill directs twenty percent of this estimate be appropriated to Florida Housing Finance Corporation for affordable housing hurricane recovery efforts. Based on the estimate, \$62.82 million would be provided.

The bill also provides \$100,000 to Florida Housing Finance Corporation from the State Housing Trust Fund to provide technical and training assistance.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill prohibits local governments from collecting impact fees and mobility fees for a five-year period beginning July 1, 2018 and ending June 30, 2023. In 2015, 38 counties reported total impact fee revenues of \$503.9 million and 193 cities reported total impact fee revenues of \$225.3 million.⁶⁸ In 2016, 28 school districts reported total impact fee revenues of \$265.3 million.⁶⁹

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:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill prohibits the collection of certain impact fees for construction or development of affordable housing. This bill does not appear to qualify under any exemption or exception. 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 provides Florida Housing Finance Corporation with emergency rulemaking authority pursuant to s. 120.54, F.S., to adopt rules necessary to implement the hurricane recovery programs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill amends s. 253.0341(4), F.S., to require the land manager of land owned by the Board of Trustees of the Internal Improvement Trust Fund to evaluate and indicate whether state lands it manages are still being used for the purpose for which they were originally leased every three years instead of every ten years. This change appears to be inconsistent with the Board of Trustee's duty to review the management of its lands at least every ten years in s. 253.034(5), F.S., and the changes in this bill to require the WMDs and DOT to review their lands every ten years to determine if the lands are still needed.

⁶⁸ Office of Economic and Demographic Research, The Florida Legislature, *Impact Fees*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm>. County Revenues were updated July 25, 2017, and City Revenues were updated September 28, 2017.

⁶⁹ *Id.* School District Revenues were updated October 5, 2017.

Section 1 of the bill adds as a new criterion for evaluating land for affordable housing purposes whether the land is located within a special district. Section 7 of the bill creates a similar criterion to evaluate land but refers to lands located in "special districts meant to revitalize the community." It is unclear whether the language in the two sections should be conformed.

In section 8 of the bill, it is unclear whether the new phrase "expediting permits for affordable housing" is intended to reference the definition of "permits" in s. 163.3164(16), F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

26 Transportation, and the water management districts
 27 must dispose of nonconservation surplus lands;
 28 creating the Hurricane Housing Recovery Program to
 29 provide funds for specified purposes related to
 30 affordable housing; specifying that the Florida
 31 Housing Finance Corporation shall administer the
 32 program according to specified procedures; specifying
 33 how program funds are to be used; creating the
 34 Recovery Rental Loan Program; providing legislative
 35 intent; requiring an annual report regarding the
 36 housing recovery program; authorizing emergency rule-
 37 making; exempting the emergency rules from the
 38 requirement for making certain legislative findings;
 39 providing appropriations; providing an effective date.

40

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

42

43 Section 1. Subsection (1) of section 125.379, Florida
 44 Statutes, is amended to read:

45 125.379 Disposition of county property for affordable
 46 housing.—

47 (1) Beginning July 1, 2018 ~~By July 1, 2007,~~ and every 3
 48 years thereafter, each county shall prepare an inventory list of
 49 all real property within its jurisdiction to which the county
 50 holds fee simple title that is appropriate for use as affordable

51 housing. The real property must be evaluated on criteria that
 52 includes environmental suitability for construction, site
 53 characteristics, current land use designation, current or
 54 anticipated zoning, inclusion in at least one special district;
 55 existing infrastructure; proximity to employment opportunities;
 56 proximity to public transportation, and proximity to existing
 57 services. The inventory list must include the address and legal
 58 description of each such real property and specify whether the
 59 property is vacant or improved. The governing body of the county
 60 must review the inventory list at a public hearing and may
 61 revise it at the conclusion of the public hearing. The governing
 62 body of the county shall adopt a resolution that includes an
 63 inventory list of such property following the public hearing.

64 Section 2. Paragraph (i) of subsection (5) of section
 65 163.3180, Florida Statutes, is amended to read:

66 163.3180 Concurrency.—

67 (5)

68 (i)1. If a local government elects to repeal
 69 transportation concurrency, it is encouraged to adopt an
 70 alternative mobility funding system that uses one or more of the
 71 tools and techniques identified in paragraph (f). Any
 72 alternative mobility funding system adopted may not be used to
 73 deny, time, or phase an application for site plan approval, plat
 74 approval, final subdivision approval, building permits, or the
 75 functional equivalent of such approvals provided that the

76 developer agrees to pay for the development's identified
 77 transportation impacts via the funding mechanism implemented by
 78 the local government. The revenue from the funding mechanism
 79 used in the alternative system must be used to implement the
 80 needs of the local government's plan which serves as the basis
 81 for the fee imposed. A mobility fee-based funding system must
 82 comply with the dual rational nexus test applicable to impact
 83 fees. An alternative system that is not mobility fee-based shall
 84 not be applied in a manner that imposes upon new development any
 85 responsibility for funding an existing transportation deficiency
 86 as defined in paragraph (h).

87 2. Beginning July 1, 2018, and ending June 20, 2023, a
 88 local government may not charge a mobility fee for the
 89 development or construction housing that is affordable, as
 90 defined in s. 420.9071.

91 Section 3. Subsection (6) is added to section 163.31801,
 92 Florida Statutes, to read:

93 163.31801 Impact fees; short title; intent; definitions;
 94 ordinances levying impact fees.—

95 (6)(a) Beginning July 1, 2018, and ending June 20, 2023, a
 96 local government may not charge an impact fee for the
 97 development or construction of housing that is affordable, as
 98 defined in s. 420.9071.

99 (b) In addition to the items that must be reported in the
 100 annual financial reports under s. 218.32, counties and

101 municipalities must report the following data on all impact fees
 102 charged:

103 1. The specific purpose of the impact fee, including the
 104 specific infrastructure need to be met, such as transportation,
 105 parks, water, sewer, and schools;

106 2. The Impact Fee Schedule Policy, describing the method
 107 of calculating impact fees, such as flat fee, tiered scale based
 108 on number of bedrooms, and tiered scale based on square footage;

109 3. The amount assessed for each purpose and type of
 110 dwelling;

111 4. The total amount of impact fees charged by type of
 112 dwelling;

113 5. Each exception and waiver provided for affordable
 114 housing developments.

115 Section 4. Subsection (1) of section 166.0451, Florida
 116 Statutes, is amended to read:

117 166.0451 Disposition of municipal property for affordable
 118 housing.-

119 (1) Beginning July 1, 2018 ~~By July 1, 2007,~~ and every 3
 120 years thereafter, each municipality shall prepare an inventory
 121 list of all real property within its jurisdiction to which the
 122 municipality holds fee simple title that is appropriate for use
 123 as affordable housing. Such real property shall be evaluated on
 124 criteria that includes the environmental suitability for
 125 construction, site characteristics, currently designated land

126 use, current or anticipated zoning, inclusion in one or more
 127 special districts, existing infrastructure, proximity to
 128 employment opportunities, proximity to public transportation,
 129 and proximity to services. The inventory list must include the
 130 address and legal description of each such property and specify
 131 whether the property is vacant or improved. The governing body
 132 of the municipality must review the inventory list at a public
 133 hearing and may revise it at the conclusion of the public
 134 hearing. Following the public hearing, the governing body of the
 135 municipality shall adopt a resolution that includes an inventory
 136 list of such property.

137 Section 5. Section 420.0007, Florida Statutes, is created
 138 to read:

139 420.0007 Local Permit Approval Process for Affordable
 140 Housing.-

141 (1) A local government has 15 days from the date it
 142 receives an application for a development permit, construction
 143 permit, or certificate of occupancy for affordable housing to
 144 examine the application and notify the applicant of any apparent
 145 errors or omissions and request any additional information the
 146 local government is permitted by law to require.

147 (2) If a local government does not request additional
 148 information within the required time, the local government may
 149 not deny a development permit, construction permit, or
 150 certificate of occupancy for affordable housing if the applicant

151 fails to correct an error or omission or to supply additional
 152 information.

153 (3) The local government may require any additional
 154 requested information to be submitted no later than 10 days from
 155 the date of the notice specified in subsection (1).

156 (4) For good cause shown, the local government shall grant
 157 a request for an extension of time for submitting the additional
 158 information.

159 (5) An application is complete upon receipt of all
 160 requested information and the correction of any error or
 161 omission for which the applicant was timely notified or when the
 162 time for notification has expired.

163 (6) The local government must approve or deny an
 164 application for a development permit, construction permit, or
 165 certificate of occupancy for affordable housing within 60 days
 166 after receipt of a completed application unless a shorter period
 167 of time for local government action is provided by law.

168 (7) If the local government does not approve or deny
 169 within the 60-day or shorter time period an application for a
 170 development permit, construction permit, or certificate of
 171 occupancy for affordable housing, the permit is considered
 172 approved and the local government must issue the development
 173 permit, construction permit, or certificate of occupancy and may
 174 include such reasonable conditions as authorized by law.

175 (8) An applicant for a development permit, construction

176 permit, or certificate of occupancy seeking to receive a permit
 177 by default under this section shall notify the local government,
 178 in writing, of the intent to rely upon the default approval
 179 provision of this section but may not take any action based upon
 180 the default development permit, construction permit, or
 181 certificate of occupancy until the applicant receives
 182 notification or a receipt that the local government received the
 183 notice. The applicant must retain the notification or receipt.

184 Section 6. Paragraph (c) of subsection (6) of section
 185 420.5087, Florida Statutes, is amended to read:

186 420.5087 State Apartment Incentive Loan Program.—There is
 187 hereby created the State Apartment Incentive Loan Program for
 188 the purpose of providing first, second, or other subordinated
 189 mortgage loans or loan guarantees to sponsors, including for-
 190 profit, nonprofit, and public entities, to provide housing
 191 affordable to very-low-income persons.

192 (6) On all state apartment incentive loans, except loans
 193 made to housing communities for the elderly to provide for
 194 lifesafety, building preservation, health, sanitation, or
 195 security-related repairs or improvements, the following
 196 provisions shall apply:

197 (c) The corporation shall provide by rule for the
 198 establishment of a review committee for the competitive
 199 evaluation and selection of applications submitted in this
 200 program, including, but not limited to, the following criteria:

201 1. Tenant income and demographic targeting objectives of
 202 the corporation.

203 2. Targeting objectives of the corporation which will
 204 ensure an equitable distribution of loans between rural and
 205 urban areas.

206 3. Sponsor's agreement to reserve the units for persons or
 207 families who have incomes below 50 percent of the state or local
 208 median income, whichever is higher, for a time period that
 209 exceeds the minimum required by federal law or this part.

210 4. Sponsor's agreement to reserve more than:

211 a. Twenty percent of the units in the project for persons
 212 or families who have incomes that do not exceed 50 percent of
 213 the state or local median income, whichever is higher; or

214 b. Forty percent of the units in the project for persons
 215 or families who have incomes that do not exceed 60 percent of
 216 the state or local median income, whichever is higher, without
 217 requiring a greater amount of the loans as provided in this
 218 section.

219 5. Provision for tenant counseling.

220 6. Sponsor's agreement to accept rental assistance
 221 certificates or vouchers as payment for rent.

222 7. Projects requiring the least amount of a state
 223 apartment incentive loan compared to overall project cost,
 224 except that the share of the loan attributable to units serving
 225 extremely-low-income persons must be excluded from this

226 requirement.

227 8. Local government contributions and local government
 228 comprehensive planning and activities that promote affordable
 229 housing, policies that promote access to public transportation,
 230 reduce the need for on-site parking, and expedite permits for
 231 affordable housing projects as provided in s. 420.0007.

232 9. Project feasibility.

233 10. Economic viability of the project.

234 11. Commitment of first mortgage financing.

235 12. Sponsor's prior experience.

236 13. Sponsor's ability to proceed with construction.

237 14. Projects that directly implement or assist welfare-to-
 238 work transitioning.

239 15. Projects that reserve units for extremely-low-income
 240 persons.

241 16. Projects that include green building principles,
 242 storm-resistant construction, or other elements that reduce
 243 long-term costs relating to maintenance, utilities, or
 244 insurance.

245 17. Job-creation rate of the developer and general
 246 contractor, as provided in s. 420.507(47).

247 Section 7. Section 420.56, Florida Statutes, is created to
 248 read:

249 420.56 Disposal of surplus lands for use as affordable
 250 housing.-

251 (1) It is intent of the Legislature to make all surplus
 252 lands designated as nonconservation available for affordable
 253 housing before making the parcels available for purchase by
 254 other governmental entities or the public.

255 (2) The Department of Environmental Protection acting on
 256 the behalf of the Board of Trustees of the Internal Improvement
 257 Trust Fund, the Department of Transportation, and each water
 258 management district shall notify the corporation when
 259 nonconservation land becomes available for surplus as part of
 260 the entity's regular review of lands under the provisions of ss.
 261 253.0341, 337.25, or 373.089 before making the parcel available
 262 for any other use, including for purchase by other governmental
 263 entities or the public. Water management districts must only
 264 identify nonconservation surplus lands originally acquired using
 265 state funds.

266 (3) In consultation with the Department of Environmental
 267 Protection, the Department of Transportation, and the water
 268 management districts, the corporation must evaluate whether
 269 these surplus lands are suitable for affordable housing based on
 270 the property's environmental suitability for construction;
 271 current and anticipated land use and zoning; inclusion in one or
 272 more special districts meant to revitalize the community;
 273 existing infrastructure on the land such as roads, water, sewer,
 274 and electricity; access to grocery stores within walking
 275 distance or by public transportation; access to employment

276 opportunities within walking distance or by public
 277 transportation; access to public transportation within one half
 278 mile; and access to community services such as public libraries,
 279 food kitchens, and employment centers.

280 (4) If the corporation determines that the nonconservation
 281 surplus land is suitable for affordable housing, the entity
 282 seeking to dispose of the parcel must first offer the land to
 283 the county and municipality where the land is located to be used
 284 for affordable housing before the entity offers the land to
 285 other governmental entities or the public. If the county and
 286 municipality where the parcel is located do not wish to use the
 287 parcel for affordable housing, the entity may dispose of the
 288 parcel as otherwise provided by law or herein.

289 (5) The Board of Trustees of the Internal Improvement
 290 Trust Fund, the Department of Transportation, and the water
 291 management districts may sell the parcels identified by the
 292 corporation for affordable housing for less than the appraised
 293 value to any party so long as the agency places an encumbrance
 294 on the parcels to ensure the purchaser uses the land for
 295 affordable housing for a period of not less than 99 years.

296 (6) (a) The Board of Trustees of the Internal Improvement
 297 Trust Fund, the Department of Transportation, and the water
 298 management districts are exempt from the disposal procedures of
 299 ss. 253.0341(8) and (9), 337.25(4) and (7), 373.089(1), (2),
 300 (3), and (8) when disposing of nonconservation surplus lands

301 under this section.

302 (b) The sale price of land parcels disposed of pursuant to
 303 this section shall be determined by the entity disposing of the
 304 parcel. The Department of Transportation, the Board of Trustees
 305 of the Internal Improvement Trust Fund, and the water management
 306 districts must consider at least one appraisal of the property
 307 or, if the estimated value of the land is \$500,000 or less, a
 308 comparable sales analysis or a broker's opinion of value.

309 Section 8. Subsection (16) of section 420.9071, Florida
 310 Statutes, is amended to read:

311 420.9071 Definitions.—As used in ss. 420.907-420.9079, the
 312 term:

313 (16) "Local housing incentive strategies" means local
 314 regulatory reform or incentive programs to encourage or
 315 facilitate affordable housing production, which include at a
 316 minimum, expediting permits for affordable housing projects as
 317 provided in s. 420.0007 ~~assurance that permits for affordable~~
 318 ~~housing projects are expedited to a greater degree than other~~
 319 ~~projects, as provided in s. 163.3177(6)(f)3.~~; an ongoing process
 320 for review of local policies, ordinances, regulations, and plan
 321 provisions that increase the cost of housing prior to their
 322 adoption; and a schedule for implementing the incentive
 323 strategies. Local housing incentive strategies may also include
 324 other regulatory reforms, such as those enumerated in s.
 325 420.9076 or those recommended by the affordable housing advisory

326 committee in its triennial evaluation of the implementation of
 327 affordable housing incentives, and adopted by the local
 328 governing body.

329 Section 9. Subsections (4) and (7) of section 253.0341,
 330 Florida Statutes, are amended to read:

331 253.0341 Surplus of state-owned lands.—

332 (4) Beginning July 1, 2018, and continuing every 3 years
 333 thereafter, ~~At least every 10 years,~~ as a component of each land
 334 management plan or land use plan and in a form and manner
 335 adopted by rule of the board of trustees, each manager shall
 336 evaluate and indicate to the board of trustees those lands that
 337 are not being used for the purpose for which they were
 338 originally leased. For conservation lands, the Acquisition and
 339 Restoration Council shall review and recommend to the board of
 340 trustees whether such lands should be retained in public
 341 ownership or disposed of by the board of trustees. For
 342 nonconservation lands, the Division of State Lands shall review
 343 and recommend to the board of trustees whether such lands should
 344 be retained in public ownership or disposed of by the board of
 345 trustees.

346 (7)(a) The board of trustees must first offer
 347 nonconservation surplus lands to the county and municipality
 348 where the land is located for use as affordable housing as
 349 identified by the Florida Housing Finance Corporation pursuant
 350 to s. 420.56. All surplus buildings or land not needed for

351 affordable housing ~~Before a building or parcel of land is~~
 352 ~~offered for lease or sale to a local or federal unit of~~
 353 ~~government or a private party,~~ it shall first be offered for
 354 lease to state agencies, state universities, and Florida College
 355 System institutions, with priority consideration given to state
 356 universities and Florida College System institutions. If the
 357 surplus building or land is not used for affordable housing or
 358 leased by a state agency, state university, or Florida College
 359 System institution, then the board of trustees shall offer the
 360 building or parcel for lease or sale to a local or federal unit
 361 of government or a private party.

362 (b) Within 60 days after the offer for lease of a surplus
 363 building or parcel, a state university or Florida College System
 364 institution that requests the lease must submit a plan for
 365 review and approval by the Board of Trustees of the Internal
 366 Improvement Trust Fund regarding the intended use, including
 367 future use, of the building or parcel of land before approval of
 368 a lease. Within 60 days after the offer for lease of a surplus
 369 building or parcel, a state agency that requests the lease of
 370 such facility or parcel must submit a plan for review and
 371 approval by the board of trustees regarding the intended use.
 372 The state agency plan must, at a minimum, include the proposed
 373 use of the facility or parcel, the estimated cost of renovation,
 374 a capital improvement plan for the building, evidence that the
 375 building or parcel meets an existing need that cannot otherwise

376 be met, and other criteria developed by rule by the board of
 377 trustees. The board or its designee shall compare the estimated
 378 value of the building or parcel to any submitted business plan
 379 to determine if the lease or sale is in the best interest of the
 380 state. The board of trustees shall adopt rules pursuant to
 381 chapter 120 for the implementation of this section.

382 Section 10. Subsection (3) is amended and subsection (12)
 383 is added to section 337.25, Florida Statutes, to read:

384 337.25 Acquisition, lease, and disposal of real and
 385 personal property.—

386 (3) Beginning July 1, 2018, the department shall evaluate
 387 all of its land not within a transportation corridor or within
 388 the right-of-way of a transportation facility at least every 10
 389 years on a rotating basis to determine whether the property
 390 should be retained. ~~The inventory of real property that was~~
 391 ~~acquired by the state after December 31, 1988, that has been~~
 392 ~~owned by the state for 10 or more years, and that is not within~~
 393 ~~a transportation corridor or within the right-of-way of a~~
 394 ~~transportation facility shall be evaluated to determine the~~
 395 ~~necessity for retaining the property.~~ If the property is not
 396 needed for the construction, operation, and maintenance of a
 397 transportation facility or is not located within a
 398 transportation corridor, the department may dispose of the
 399 property pursuant to subsection (4).

400 (12) Except in a conveyance transacted under paragraphs

401 (4) (a), (c), and (e), the department must first offer
 402 nonconservation surplus lands to the county and municipality
 403 where the lands is located for use as affordable housing as
 404 identified by the Florida Housing Finance Corporation pursuant
 405 to s. 420.56.

406 Section 11. Subsection (1) is amended and subsection (9)
 407 is added to section 373.089, Florida Statutes, to read:

408 373.089 Sale or exchange of lands, or interests or rights
 409 in lands.—The governing board of the district may sell lands, or
 410 interests or rights in lands, to which the district has acquired
 411 title or to which it may hereafter acquire title in the
 412 following manner:

413 (1) Beginning on July 1, 2018, the district shall review
 414 all lands and interests or rights in lands every 10 years on a
 415 rotating basis to determine whether the lands are still needed
 416 for the purpose for which they were acquired. Any lands, or
 417 interests or rights in lands, determined by the governing board
 418 to be surplus may be sold by the district, at any time, for the
 419 highest price obtainable; however, in no case shall the selling
 420 price be less than the appraised value of the lands, or
 421 interests or rights in lands, as determined by a certified
 422 appraisal obtained within 360 days before the effective date of
 423 a contract for sale.

424 (9) The governing board must first offer nonconservation
 425 surplus lands to the county and municipality where the land is

426 located for use as affordable housing as identified by the
 427 Florida Housing Finance Corporation pursuant to s. 420.56.
 428 Districts must only offer nonconservation surplus lands
 429 originally acquired using state funds.

430
 431 If the Board of Trustees of the Internal Improvement Trust Fund
 432 declines to accept title to the lands offered under this
 433 section, the land may be disposed of by the district under the
 434 provisions of this section.

435 Section 12. Hurricane Recovery Programs.-

436 (1) The Hurricane Housing Recovery Program is created to
 437 provide funds to local governments for affordable housing
 438 recovery efforts due to impacts to the affordable housing stock
 439 resulting from Hurricanes Irma and Maria. The Florida Housing
 440 Finance Corporation shall administer the program with resources
 441 allocated to local governments according to a need-based formula
 442 that reflects affordable housing damage estimates. Eligible
 443 local governments must submit a strategy outlining proposed
 444 recovery actions, income levels and number of units to be
 445 served, and funding requests. Program funds shall be used as
 446 follows:

447 (a) To serve households with incomes up to 120 percent of
 448 area median income, except that at least 30 percent of program
 449 funds should be reserved for households with incomes up to 50
 450 percent of area median income and an additional 30 percent of

451 program funds reserved for households with incomes up to 80
 452 percent of area median income.

453 (b) At least 65 percent of funds allocated shall be used
 454 for homeownership as described in paragraph (a).

455 (c) Up to 15 percent of the allocation may be used for
 456 administrative expenses to ensure expeditious use of funds.

457 (2) The Recovery Rental Loan Program is created to provide
 458 funds to build additional rental housing due to impacts to the
 459 housing stock resulting from Hurricanes Irma and Maria. The
 460 program is intended to allow the state to leverage additional
 461 federal rental financing similar to the State Apartment
 462 Incentive Loan Program as described in s. 420.5087, Florida
 463 Statutes.

464 (3) By September 15, 2019, and each year thereafter, each
 465 participating local entity shall submit a report of its housing
 466 recovery program and accomplishments through June 30, as
 467 specified by the Florida Housing Finance Corporation.

468 (4) Florida Housing Finance Corporation may adopt
 469 emergency rules pursuant to s. 120.54, Florida Statutes. The
 470 Legislature finds that emergency rules adopted pursuant to this
 471 section meet the health, safety, and welfare requirement of s.
 472 120.54(4), Florida Statutes. The Legislature finds that such
 473 emergency rulemaking is necessary to preserve the rights and
 474 welfare of the people and to provide additional funds to assist
 475 those areas of the state that sustained impacts to available

476 affordable housing stock due to Hurricanes Irma and Maria.
 477 Therefore, in adopting such emergency rules, the corporation
 478 need not make the findings required by s. 120.54(4)(a), Florida
 479 Statutes. Emergency rules adopted under this section are exempt
 480 from s. 120.54(4)(c), Florida Statutes.

481 Section 13. For the 2018-2019 fiscal year only, 20 percent
 482 of the most recent revenue estimate from the Revenue Estimating
 483 Conference for the 2018-2019 fiscal year from both the Local
 484 Government Housing Trust Fund and the State Housing Trust Fund
 485 are appropriated to the Florida Housing Finance Corporation for
 486 the purpose of affordable housing hurricane recovery efforts.
 487 Funds from the Local Government Housing Trust Fund shall be used
 488 for the Hurricane Housing Recovery Program and shall be
 489 allocated based on the review of FEMA damage assessment data by
 490 the Florida Housing Finance Corporation. Funds from the State
 491 Housing Trust Fund shall be used for the Rental Recovery Loan
 492 Program to assist with building and rehabilitating affordable
 493 rental housing to help communities respond to hurricane recovery
 494 needs. The Florida Housing Finance Corporation shall use
 495 \$100,000 from the funds appropriated from the State Housing
 496 Trust Fund to provide technical and training assistance.

497 Section 14. 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 Cortes, B. offered the following:

Amendment

6 Remove lines 52-56 and insert:

7 includes environmental suitability for construction, site
 8 characteristics, current land use designation, current or
 9 anticipated zoning, inclusion in at least one special district
 10 meant to revitalize the community, existing infrastructure,
 11 proximity to employment opportunities, proximity to public
 12 transportation, and proximity to existing

13 Remove lines 126-127 and insert:

14 special districts meant to revitalize the community, existing
 15 infrastructure, proximity to

16 Remove line 316 and insert:



Amendment No.



17 | minimum, expediting permits, as defined in s. 163.3164(16), for
18 | affordable housing projects as

19 | Remove lines 402-403 and insert:

20 | parcels of nonconservation surplus land to the county and
21 | municipality where the land is located for use as affordable
22 | housing as

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1113 Palm Beach County Housing Authority
SPONSOR(S): Silvers and others
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

A municipality may create a housing authority to address either unsanitary or unsafe housing accommodations existing in the city or a shortage of safe and sanitary housing available to low income residents at an affordable rental rate. The governing body of the housing authority consists of five to seven persons appointed by the municipality's mayor and approved by its governing body. A county may create a housing authority subject to the same criteria, except the governing body of a county-created housing authority is appointed by the governor.

The Palm Beach County Housing Authority (Authority) was created in 1969 to "provide affordable housing stock to low-income families through rental assistance programs." The Authority has a five-member board appointed by the Governor.

The bill expands the governing board of the Authority from five members to seven members. The governing body of Palm Beach County may appoint two members. The members appointed by the county must be qualified electors of the county and are subject to removal or suspension by the governing body of the county. The remaining five members continue to be appointed by the Governor as provided in s. 421.27(2), F.S. The bill appears to have no fiscal impact.

Pursuant 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. The provisions of House Rule 5.5(b) appear to apply to this bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Housing Authorities

The governing body of each municipality containing more than 2,500 residents may create a housing authority by adopting a resolution.¹ The governing body of the municipality may determine a housing authority is needed by its own volition or upon receipt of a petition signed by 25 residents of the city declaring the need for an authority.² The resolution creating the housing authority must contain a finding that either unsanitary or unsafe housing accommodations exist in the city or that there is a shortage of safe and sanitary housing available to low income residents at an affordable rental rate.³ The governing body of the municipality may consider overcrowding, percentage of land coverage, the availability of light, air, and space, the size and arrangement of rooms, sanitary facilities, and building conditions which present a fire hazard or other danger to life or property.⁴

After adoption of a resolution creating the housing authority, the mayor of the municipality appoints five to seven commissioners⁵ for the housing authority, subject to approval of the governing body of the municipality. The term of a commissioner is four years. No commissioner of the authority may be an officer or employee of the municipality creating the housing authority. Commissioners receive no compensation, but are entitled to necessary expenses, including travel expenses, incurred in the discharge of their official duties.⁶

At least one commissioner must be a current resident of a housing project or a person of low or very low income who lives in the housing authority's service area and receives a rent subsidy through the housing authority or a public housing agency with an overlapping service area.⁷ If there are no completed housing projects in the authority's service area, the tenant-commissioner position must remain vacant until 10 percent of the housing units in the first housing project are occupied. If tenant-commissioner ceases to be a tenant, the position becomes vacant and a replacement commissioner is appointed for the unexpired portion of the tenant-commissioner's term. If no current tenant is willing and able to serve as a tenant-commissioner, the mayor may appoint a commissioner using normal procedures, but must exercise due diligence in all succeeding vacancies to appoint a tenant-commissioner at the earliest date possible.

The commissioners of a housing authority may select their own officers, hire employees (including, but not limited to, an executive director and technical experts), and request legal assistance from the city attorney or employ their own legal staff.⁸ Commissioners and housing authority employees are prohibited from acquiring any interest in a housing project or in a contract to provide services or materials to a housing project.⁹ If a commissioner or housing authority employee holds an interest, that interest must be disclosed to the housing authority in writing and entered into the minutes.

¹ Section 421.04(1), F.S. Section 421.03(2), F.S. defines a city for the purposes of Housing Authorities Law as any city or town having a population of more than 2,500 as of the most recent state or federal census.

² Section 421.04(1)(a), F.S.

³ Section 421.04(2), F.S.

⁴ Section 421.04(2)(b), F.S.

⁵ Some housing authorities created before March 28, 1991 have more than seven commissioners. Those authorities may keep the number of commissioners they had as of March 28, 1991. Section 421.05(3), F.S.

⁶ Section 421.05(1), F.S.

⁷ *Id.* This commissioner is referred to as a "tenant-commissioner."

⁸ Section 421.05(2), F.S.

⁹ Section 421.06, F.S.

A housing authority has the power to:¹⁰

- Prepare, carry out, acquire, lease, and operate housing projects;¹¹
- Construct, reconstruct, improve, alter, or repair any housing project;
- Arrange or contract for the provision of services, works, and facilities in connection with a housing project;
- Lease or rent dwellings, house, accommodations, lands, buildings, structures, or facilities embraced by any housing project;
- Establish and revise rents or charges for housing project properties;
- Investigate housing conditions within its area of operation and determine the existence of slums;
- Organize a corporate entity to hold an ownership interest or participate in the governance of multifamily or single-family residential projects; and
- Execute contracts and other instruments necessary to exercise the powers of the authority.

Housing authorities can finance projects through the issuance of debentures.¹² The debentures may be paid from the income and revenues of housing projects operated by the authority, federal grant money used to aid in the housing project for which the debenture is issued, or from the authority's general revenue. The debentures are obligations of the authority and are not a debt of the city, county, state, or any other political subdivision.¹³ Housing authorities may also receive aid from the federal government in the form of loans, grants, and the ability to take over, lease, or manage housing projects constructed by the federal government.¹⁴

The governing body of a county may also create a housing authority following the same procedure required for the creation of a municipal housing authority under s. 421.04, F.S.¹⁵ A county housing authority may operate in any unincorporated area of the county.¹⁶ The governing body of a county housing authority consists of five to seven qualified electors of the county appointed by the Governor, who may be removed or suspended in the same manner for the same reasons as other officers appointed by the Governor.¹⁷

Palm Beach County Housing Authority

The Palm Beach County Housing Authority (Authority) was created in 1969 to "provide affordable housing stock to low-income families through rental assistance programs."¹⁸ The Authority acquired its first property in 1973, placed its first tenant in a public housing unit in 1975, and received its first application for a Section 8 voucher in 1976.¹⁹ The Authority has a five-member board appointed by the Governor and meets on the fourth Monday of each month.²⁰ At the conclusion of the 2016 fiscal year, the Authority had \$18,675,065 in assets and \$ 16,253,007 in liabilities.²¹

¹⁰ Section 421.08, F.S.

¹¹ A "housing project" is defined as any work or undertaking to remove building in a slum area, to provide decent, safe, and sanitary living accommodations, or a combination of the two. Section 421.03(9), F.S.

¹² Section 421.14, F.S. A debenture is a debt instrument secured by only the debtor's earning power, without a lien on any specific asset. Black's Law Dictionary (10th ed. 2014).

¹³ Section 421.14(2), F.S.

¹⁴ Section 421.21, F.S.

¹⁵ Section 421.27(1), F.S.

¹⁶ Section 421.27(3), F.S.

¹⁷ Section 421.27(2), F.S.

¹⁸ Palm Beach County Housing Authority, *About Us*, <http://www.pbchaf.org/about-us> (last accessed Jan. 9, 2018).

¹⁹ Palm Beach County Housing Authority, *History*, <http://www.pbchaf.org/about-us/history> (last accessed Jan. 9, 2018).

²⁰ See Palm Beach County Housing Authority, *Board of Commissioners*, <http://www.pbchaf.org/about-us/pbcha-board-of-commissioners> (last accessed Jan. 9, 2018). See also s. 421.27(2), F.S. (providing for gubernatorial appointment of board members for county housing authorities). Palm Beach County Housing Authority, *Board Meetings*, <http://www.pbchaf.org/pbcha-board-of-commissioners/pbcha-board-of-commissioners/board-meetings> (last accessed Jan. 9, 2018).

²¹ Palm Beach County Housing Authority, *Basic Financial Statements and Supplement Information (Year Ended September 30, 2016)*, at 9, available at <http://www.pbchaf.org/docs-handler.ashx?f=pbcha-audited-financials-fy2016.pdf> (last accessed Jan. 10, 2018)

Effect of Proposed Changes

The bill creates an exception to general law. The bill expands the governing board of the Authority from five members to seven members. The governing body of Palm Beach County may appoint two members. The members appointed by the county must be qualified electors of the county and are subject to removal or suspension by the governing body of the county. The remaining five members continue to be appointed by the Governor as provided in s. 421.27(2), F.S.

B. SECTION DIRECTORY:

Section 1: Provides that the Palm Beach County Housing Authority shall have seven commissioners, two of which are appointed by the governing body of Palm Beach County.

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? November 10, 2017

WHERE? *The Palm Beach Post*, a daily newspaper of general circulation 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 neither requires nor provides authority for executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Pursuant 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. The provisions of House Rule 5.5(b) appear to apply to this bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Ref silvers LB

HB 1113

The Palm Beach Post

Palm Beach Daily News



PROOF OF PUBLICATION STATE OF FLORIDA

PUBLIC NOTICE

Before the undersigned authority, personally appeared Rosemary Hindmarch, 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 11/10/2017 and last date of Publication 11/10/2017. 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.

PBC BOCC DEPT OF ECONOMIC
SUSTAINABILITY
PO BOX 4036
WEST PALM BEACH, FL 33402-4036

Invoice/Order Number:	0000252904
Ad Cost:	\$82.56
Paid:	\$0.00
Balance Due:	\$82.56

Signed

Rosemary Hindmarch

(Legal Advertising Agent)

Sworn or affirmed to, and subscribed before me, this 10th day of November, 2017 in Testimony whereof, I have hereunto set my hand and affixed my official seal, the day and year aforesaid.

Signed

Dori S. Foster



Please see Ad on following page(s):

PBC BOCC DEPT OF ECONOMIC
SUSTAINABILITY
PO BOX 4036
WEST PALM BEACH, FL 33402-4036

Invoice/Order Number:	0000252904
Ad Cost:	\$82.58
Paid:	\$0.00
Balance Due:	\$82.58

NOTICE OF LOCAL LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given to apply to the 2018 Session of the Florida Legislature for passage of:

An act relating to the County of Palm Beach; providing exceptions to general law; providing that the governing body of Palm Beach County may appoint two (2) persons to the housing authority created for Palm Beach County and may remove or suspend same; providing an effective date.

Palm Beach County
Board of County Commissioners
c/o Department of Housing &
Economic Sustainability
100 Australian Avenue, Suite 500
West Palm Beach, Florida 33406
PUB: The Palm Beach Post
11-10/ 2017

0000252904-01

HOUSE OF REPRESENTATIVES

2017 - 2018 LOCAL BILL CERTIFICATION FORM

BILL #: 1113
SPONSOR(S): Representative David Silvers and Representative Lori Berman
RELATING TO: Palm Beach County - Housing Authority of Palm Beach County
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 [checked] NO []

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level: The bill intends to amend Florida Statute to allow the Palm Beach County governing body to appoint an additional 2 members to the Palm Beach County Housing Authority

(2) Did the delegation conduct a public hearing on the subject of the bill?
YES [checked] 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 [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 November 10, 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.

Bill Hager
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 #: _____

SPONSOR(S): Representative Lori Berman

RELATING TO: Amending Florida Statute 421.47 relating to the Palm Beach County Housing Authority

[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.

The bill adds two board members which increases the Palm Beach County Housing Authority Board from five (5) to seven (7) and provides the Palm Beach County Board of County Commissioners with the ability to choose those two board members. This will not have an economic impact as the commission positions are voluntary (without compensation) and will also not impact the authority's annual budget.

The name of the Housing Authority will change and a nominal cost associated with re-branding (e.g., stationery) will be incurred.

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: _____

Two County-Commission appointed Board members will improve the Board's ability to advocate for and represent the needs of individuals who live in Authority housing. Commissioners who represent districts with Authority housing will identify local stakeholders best able to serve on the Board and represent the interests of individuals who live in or are in need of Authority housing.

2. Advantages to Businesses: _____

2 County appointed Board members with knowledge of local housing issues & community needs can increase the success of the Authority in establishing, funding, & implementing development plans. The Authority has been unsuccessful in securing grants critical to supporting these plans. Area business may see increases in revenues as Authority plans are realized.

3. Advantages to Government: _____

2 County appointed Board members will strengthen the relationship between the Authority and Palm Beach County government & improve communications between the two. Commissioners representing districts that include Housing Authority properties will be better informed of housing issues & better able to work in collaboration with the Authority to address housing needs.

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: No disadvantages to individuals are anticipated.

2. Disadvantages to Businesses: No disadvantages to businesses are anticipated.

3. Disadvantages to Government: No disadvantages to government are anticipated.

V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:

The impact of the bill on present governmental services should be improved as the County Commissioners representing districts which include Authority housing will have members on the Housing Authority board who have a stake in the communities in which Housing Authority housing is located.

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.

- 1) Palm Beach County Housing Authority Financial Statements and Supplemental Information, Year ending September 30, 2016.
 - 2) Historical experience with Palm Beach County Housing Authority's housing developments and operations.
-

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: *Sherry Howard*
[Must be signed by Preparer]

Print preparer's name: *Sherry Howard*
10-16-17
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

REPRESENTING: *Deputy Director, Dept of Housing & Economic Sustainability*
Palm Beach County

PHONE: *561-233-3653*

E-MAIL ADDRESS: *Showard@pbcgov.org*

1 A bill to be entitled
 2 An act relating to the Palm Beach County Housing
 3 Authority; providing exceptions to general law;
 4 authorizing the governing body of Palm Beach County to
 5 appoint two additional commissioners to the housing
 6 authority and remove or suspend such commissioners;
 7 providing an effective date.

8

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

10

11 Section 1. Notwithstanding ss. 421.05(1) and 421.27(2),
 12 Florida Statutes, the Palm Beach County Housing Authority may be
 13 composed of seven commissioners, five of whom shall be appointed
 14 by the Governor as provided in s. 421.27(2), Florida Statutes,
 15 and two of whom may be appointed by the governing body of Palm
 16 Beach County. The commissioners appointed by the governing body
 17 of Palm Beach County must be qualified electors in the county
 18 and may be removed or suspended as other officers appointed by
 19 the governing body of Palm Beach County. Other than as provided
 20 in this act, all requirements of s. 421.27(2), Florida Statutes,
 21 apply to all commissioners of the Palm Beach County Housing
 22 Authority.

23 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1115 Indian River Farms Water Control District, Indian River County
SPONSOR(S): Grall
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The Indian River Farms Water Control District (District) is an independent special district located in Indian River County. The District was created and incorporated by judicial decree of the Fifteenth Circuit, in St. Lucie County, in 1919. The decree gave the District a 99-year lifespan from that date and extends to May 8, 2018. The purpose of the District is to provide drainage and stormwater control for an area comprising of approximately 54,000 acres. Chapter 2006-343, Laws of Florida, codified and reenacted all prior special acts of the District into a single act.

The bill removes the 99-year term limitation of the District originally provided by the decree of the Circuit Court for the Fifteenth Judicial Circuit in St. Lucie County so that the District can continue in existence and authority as provided in ch. 2006-343, Laws of Florida.

The bill provides the act takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Independent 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,¹ special act,² local ordinance,³ or by rule of the Governor and Cabinet.⁴ 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.⁵

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.⁶ An "independent special district" is any district that is not a dependent special district.⁷

Water Control Districts

Chapter 298, F.S., governs the creation and operation of a water control district (WCD).⁸ 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.⁹ 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.¹⁰

Indian River Farms Water Control District

The Indian River Farms Water Control District (District) is an independent special district located in Indian River County. The District was created and incorporated by judicial decree of the Fifteenth Circuit, in St. Lucie County, in the case "In re: Indian River Farms Drainage District" in 1919.¹¹ The decree gave the District a 99-year lifespan from that date and extends to May 8, 2018.¹² The purpose of the District is to provide drainage and stormwater control for an area comprising approximately

¹ Section 189.031(3), F.S.

² Id.

³ Section 189.02(1), F.S.

⁴ Section 190.005(1), F.S. *See, generally, s. 189.012(6), F.S.*

⁵ *2017 – 2018 Local Gov't Formation Manual*, p. 60, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911> (last accessed 1/4/2018).

⁶ Section 189.012(2), F.S.

⁷ Section 189.012(3), F.S.

⁸ 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.

⁹ Section 298.22, F.S.

¹⁰ Section 298.22(3), F.S.

¹¹ Ch. 2006-343, s. 3, Laws of Fla.

¹² *See Indian River Farms Water Control District*, available at <http://www.irfwcd.com/about.html> (last accessed 1/4/2018)

54,000 acres. Chapter 2006-343, Laws of Florida, codified and reenacted all prior special acts of the District into a single act.

Effect of Proposed Changes

The bill removes the 99-year term limitation of the District originally provided by the decree of the Fifteenth Judicial Circuit in St. Lucie County so that the District can continue in existence and authority as provided in ch. 2006-343, Laws of Florida.

B. SECTION DIRECTORY:

Section 1 Removes the 99-year term limitation of the Indian River Farms Water Control District originally provided by court decree.

Section 2 Provides the bill takes effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 17, 2017

WHERE? *Indian River Press Journal*

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 authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Rep. Hall LB
HB 1115

Treasure Coast Newspapers | TCPALM
Indian River Press Journal
1801 U.S. 1, Vero Beach, FL 32960
AFFIDAVIT OF PUBLICATION

STATE OF FLORIDA
COUNTY OF INDIAN RIVER

Before the undersigned authority personally appeared, Natalie Zollar, who on oath says that she is Classified Inside Sales Manager of the Indian River Press Journal, a daily newspaper published at Vero Beach in Indian River County, Florida; that the attached copy of advertisement was published in the Indian River Press Journal in the following issues below. Affiant further says that the said Indian River Press Journal is a newspaper published in Vero Beach in said Indian River County, Florida, and that said newspaper has heretofore been continuously published in said Indian River County, Florida, daily and distributed in Indian River 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 Indian River Press Journal has been entered as Periodical Matter at the Post Offices in Vero Beach, Indian River County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

Customer 436050 - O'HAIRE, QUINN & CASALINO CHTD Ad Number 1825835 Copyline NOTICE OF INTENT TO SEEK LEGISLATION PO# 710-27060

Pub Dates
November 17, 2017

Sworn to and subscribed before me this day of, November 17, 2017, by

Natalie Zollar who is
Natalie Zollar
(X) personally known to me or
() who has produced _____ as identification.

Karol E Kangas
Karol Kangas Notary Public



Auction/Public Sale
location(s) listed below.
And, due notice having been given to the parties of said property and all parties known to claim an interest therein, and the time specified in such notice for payment of such having expired, the goods will be sold at public auction at the below stated location(s) to the highest bidder or otherwise disposed of as follows:
Wednesday, December 6, 2017 at 12:00PM at 4835 79th Street, West Beach, FL 33566. 772-794-2650.

Stereo: Miller; Household goods/furniture
Toy: Director; Household goods/furniture
Mark K. Rhoades: Household goods/furniture
Matthew Aquar: Household goods/furniture
Kristine Frank: Personal items, furniture, art
Francisco Garcia: Household goods/furniture
Eva Neff: Household goods/furniture, other boxes
Phillip Carpenter: Household goods/furniture
Carmen Brown: Household goods/furniture, TV/Stereo Equip.
Pub. November 17 and 24, 2017
TC# 18211750

Domestic
IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR ST. LUCIE COUNTY, FLORIDA
CASE NO.: 2016CA00813

TO BANK N.A., Plaintiff,
vs.
ORVILLE L. PALMER; OCEAN RESORTS CO-OP, INC.; ALEXIS KLEIS; JAMBA KLEIS; BRENDIA FOURNIER; and BRUCE PALMER, Defendants.

NOTICE OF ACTION
TO: BRENDIA FOURNIER
5331 Galleway Way
Fort Pierce, FL 34949

YOU ARE HEREBY NOTICED that an action has been filed against you in the Circuit Court of St. Lucie County, Florida, Case No. 2016CA00813 to foreclose a first mortgage recorded on November 7, 2006 in Official Records Book 2956, Page 2720 of the Public Records of St. Lucie County, Florida (the "Mortgage"), on the following property situate, siting and being in St. Lucie County, Florida, more particularly described as:

BEING IN OCEAN RESORTS COOPERATIVE, SITE 123 AS SHOWN IN THE RECORDED PLAYMAP THEREIN IN PLAT BOOK 981 PAGE 2893 OF SAINT LUCIE COUNTY RECORDS, AND A SEVERAL ESTATE AND ALL OCCUPANCY RIGHTS HELD BY BONDOWNER UNITS ANY LEASE OR OTHER INSTRUMENT ON FAVOR OF BONDOWNER FOR THAT SITE, TRACT A, STREET ADDRESS OF 5331 GALLEWAY, FORT PIERCE, FL 34949

together with all existing or subsequently created or to be created mortgages, interests, claims, and fixtures (the "Property"). You are required to file your written defenses, if any, to it with the Clerk of the above-styled Court and to serve a copy of your written defenses, if any, to it on me at the above address on or before December 11, 2017, and file the original with the Clerk of the Court at 2000 16th Avenue, West Beach, FL 33566, before service on Plaintiff or immediately thereafter, if you fail to do so, by default you are deemed to have waived the right demanded in the petition.

The action is asking the court to decide how the following real or personal property should be divided:
None

Copies of all court documents in this case, including orders, are available at the Clerk of the Circuit Court's office. You may review these documents upon request.

You must keep the Clerk of the Circuit Court's office notified of your current address. You may file a designation of the Clerk's mailing and e-mail address, Florida Supreme

Legal
If you fail to do so, judgment by default may be entered against you. To the extent demanded by the Court.

This notice shall be published once a week for two consecutive weeks in St. Lucie News Tribune on November 18, 2017.

WITNESS my hand and seal this 2nd day of October, 2017.

Joseph E. Smith
Clerk of the Circuit Court (Court Seal)

By: /s/ Brian Sandridge
Deputy Clerk
Dante E. Rindlett, Bar # 554
Florida Bar No.: 72256
604 Center Tower II
5100 Town Center Circle,
Suite 500
Boca Raton, Florida 33486-9000
Telephone: (561) 963-7119
Facsimile: (561) 316-6303
Email:
brian@judicialclematis.com
jc@clerkofcourts.com
November 15, 22, 2017
TC# 18212535

Legal
IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR ST. LUCIE COUNTY, FLORIDA
CASE NO.: 2016CA00813

TO BANK N.A., Plaintiff,
vs.
ORVILLE L. PALMER; OCEAN RESORTS CO-OP, INC.; ALEXIS KLEIS; JAMBA KLEIS; BRENDIA FOURNIER; and BRUCE PALMER, Defendants.

NOTICE OF INTENT TO SEEK LEGISLATION
Notice is hereby given pursuant to Article IX, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes by the Board of Supervisors of the Indian River Farms Water Control District of the Board's intention to seek legislation before the 2018 Florida Legislature, approved by the Legislature would remove the 99 year term limitation of the district originally provided by court decree and authorize the District to issue bonds.

Robert Lindsey
President
Board of Supervisors
Indian River Farms Water Control District
Pub. November 17, 2017
TC# 18212535

Legal
IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR MARTIN COUNTY, FLORIDA
CASE NO.: 17000334CAJAMX

CALLIER HOME LOANS, INC., Plaintiff,
vs.
DANNA L. MCCOE A/K/A DEANNA MCCOE; DARIN MCCOE A/K/A DARIN MCCOE; JAMORCAN CHASE BANK, N.A.; FLORIDA HOUSING CORPORATION; UNKNOWNS TENANTS IN POSSESSION; and HE and ALL OTHER UNKNOWN PARTIES, et al., Defendants.

NOTICE OF FORECLOSURE SALE
(Publish in the Stuart News)

NOTICE IS HEREBY GIVEN pursuant to a Final Judgment of Foreclosure dated July 2, 2017 and an Order Canceling and Rescheduling a Foreclosure Sale set for November 7, 2017, entered in Civil Case No. 17000334CAJAMX of the Circuit Court of the Nineteenth Judicial Circuit in and for Alachua County, Florida.

Legal
If you fail to do so, judgment by default may be entered against you. To the extent demanded by the Court.

This notice shall be published once a week for two consecutive weeks in St. Lucie News Tribune on November 18, 2017.

WITNESS my hand and seal this 2nd day of October, 2017.

Joseph E. Smith
Clerk of the Circuit Court (Court Seal)

By: /s/ Brian Sandridge
Deputy Clerk
Dante E. Rindlett, Bar # 554
Florida Bar No.: 72256
604 Center Tower II
5100 Town Center Circle,
Suite 500
Boca Raton, Florida 33486-9000
Telephone: (561) 963-7119
Facsimile: (561) 316-6303
Email:
brian@judicialclematis.com
jc@clerkofcourts.com
November 15, 22, 2017
TC# 18212535

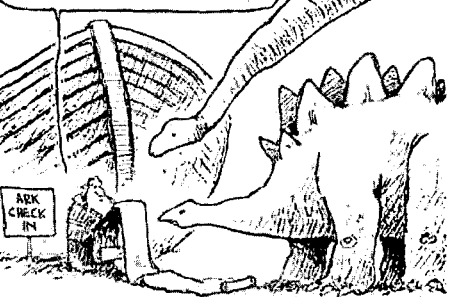
Legal
IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT IN AND FOR MARTIN COUNTY, FLORIDA
CASE NO.: 17000334CAJAMX

CALLIER HOME LOANS, INC., Plaintiff,
vs.
DANNA L. MCCOE A/K/A DEANNA MCCOE; DARIN MCCOE A/K/A DARIN MCCOE; JAMORCAN CHASE BANK, N.A.; FLORIDA HOUSING CORPORATION; UNKNOWNS TENANTS IN POSSESSION; and HE and ALL OTHER UNKNOWN PARTIES, et al., Defendants.

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NON SEQUITUR
SORRY, BUT THERE'S NO ONE ON THE LIST WITH A NAME ENDING IN "SAURUS"



THE BIBLICAL EXTINCTION THEORY

Notice of Foreclosure
Southwest 281 Court, hence bear South 09 degrees 39'47" West, along the center line of Southwest 281 Court; a distance of 376.00 feet; thence bear North 88 degrees 50'17" East, a distance of 544.4 feet to the Point of Beginning.

Notice of Foreclosure
If you are a person claiming a right to funds remaining after the sale, you must file a claim with the clerk no later than 60 days after the sale. If you fail to file a claim you will not be entitled to any remaining funds. After 60 days, only the owner of records as of the date of the foreclosure may claim the surplus.

Notice of Foreclosure
If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the services of certain assistance. Please contact Carrie Johnson, AIA, Coordinator, 250 NW County Club Drive, Suite 217, West Palm Beach, FL 33411, Telephone: (561) 660-6020, Facsimile: (561) 420-5187, TDD: (561) 420-5187.

Notice of Foreclosure
A parcel of land (lying within Section 1, Township 26 South, Range 37 East, Martin County, Florida) more particularly described as follows:

Notice of Foreclosure
Commence at the Southeast corner of section corner of Lot 1 Section 1, near North 03 degrees 57' 46" East, along the East line of said Section 1, a distance of 1283.33 feet to the Northeast corner of Lot 1, near North 03 degrees 57' 46" East, along East line of said Section 1, a distance of 1621.65 feet to the Point of Beginning; thence continue North 03 degrees 57' 46" East, along East line of said Section 1, a distance of 326.33 feet; thence bear South 89 degrees 09' 37" West, a distance of 656.73 feet to the center line of

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Notice of Foreclosure
If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the services of certain assistance. Please contact Carrie Johnson, AIA, Coordinator, 250 NW County Club Drive, Suite 217, West Palm Beach, FL 33411, Telephone: (561) 660-6020, Facsimile: (561) 420-5187, TDD: (561) 420-5187.

Notice of Foreclosure
A parcel of land (lying within Section 1, Township 26 South, Range 37 East, Martin County, Florida) more particularly described as follows:

Notice of Foreclosure
Commence at the Southeast corner of section corner of Lot 1 Section 1, near North 03 degrees 57' 46" East, along the East line of said Section 1, a distance of 1283.33 feet to the Northeast corner of Lot 1, near North 03 degrees 57' 46" East, along East line of said Section 1, a distance of 1621.65 feet to the Point of Beginning; thence continue North 03 degrees 57' 46" East, along East line of said Section 1, a distance of 326.33 feet; thence bear South 89 degrees 09' 37" West, a distance of 656.73 feet to the center line of

Notice of Foreclosure
If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the services of certain assistance. Please contact Carrie Johnson, AIA, Coordinator, 250 NW County Club Drive, Suite 217, West Palm Beach, FL 33411, Telephone: (561) 660-6020, Facsimile: (561) 420-5187, TDD: (561) 420-5187.

Notice of Foreclosure
A parcel of land (lying within Section 1, Township 26 South, Range 37 East, Martin County, Florida) more particularly described as follows:

Notice of Foreclosure
Commence at the Southeast corner of section corner of Lot 1 Section 1, near North 03 degrees 57' 46" East, along the East line of said Section 1, a distance of 1283.33 feet to the Northeast corner of Lot 1, near North 03 degrees 57' 46" East, along East line of said Section 1, a distance of 1621.65 feet to the Point of Beginning; thence continue North 03 degrees 57' 46" East, along East line of said Section 1, a distance of 326.33 feet; thence bear South 89 degrees 09' 37" West, a distance of 656.73 feet to the center line of

Notice of Foreclosure
If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the services of certain assistance. Please contact Carrie Johnson, AIA, Coordinator, 250 NW County Club Drive, Suite 217, West Palm Beach, FL 33411, Telephone: (561) 660-6020, Facsimile: (561) 420-5187, TDD: (561) 420-5187.

Y Services Offered
Where local meets classified

Adult Care Services
CNA PREP COURSE
Private in Home Healthcare
Quality Home Care
Air Conditioning
Air Source 1
Barber Beauty Services
Carmen & Co.
Carpet/Floor Covering
Hinton's Carpet Cleaning
Ray's Carpet Repairs & Installation

Cleaning Services
Attention to Detail
B & L Residential
Barbara's Services
Husband/Wife Home Cleaning Svcs
JT Cleaning Service
Karl's
Cleaning Service
A-I DANIEL'S HAULING
Clock Repair
AAA ARON'S COMPUTER SERVICE

Computer Services
AIA PC REPAIR
Concrete/Masonry Work
JERRY RIPLE
JOHNNY'S
ROY CLARK CONCRETE
MAURICE AT YOUR SERVICE
ELECTRIC SVCS
GARAGE DOORS

Home Maintenance/Repair
ABLE RENOVATION
B. S. B.
D&R RESCREENING
NEED FIXING?
RESCREENING & REPAIRS
AL ERIC'S HOME REPAIR
DOMESTIC HOMEWORK
MAURICE AT YOUR SERVICE
ELECTRIC SVCS
GARAGE DOORS

Landscaping/Lawn Service
DENBAR LAWN SERVICE
FEMALE PERSONAL GARDENER
AAK MOVING
A. A. W. PAINTING
EWS REFINISHING
STEVE ALLEN PAINTING
PLUMBING & REPAIR

Pressure Washing
AAAAA AFFORDABLE PRESSURE CLEANING
Roofing
KUHNER ROOFING
MTW ROOFING
MISSING SHINGLES?
TER WORK
DENNIS KILEY TILE
TECH SERVICES

HOUSE OF REPRESENTATIVES

2017 - 2018 LOCAL BILL CERTIFICATION FORM

BILL #: 1115
SPONSOR(S): Grall
RELATING TO: Indian River Farms Water Control District (Indian River County)
NAME OF DELEGATION: Indian River County
CONTACT PERSON: Chris Lyon
PHONE NO.: (850) 222-5702 E-Mail: clyon@llw-law.com

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: The district's charter can only be amended by the Legislature.

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES [checked] NO []

Date hearing held: November 29, 2017

Location: County Chambers, Indian River County Administration Building

(3) Was this bill formally approved by a majority of the delegation members?

YES [checked] 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 November 17, 2017

Where? TC Palm County Indian River 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)

Date

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 #: 1115
SPONSOR(S): Grall
RELATING TO: Indian River Farms Water Control District (Indian River 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.

If the bill passes, the district would continue operating as it does today.

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.

- Advantages to Individuals: Individuals will continue to receive water control services so their properties do not flood.
- Advantages to Businesses: Same as above.
- Advantages to Government: None.

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.

- 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:

The bill would allow the district to continue providing water control services to its residents past the year 2018.

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.

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A bill to be entitled
An act relating to the Indian River Farms Water
Control District, Indian River County; removing the
99-year term limitation of the district originally
provided by court decree; providing an effective date.


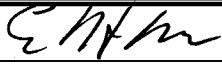
Be It Enacted by the Legislature of the State of Florida:

Section 1. This act shall serve to remove the 99-year term
limitation of the Indian River Farms Water Control District
originally provided by court decree in the case In re: Indian
River Farms Drainage District issued on May 6, 1919, by the
Circuit Court of the Fifteenth Judicial Circuit, in and for St.
Lucie County, so that the district shall continue in existence
and authority as provided in chapter 2006-343, Laws of Florida.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1137 Pinellas County Construction Licensing Board, Pinellas County
SPONSOR(S): Peters
TIED BILLS: IDEN./SIM. BILLS: SB 402

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

SUMMARY ANALYSIS

The Pinellas County Construction Licensing Board (Board) was created by ch. 75-489, Laws of Florida, as amended. The Board is an independent agency and is not funded or operated by Pinellas County government. The function of the Board is to regulate certain construction and home improvement contractors practicing in all Pinellas County jurisdictions. The Board also provides countywide certification and registration of contractors and countywide certification of journeymen.

Currently, the Board is comprised of 21 members who must be nominated by various associations and organizations. Members are appointed to two-year terms by the Chairman of the Pinellas County Board of Commissioners.

The bill makes numerous revisions to the Board. Specifically, the bill:

- Reduces the number of Board members from 21 to 15 and revises how Board members must be selected;
- Provides that members cannot serve more than two consecutive terms of four years and can be terminated for cause by the Pinellas County Board of Commissioners (PCBC);
- Provides that the Board is a dependent agency of the PCBC;
- Authorizes PCBC to adopt rules;
- Requires the Board to submit a complete report on finances and administrative activities of the Board as of the end of each fiscal year to all local governments in Pinellas County and to the public;
- Provides that the Board will be subjected to periodic audits;
- Requires Board members to file a financial disclosure statement and an annual disclosure of financial interests; and
- Provides for dissolution of the Board if qualified electors of Pinellas County vote in a referendum.

The bill provides that the Board is eligible for state funding for three years after April 1, 2018, to support its operations and staff costs as it transitions to Pinellas County.

The bill has an effective date of April 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Pinellas County Construction Licensing Board (Board) was created by Chapter 75-489, Laws of Florida, as amended. The Board is an independent agency and is not funded or operated by Pinellas County government. The function of the Board is to regulate certain construction and home improvement contractors practicing in all Pinellas County jurisdictions.¹ The Board also provides countywide certification and registration of contractors and countywide certification of journeymen.²

The Board consists of 21 members:³

- Two general contractors;
- Two building contractors;
- Two residential contractors;
- One Florida registered architect doing business in Pinellas County;
- One electrical contractor;
- One plumbing contractor;
- One mechanical contractor;
- One roofing or sheet metal contractor;
- One swimming pool, aluminum or veneer specialty contractor;
- Two fire marshals;
- Three building directors. One each from St. Petersburg, Clearwater and Pinellas County;
- One North county building director from one of the following municipalities: Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo,
- One South county building director from one of the following municipalities: South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park;
- One Beach Community building director from one of the following: the Town of Belleair Beach, the Town of Belleair Shores, the City of Redington Beach, the City of North Redington Beach, the City of Madeira Beach, the City of Indian Rocks Beach, the Town of Indian Shores, the Town of Redington Shores, the City of Treasure Island, and the City of St. Pete Beach, and
- One consumer member who is a resident and citizen of Pinellas County and who is not and never has been a member or practitioner of any of the trades or professions regulated by the board or a member or practitioner of any closely related trade or profession.

Members of the Board must be selected as follows:⁴

- Three building directors of the City of Clearwater, City of St. Petersburg and the County of Pinellas;
- One north county building director and one south county building director selected by the chairman of the board of county commissioners from the municipalities listed above;
- One Beach Community building director appointed from a list of three nominees submitted by The Barrier Island Governmental Council;
- A Florida Registered Architect appointed from a list of three recommended architects submitted by the American Institute of Architects Florida Central Chapter, St. Petersburg and Clearwater Sections;
- Two who are primarily engaged in business as general contractors from a list of five submitted by the Associated General Contractors of Mid-Florida, Inc.;

¹ Pinellas County Construction Licensing Board website, available at http://www.pccclb.com/about_us.htm (last access 1/7/2018).

² *Id.*

³ Ch. 75-489, s. 12(1), Laws of Fla.

⁴ Ch. 75-489, s. 12(3), Laws of Fla.

- Two who are primarily engaged in business as building contractors from a list of five submitted by the Contractors and Builders Association of Pinellas County;
- Two who are primarily engaged in the business as residential building contractors from a list of five submitted by the Contractors and Builders Association of Pinellas County;
- One who is an electrical contractor from a list of five supplied by the Electrical Council of Florida, Pinellas County Chapter;
- One who is a plumbing contractor from a list of five supplied by the Pinellas Association of Plumbing-Heating-Cooling Contractors, Inc.;
- Two who are fire marshals, who shall be active members of the Tampa Bay Area Fire Marshals Association, from a list of five supplied by said association, one of whom shall serve an initial term of three years, the other to serve an initial term of two years, with successors to serve for a term of two years thereafter;
- One who is a mechanical or Class A air conditioning contractor from a list of five, supplied by the Refrigeration and Air Conditioning Contractors' Association ("RACCA");
- One roofing or sheet metal contractor and one swimming pool, aluminum or veneer specialty contractor selected by the Chairman of the Board of County Commissioners;
- One consumer member to be appointed by the Chairman of the Board of County Commissioners.

The building director members from the City of Clearwater, from the City of St. Petersburg and Pinellas County, must be permanent members of the Board. All other members are appointed to two-year terms by the Chairman of the Pinellas County Board of Commissioners.

The following members must commence their terms in even-numbered years: the Florida registered architect, one general contractor, one building contractor, one residential building contractor, one electrical contractor, one fire marshal, the north county, south county, and Beach Community building directors.

The following members must commence their terms in odd-numbered years: one general contractor, one building contractor, one residential building contractor, one mechanical contractor, one plumbing contractor, one fire marshal, one roofing or sheet metal contractor, one swimming pool, aluminum or veneer specialty contractor, and one consumer member.

Pinellas County Audit and Grand Jury Report

In 2017, an audit was performed and a grand jury convened to investigate past management, operations and practices of the PCCLB after numerous complaints were made.

On September, 20, 2017, the Pinellas County Division of Inspector General released an audit of the PCCLB⁵ that outlined 93 problems at the agency including governance, finance, information technology, investigative process, licensing of contractors and journeymen, and administrative deficiencies. The audit concluded "that there is weak oversight, poor management, and inadequate controls over PCCLB processes. The current governance structure does not support the organization."

On the same day, a grand jury released a report⁶ and recommended the PCCLB remain an independent agency but with "significant changes." Some of those changes include:

- Reducing the board from 21 members to 15;
- Subjecting the Board to a county audit;
- Issuing an annual report on its operations and finances to the public; and

⁵ Pinellas County, Division of Inspector General, *Audit of the Pinellas County Construction Licensing Board*, September 20, 2017, available at http://www.pinellasclerk.org/aspInclude2/pdf/inspector_general/RPT2017-14.pdf (last accessed 1/8/2018).

⁶ Grand Jury Presentment to the Honorable Anthony Rondolino, Judge of the Sixth Judicial Circuit Court (Pinellas County, Sept. 20, 2017), available at https://www.pinellasclerk.org/aspInclude2/pdf/inspector_general/GrandJuryPresentmentPCCLB.pdf (last accessed 1/9/2018)

- Requiring Board members to file financial disclosures.

Effect of Proposed Changes

The bill reduces the number of Board members from 21 to 15 and makes the following changes for how a member must be selected:

- Eight members, each of whom practices or is primarily engaged in business but is not more than one of the following:
 - A licensed general contractor;
 - A Florida registered architect;
 - A licensed residential building contractor;
 - A licensed electrical contractor or a licensed plumbing contractor;
 - A mechanical contractor or a Class A air conditioning contractor;
 - A licensed roofing contractor;
 - A licensed sheet metal contractor; or
 - A licensed swimming pool, aluminum, or veneer specialty contractor
- The Pinellas County building official;
- Two consumer representatives not affiliated with the construction industry;
- A fire official;
- Three building officials, as follows:
 - A North county building official from one of the following municipalities: Clearwater, Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo;
 - A south county building official from one of the following municipalities: St. Petersburg, South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park; and
 - A Beach Community building official from one of the following municipalities: the Town of Belleair Beach, the Town of Belleair Shores, the City of Redington Beach, the City of North Redington Beach, the City of Madeira Beach, the City of Indian Rocks Beach, the Town of Indian Shores, the Town of Redington Shores, the City of Treasure Island, and the City of St. Pete Beach.

The bill revises which Board members' terms expire in even-numbered years and which expire in odd-numbered years.

Board members cannot serve more than two consecutive terms of four years, but may be reappointed after a two-year hiatus. The Board must elect a chair and vice chair to serve two-year terms in those positions. Any vacancies will be filled by the Pinellas County Board of Commissioners (PCBC). Board members can be terminated for cause by the PCBC; however the limitation does not apply to any of the governmental building official or fire marshal appointees.

The bill states that the Board is a dependent agency of the PCBC and the PCBC is authorized to adopt rules to implement this act, including, but not limited to rules relating to Board finances and contribution for costs associated with this act to be borne by the county, and to remove any Board member at will. The authority of the PCBC over selection of the members of the Board renders the Board a dependent district of the County.⁷ However, the bill does not reduce the Board's regulatory authority which apparently will continue to control over any conflicting municipal ordinances.⁸

⁷ Section 189.012(2), F.S.

⁸ The Pinellas County Charter was created by special act in 1980 and approved by county referendum. *See* ch. 80-590, Laws of Fla. Under the Charter, if a county ordinance conflicts with a municipal ordinance, the county ordinance prevails when it concerns a power of local government lawfully enacted by special law as of the time the Charter was adopted, but the County subsequently could not amend such special law to increase or expand its power, jurisdiction, or services over the municipalities. Art. II, s. 2.01, Pinellas County Charter. As the power of the Board constitutes a power of local government existing as of the date the Charter was adopted, the continuation of its authority in a dependent district of the County by special act of the Legislature would appear to meet the Charter requirements.

The bill provides that Board staff are employees of Pinellas County, which is responsible for all costs associated with the Board. The Board must submit a complete report on finances and administrative activities of the Board as of the end of each fiscal year to all local governments in Pinellas County and to the public. The Board will be subjected to periodic audits performed by a certified auditor chosen by the PCBC.

All Board members are required to file a financial disclosure statement⁹ and an annual disclosure of financial interests.¹⁰ The Board is eligible for state funding for three years after April 1, 2018, to support its operations and staff costs as it transitions to Pinellas County. Lastly, the bill provides for dissolution of the Board if qualified electors of Pinellas County vote in a referendum.

B. SECTION DIRECTORY:

Section 1 Amends ch. 75-489, Laws of Florida, relating to the Pinellas County Construction Licensing Board.

Section 2 Provides an effective date of April 1, 2018.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 1, 2017

WHERE? *Tampa Bay Times*

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 authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁹ See FLA. CONST. art. II, s. 8 or s. 112.3144, F.S.

¹⁰ See s. 112.3145, F.S.

561375

Tampa Bay Times
Published Daily

STATE OF FLORIDA) ss
COUNTY OF Pinellas County

Before the undersigned authority personally appeared **Deirdre Almeida** who on oath says that he/she is **Legal Clerk** of the **Tampa Bay Times** a daily newspaper printed in St. Petersburg, in Pinellas County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter **RE: Legislation** was published in **Tampa Bay Times**; 12/1/17. in said newspaper in the issues of **Baylink All Pinellas**

Affiant further says the said **Tampa Bay Times** is a newspaper published in Pinellas County, Florida and that the said newspaper has heretofore been continuously published in said Pinellas County, Florida, each day and has been entered as a second class mail matter at the post office in said Pinellas 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 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



Signature of Affiant

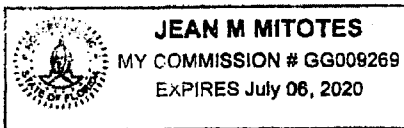
Sworn to and subscribed before me this 12/01/2017.



Signature of Notary Public

Personally known _____ or produced identification

Type of identification produced _____



Rep. Peters LB
HB 1137

NOTICE OF INTENT TO SEEK LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to seek legislation before the 2018 Legislature, or 2018 Legislative Sessions, or 2018 Legislature and any Special or Extended Sessions for passage of an act relating to Pinellas County, amending chapter 75-489, Laws of Florida, as amended; revising the composition of the Pinellas County Construction Licensing Board; revising the terms of the board members; providing for the election and terms of the chair and vice chair; providing that board staff are employees of Pinellas County; providing that the board is a dependent agency of the Board of County Commissioners of Pinellas County; authorizing the Board of County Commissioners to adopt rules; requiring the board to provide an annual report on finances and administrative activities; subjecting the board to periodic audits; requiring members of the board to file financial disclosure statements; specifying the board is eligible for state funding to support its operations during transition to the county; providing for dissolution upon approval at referendum; providing an effective date.

Published 12/01/2017

561375

RECEIVED
COUNTY CLERK
2017 DEC -6 AM 10:51
PINELLAS COUNTY FLORIDA

1 A bill to be entitled
 2 An act relating to the Pinellas County Construction
 3 Licensing Board; amending ch. 75-489, Laws of Florida,
 4 as amended; revising the composition of the Pinellas
 5 County Construction Licensing Board; revising the
 6 terms of the board members; providing for termination
 7 of members; providing for the election and terms of a
 8 chair and vice chair; providing that board staff are
 9 employees of Pinellas County; providing that the board
 10 is a dependent agency of the Board of County
 11 Commissioners of Pinellas County; authorizing the
 12 board of county commissioners to adopt rules;
 13 requiring the board to provide an annual report on
 14 finances and administrative activities; subjecting the
 15 board to periodic audits; requiring members of the
 16 board to file financial disclosure statements;
 17 specifying the board is eligible for state funding to
 18 support its operations during transition to the
 19 county; providing for dissolution of board upon
 20 approval at referendum; providing an effective date.

21
 22 Be It Enacted by the Legislature of the State of Florida:

23
 24 Section 1. Subsections (1) and (3) of section 12 of part

25 II of chapter 75-489, Laws of Florida, as amended by chapters
 26 89-504, 93-387, and 2003-319, Laws of Florida, are amended, and
 27 subsections (13) through (17) are added to that section, to
 28 read:

29 Section 12. Pinellas County Construction Licensing Board;
 30 organization; meetings, and powers.—

31 (1) The Pinellas County Construction Licensing Board is
 32 created, within the county of Pinellas, consisting of 15
 33 members, as follows:

34 (a) Eight members, each of whom practices as or, as
 35 appropriate, is primarily engaged in business as not more than
 36 one of the following: a licensed general contractor, a Florida
 37 registered architect, a licensed residential building
 38 contractor, a licensed electrical contractor or a licensed
 39 plumbing contractor, a mechanical contractor or a Class A air
 40 conditioning contractor, a licensed roofing contractor, a
 41 licensed sheet metal contractor, or a licensed swimming pool,
 42 aluminum, or veneer specialty contractor.

43 (b) The Pinellas County building official.

44 (c) Two consumer representatives not affiliated with the
 45 construction industry.

46 (d) A fire official.

47 (e) Three building officials, as follows:

48 1. A North county building official from one of the

49 following municipalities: Clearwater, Tarpon Springs, Dunedin,
 50 Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo;

51 2. A South county building official from one of the
 52 following municipalities: St. Petersburg, South Pasadena,
 53 Gulfport, Seminole, Kenneth City, or Pinellas Park; and

54 3. A Beach Community building official from one of the
 55 following municipalities: the Town of Belleair Beach, the Town
 56 of Belleair Shores, the City of Redington Beach, the City of
 57 North Redington Beach, the City of Madeira Beach, the City of
 58 Indian Rocks Beach, the Town of Indian Shores, the Town of
 59 Redington Shores, the City of Treasure Island, and the City of
 60 St. Pete Beach ~~twenty one (21) members, two (2) of whom are~~
 61 ~~primarily engaged in business as general contractors; two (2) of~~
 62 ~~whom are primarily engaged in business as building contractors,~~
 63 ~~two (2) of whom are primarily engaged in business as residential~~
 64 ~~contractors, one (1) who is a Florida registered architect doing~~
 65 ~~business in Pinellas County, one (1) who is an electrical~~
 66 ~~contractor, one (1) who is a plumbing contractor, one (1) who is~~
 67 ~~a mechanical contractor, one who is a roofing or sheet metal~~
 68 ~~contractor, one (1) who is a swimming pool, aluminum or veneer~~
 69 ~~specialty contractor, two (2) fire marshals, the three (3)~~
 70 ~~building directors of the following: City of St. Petersburg,~~
 71 ~~City of Clearwater and County of Pinellas, one (1) North county~~
 72 ~~building director from one of the following municipalities:~~

73 ~~Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair,~~
 74 ~~Belleair Bluffs, or Largo, one (1) South county building~~
 75 ~~director from one of the following municipalities: South~~
 76 ~~Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park,~~
 77 ~~one (1) Beach Community building director from one of the~~
 78 ~~following: the Town of Belleair Beach, the Town of Belleair~~
 79 ~~Shores, the City of Redington Beach, the City of North Redington~~
 80 ~~Beach, the City of Madeira Beach, the City of Indian Rocks~~
 81 ~~Beach, the Town of Indian Shores, the Town of Redington Shores,~~
 82 ~~the City of Treasure Island, and the City of St. Pete Beach, and~~
 83 ~~one (1) consumer member who is a resident and citizen of~~
 84 ~~Pinellas County and who is not and never has been a member or~~
 85 ~~practitioner of any of the trades or professions regulated by~~
 86 ~~the board or a member or practitioner of any closely related~~
 87 ~~trade or profession. All members of the board must shall be~~
 88 ~~residents of Pinellas County and are appointed by ~~the~~ Chairman~~
 89 ~~of the Board of County Commissioners.~~

90 (3)(a) A board member may not serve more than two
 91 consecutive terms of 4 years, but may be reappointed after a 2-
 92 year hiatus. Board members may be terminated for cause by the
 93 Board of County Commissioners. This limitation shall not apply
 94 to any of the governmental building official or fire marshal
 95 appointees. Members of the board shall be selected as follows:
 96 ~~The three (3) building directors of the City of Clearwater, City~~

97 | ~~of St. Petersburg and the County of Pinellas; one (1) North~~
 98 | ~~county building director and one (1) South county building~~
 99 | ~~director selected by the Chairman of the Board of County~~
 100 | ~~Commissioners from the municipalities listed in subsection (1);~~
 101 | ~~one (1) Beach Community building director appointed from a list~~
 102 | ~~of three (3) nominees submitted by The Barrier Island~~
 103 | ~~Governmental Council; a Florida Registered Architect appointed~~
 104 | ~~from a list of three recommended architects submitted by the~~
 105 | ~~American Institute of Architects Florida Central Chapter, St.~~
 106 | ~~Petersburg and Clearwater Sections; two (2) of whom are~~
 107 | ~~primarily engaged in business as general contractors from a list~~
 108 | ~~of five (5) submitted by The Associated General Contractors of~~
 109 | ~~Mid-Florida, Inc.; two (2) of whom are primarily engaged in~~
 110 | ~~business as Building Contractors from a list of five (5)~~
 111 | ~~submitted by the Contractors and Builders Association of~~
 112 | ~~Pinellas County; two (2) of whom are primarily engaged in the~~
 113 | ~~business as residential building contractors from a list of five~~
 114 | ~~(5) submitted by the Contractors and Builders Association of~~
 115 | ~~Pinellas County; one (1) who is an electrical contractor from a~~
 116 | ~~list of five (5) supplied by the Electrical Council of Florida,~~
 117 | ~~Pinellas County Chapter; one (1) who is a Plumbing contractor~~
 118 | ~~from a list of five (5) supplied by the Pinellas Association of~~
 119 | ~~Plumbing Heating Cooling Contractors, Inc.; two (2) of whom are~~
 120 | ~~fire marshals, who shall be active members of the Tampa Bay Area~~

121 ~~Fire Marshals Association, from a list of five (5) supplied by~~
 122 ~~said association, one (1) of whom shall serve an initial term of~~
 123 ~~three (3) years, the other to serve an initial term of two (2)~~
 124 ~~years, with successors to serve for a term of two (2) years~~
 125 ~~thereafter; one (1) who is a mechanical or Class A air~~
 126 ~~conditioning contractor from a list of five (5), supplied by the~~
 127 ~~Refrigeration and Air Conditioning Contractors' Association~~
 128 ~~("RACCA"); one (1) roofing or sheet metal contractor and one (1)~~
 129 ~~swimming pool, aluminum or veneer specialty contractor selected~~
 130 ~~by the Chairman of the Board of County Commissioners; one~~
 131 ~~consumer member to be appointed by the Chairman of the Board of~~
 132 ~~County Commissioners in accordance with paragraph 2(a). The~~
 133 ~~building director members from the City of Clearwater, from the~~
 134 ~~City of St. Petersburg and Pinellas County, shall be permanent~~
 135 ~~members of the board. All other members shall serve terms of two~~
 136 ~~(2) years.~~

137 (b) The terms of the following members expire shall
 138 ~~commence their terms~~ in even-numbered years: the licensed
 139 general contractor, the Florida registered architect, the
 140 licensed residential ~~one (1) general contractor, one (1)~~
 141 building contractor, the licensed ~~or, one (1) residential~~
 142 ~~building contractor, one (1) electrical or licensed plumbing~~
 143 contractor, a consumer representative, and one (1) fire marshal,
 144 ~~the North county, South county, and Beach Community building~~

145 officials ~~directors~~. The terms of the following members expire
 146 ~~shall commence their terms~~ in odd-numbered years: the one (1)
 147 ~~general contractor, one (1) building contractor, one (1)~~
 148 ~~residential building contractor, one (1) mechanical contractor~~
 149 ~~or Class A air conditioning contractor; the, one (1) plumbing~~
 150 ~~contractor, one (1) fire~~ official; the licensed marshal, one (1)
 151 ~~roofing or sheet metal contractor; the, one (1) swimming pool,~~
 152 ~~aluminum, or veneer specialty contractor; the sheet metal~~
 153 ~~contractor, a, and one (1) consumer~~ representative; and the
 154 South county building official member.

155 (c) As the terms of members expire, the ~~Chairman of the~~
 156 Board of County Commissioners of Pinellas County shall appoint a
 157 member to fill the vacancy for a term of 4 ~~two (2)~~ years in the
 158 ~~same manner as that membership was originally filled. The~~
 159 ~~architect, contractor, electrical, plumbing and mechanical~~
 160 ~~members shall be selected from the county at large. The board~~
 161 shall elect from one of its members a chair ~~to serve as chairman~~
 162 and a vice chair ~~one of its members to serve as vice chairman,~~
 163 for terms of up to 2 years ~~a term to be set by the board. All~~
 164 terms of office expire on September 30 of the last year of the
 165 term. Vacancies in the membership occurring prior to the end of
 166 a member's term for any cause shall be filled by the Pinellas
 167 County Board of County Commissioners ~~appointment in the same~~
 168 ~~manner as that membership was originally filled.~~

169 (13) Board staff are employees of Pinellas County, and
 170 Pinellas County is responsible for all costs associated
 171 therewith. The board is a dependent agency of the Board of
 172 County Commissioners. The Board of County Commissioners may
 173 adopt rules to implement this act, including, but not limited
 174 to, rules relating to board finances and contribution for costs
 175 associated with this act to be borne by the county, and may
 176 remove any member of the board at will.

177 (14) (a) The board shall submit to all local governments in
 178 Pinellas County, and make available to the public, a complete
 179 report on finances and administrative activities of the board as
 180 of the end of each fiscal year.

181 (b) The board is subject to periodic audits performed by a
 182 certified auditor chosen by the Board of County Commissioners.

183 (15) Each member of the board who is not otherwise
 184 required to file a financial disclosure statement pursuant to s.
 185 8, Art. II of the State Constitution or s. 112.3144, Florida
 186 Statutes, must file an annual disclosure of financial interests
 187 pursuant to s. 112.3145, Florida Statutes.

188 (16) The board is eligible for state funding for 3 years
 189 after April 1, 2018, to support its operations and staff costs
 190 as it transitions to Pinellas County.

191 (17) Notwithstanding any law to the contrary, if the
 192 qualified electors of Pinellas County voting in a referendum

HB 1137



2018

193 approve the transfer of all authority of the board to the Board
194 of County Commissioners, the board shall stand dissolved as of
195 the effective date of the referendum.

196 Section 2. This act shall take effect April 1, 2018.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1139 City Pension Fund for Firefighters and Police Officers in the City of Tampa, Hillsborough County
SPONSOR(S): Cruz
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 Firefighters and Police Pension Fund (Fund) for the City of Tampa was created by special act in 1933. In 2015, the Legislature required certain local pension plan sponsors to create a defined contribution component within their plans to fund special benefits.

The bill authorizes the City of Tampa to enter into a supplemental contract with every firefighter or police officer who is an active member of the Fund for the City of Tampa on or after the date this act becomes a law or who enters into a pension contract with the city. The bill provides for an increased benefit for the widows of firefighters and officers who die in the line of duty. The bill also adjusts benefits for the children of firefighters and officers who died in the duty to reflect this increase. The changes to the pension contract in this act must be made available in a supplemental pension contract to every active firefighter and police officer. In addition, any person who becomes a member of the Fund on or after the date the bill becomes law must, as a condition of the membership into the Fund, to sign a pension contract which includes the provisions of this act. The bill also states that provisions of the bill are severable.

The bill provides the act is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Protection of Public Employee Retirement Benefits Act

Part VII of chapter 112, F.S., the Florida Protection of Public Employee Retirement Benefits Act (act), was adopted by the Legislature to implement the provisions of s. 14, Art. X of the Florida Constitution. The act establishes minimum standards for operating and funding public employee retirement systems and plans. It applies to all units of state, county, special district, and municipal governments participating in, operating, or administering a retirement system for public employees, which is funded in whole or in part by public funds.¹ Responsibility for administration of the act is assigned primarily to the Division of Retirement (division), Department of Management Services.

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.² 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.³ This statement must also be furnished to the division before the local government can agree to the change.⁴ The statement must indicate whether the proposed change complies with s. 14, Art. X of the Florida Constitution and with s. 112.64, F.S. (concerning the administration of pension funds and the amortization of any unfunded actuarial liability).⁵

Municipal Firefighter and Police Pensions

Chapters 175 and 185, F.S., provide the statutory authority for municipal and special fire control district firefighter pensions and municipal police pensions. These laws were enacted to provide a "uniform retirement system" providing defined benefit plans for firefighters and police officers, and setting standards for operation and funding of these systems. Retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the retirement trust funds.

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive (access to premium tax revenues) to encourage the establishment of firefighter retirement plans by Florida cities.⁶ Fourteen years later, in 1953, the Legislature enacted ch. 185, F.S., which created a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.⁷

Funding for these pension plans comes from four sources:⁸

¹ Section 112.62, F.S.

² Art. X, s. 14, Fla. Const.

³ Section 112.63(3), F.S.

⁴ *Id.*

⁵ *Id.*

⁶ See Department of Management Services, *Overview, Legislative History of Chapter 175/185 Program*, available at http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview (last visited Jan. 8, 2018).

⁷ *Id.*

⁸ Sections 175.091(1)(a)-(g) and 185.07(1)(a)-(g), F.S.

- Net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”);
- Employee contributions;
- Other revenue sources; and
- Mandatory payments by the city of any extra amount needed to keep the plan solvent.

In 2015, the Legislature, among other matters, required plan sponsors to create a defined contribution component within their plans to fund special benefits:⁹

- By October 1, 2015, for non-collectively bargained service;
- Upon entering into a collective bargaining agreement on or after July 1, 2015; or
- Upon the creation date of a new participating plan.

City of Tampa Firefighters and Police Pension Fund

The Firefighters and Police Pension Fund (Fund) for the City of Tampa originally was created through a special act in 1933¹⁰ and amended through subsequent acts, most recently in 2017.¹¹ The provisions of these laws are incorporated into a pension contract and appropriate supplemental pension contracts, which are signed by each individual plan member.

The special act provides for pension plan administration, funding, membership and benefits. The general administration and responsibility for the proper operation of the pension system is vested in a board of trustees consisting of nine persons: three members of the city administration appointed by the mayor, three members of the fire department elected by active and retired firefighters, and three members of the police department elected by active and retired police officers.¹²

As of September 30, 2017, the Fund had 1,388 active members, 1,908 retired members, and 186 members in the Deferred Retirement Option Plan (DROP).¹³ As of October 1, 2016, the Fund had \$1,103,569,405 in total assets and \$17,056,352 in unfunded actuarial accrued liability.¹⁴ Normal retirement age is 46 years of age for those with at least ten years of service and any age for those with at least twenty years of service.¹⁵

The Fund currently assumes 8.5 percent annual growth of its assets.¹⁶ During the 2015-16 fiscal year, the Fund saw 13.08 percent growth in the actuarial value of its assets and 22.02 percent growth in the market value of its assets.

Survivor Pensions

The widow and/or any children of a Fund member who dies in the line of duty may receive a pension if certain qualifications are met.¹⁷

A widow may receive monthly payments equal to 65 percent of the Fund member’s final yearly earnings, from the date of the member’s death. If the Fund member died in the line of duty before October 1, 1969, the widow receives a minimum benefit of \$1,500 per month. If the Fund member was

⁹ Ch. 2015-39, Laws of Fla., amending ss. 175.351(6) and 185.35(6), F.S.

¹⁰ Ch. 16721, Laws of Fla. (1933).

¹¹ Chapter 2017-197, Laws of Fla.

¹² Ch. 2011-240, Laws of Fla.

¹³ Department of Management Services, *Florida Local Government Retirement Systems 2017 Annual Report*, p. 15 of Appendix F, available at

http://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/local_retirement_section/local_government_annual_reports (last accessed Jan. 8, 2018) (herein DMS Local Government Reports).

¹⁴ DMS Local Government Reports, p. 18 of Appendix A.

¹⁵ DMS Local Government Reports, p. 64 of Appendix B.

¹⁶ DMS Local Government Reports, p. 20 of Appendix E.

¹⁷ Ch. 16721, Laws of Fla. (1933), s. 8, as amended.

also a member of the General Employees Pension Plan, the widow's benefit is reduced upon reaching Social Security normal retirement age by the amount of the actual Social Security benefit earned by the Fund member during his employment as a firefighter or police officer for the City of Tampa, to the extent the Social Security benefit may be creditable service to the Fund.

The child of a Fund member may receive, for the duration of childhood, monthly payments equal to 15 percent of the Fund member's final yearly earnings. The child's benefit is subject to annual limitation on survivor payments to the Fund member's widow and child(ren) of 95 percent of the member's final yearly earnings. A child of a Fund member is not considered a child at the earliest of the date of the child's death, date of marriage, reaching age 18, or reaching age 23 (if a full-time student). The Fund is authorized to make payments to adopted children; however, stepchildren are expressly excluded.

If the widow of a Fund member dies while a child is collecting benefits, the child's allowance increases to 30 percent of the Fund member's final year's earnings for each child, but may not exceed 60 percent of the Fund member's final yearly earnings.

If a Fund member has no widow or children, the Fund member's designated beneficiary may receive payments for ten years equal to the amount the Fund member would otherwise be entitled to at normal retirement age.

Effect of Proposed Changes

Pursuant to the requirements of chapters 175 and 185, F.S., the bill authorizes the City of Tampa to enter into a supplemental contract with every firefighter or police officer who is an active member of the Fund on or after the date the bill becomes law or who enters into a pension contract with the City of Tampa.

The bill increases the monthly payment amount a surviving widow may receive upon a Fund member's death from 65 percent of the Fund member's final yearly earnings to 100 percent. The bill provides that this amount is reduced by any benefits received by a Fund member's child(ren), such that the total annual benefits paid by the Fund do not exceed 100 percent of the member's final yearly earnings. The bill limits the total payments to children at 30 percent of the members' final yearly earnings and provides that the Fund may adjust the percent paid to children if the member has more than two children.

The changes to the pension contract must be made available in a supplemental pension contract and an individual is not authorized to select some of said changes and reject other changes. Additionally, any actively employed firefighter or police officer who is entitled to benefits under the Fund will have the opportunity to sign a supplemental pension contract before October 1, 2017. However, any person who becomes a member of the Fund on or after the date the bill becomes law must, as a condition of membership into the Fund, sign a pension contract which includes the provisions of this act, and must make contributions if required as a result of the benefits. Furthermore, the bill approves, ratifies, validates, and confirms the Fund.

Lastly, if the provisions of the act or its application are invalid, the invalidity will not affect other provisions or applications of the act which can be given effect without the invalid provision or application. Provisions of the act are severable.

B. SECTION DIRECTORY:

Section 1: Authorizes the City of Tampa to enter into a supplemental contract with certain firefighters and police officers.

Section 2: Amends ch. 16721, Laws of Fla. (1933), as amended, to revise the formula for survivor benefits for Fund members who die in the line of duty.

- Section 3: Provides contract requirements.
- Section 4: Confirms the City of Tampa Firefighters and Police Officers Pension Contract.
- Section 5: Provides for severability.
- Section 6: Provides that the bill shall be effective upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 10, 2017

WHERE? The *Tampa Bay Times*, a daily newspaper of general circulation in Hillsborough 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 require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Tampa Bay Times
Published Daily

STATE OF FLORIDA } ss
COUNTY OF Hillsborough County

Before the undersigned authority personally appeared **Amy Robison** who on oath says that he/she is **Legal Clerk** of the **Tampa Bay Times** a daily newspaper printed in St. Petersburg, in Pinellas County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter **RE: TAMPA LEGISLATION** was published in **Tampa Bay Times: 11/10/17**, in said newspaper in the issues of **Baylink Hillsborough**

Affiant further says the said **Tampa Bay Times** is a newspaper published in Hillsborough County, Florida and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each day and has been entered as a second class mail matter at the post office in said Hillsborough 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 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

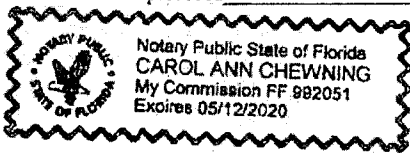
Amy Robison
Signature of Affiant

Sworn to and subscribed before me this 11/10/2017.

Signature of Notary Public

Personally known _____ or produced identification

Type of identification produced _____



Rep. Cruz LB
HB 1139

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2018 Florida Legislature, in the 2018 regular or any special or extended legislative sessions, for passage of an act relating to the City Pension Fund for Firefighters and Police Officers in the City of Tampa, Hillsborough County; authorizing the City of Tampa to enter into a supplemental contract with certain firefighters and police officers to increase the amount of pension received by a widow or widower should a member lose his or her life or later die from injuries or causes occurring while in the discharge of duties; confirming in part the City of Tampa Firefighters and Police Officers Pension Contract; providing for severability; providing an effective date.

DATED at Tampa, Florida, this 10th day of November, 2017.

Representative Janet Cruz
Hillsborough County
Legislative Delegation
2221 N. Himes Avenue, Suite B
Tampa, FL 33607
(554688) 11/10/2017

**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 #: 1139
SPONSOR(S): Cruz and Harrison
RELATING TO: City of Tampa Firefighters and Police Officers 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 18-19</u>	<u>FY 19-20</u>
	\$ <u>112,653</u>	\$ <u>112,653</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

The estimated required contribution increases by \$112,653 or 0.10% of payroll, which results in an increase in member contributions of 0.04% of payroll and City contributions of 0.06% of payroll. Please note that the minimum required contribution is equal to the normal cost as required under Florida Statute 112.066(13).

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>112,653</u>	\$ <u>112,653</u>
State:	\$ _____	\$ _____
Federal:	\$ _____	\$ _____

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: In-line-of-duty death surviving spouses would receive a greater death benefit than is currently received.
2. Advantages to Businesses: N/A
3. Advantages to Government: The local government would become a more attractive potential employer in a competitive employment market.

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:

N/A

3. Disadvantages to Government:

None

V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:

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 Actuarial Impact Statement provided by Conduent and certified by Joseph L. Griffin, ASA, EA, MAAA, FCA.

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:

Lee Huffstutler

October 19, 2017

Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Chief Accountant

REPRESENTING:

City of Tampa

PHONE:

813-274-7171

E-MAIL ADDRESS:

lee.huffstutler@tampagov.net

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A bill to be entitled
 An act relating to the City Pension Fund for
 Firefighters and Police Officers in the City of Tampa,
 Hillsborough County; authorizing the City of Tampa to
 enter into a supplemental contract with certain
 firefighters and police officers to increase the
 amount of pension received by a widow or widower
 should a member lose his or her life or later die from
 injuries or causes occurring while in the discharge of
 duties; confirming in part the City of Tampa
 Firefighters and Police Officers Pension Contract;
 providing for severability; providing an effective
 date.

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

Section 1. The City of Tampa is authorized and empowered
 to enter into a supplemental contract with each and every
 firefighter or police officer who is an active member of the
 City Pension Fund for Firefighters and Police Officers in the
 City of Tampa on or after the date this act becomes a law or who
 hereafter enters into a pension contract with the city.

Section 2. Section 8 of the City of Tampa Firefighters and
 Police Officers Pension Contract as prescribed by Section 28-17
 of the City of Tampa Code [Ordinance No. 4746-A, enacted

26 September 30, 1969], as amended by Section 28-19 of the City of
 27 Tampa Code [Ordinance No. 6038-A, enacted September 17, 1974],
 28 pursuant to chapter 74-613, Laws of Florida, as further amended
 29 by Ordinance No. 89-314, enacted December 21, 1989, and
 30 approved, ratified, validated, and confirmed by chapter 90-391,
 31 Laws of Florida, and as further amended by chapter 92-231, Laws
 32 of Florida, chapter 94-463, Laws of Florida, chapter 98-515,
 33 Laws of Florida, chapter 2000-485, Laws of Florida, Ordinance
 34 No. 2001-133, enacted July 3, 2001, chapter 2001-288, Laws of
 35 Florida, chapter 2002-369, Laws of Florida, Ordinance No. 2003-
 36 22, enacted January 23, 2003, chapter 2004-427, Laws of Florida,
 37 chapter 2007-304, Laws of Florida, chapter 2011-240, Laws of
 38 Florida, chapter 2012-235, Laws of Florida, and chapter 2017-
 39 197, Laws of Florida, is amended to read:

40 Section 8. If any member of either department shall lose
 41 his life or later die from injuries or causes occurring while in
 42 the discharge of his duties, and shall leave a widow or widower,
 43 or child or children under the age of eighteen (18) years, or
 44 age twenty-three (23) if a full-time student, the Board shall
 45 authorize and direct payment of a pension to the widow or
 46 widower and/or child or children, but only in the following
 47 amounts and on the following conditions:

48 (A) To the widow or widower in equal monthly installments
 49 an amount equal to one hundred per centum (100%) ~~sixty-five per~~
 50 ~~centum (65%)~~ of the member's final year's earnings, computed

51 from date of death, until death, less any benefits provided
 52 under paragraph (B) of this section, so that total benefits paid
 53 do not exceed one hundred per centum (100%) of the member's
 54 final year's earnings. For the widow or widower of a firefighter
 55 or police officer killed in the line of duty prior to October 1,
 56 1969, the minimum benefit under this section shall be \$1,500 per
 57 month (Base plus PRAA). For the widow or widower of any member
 58 of this Pension Fund who prior to October 16, 1992, was a member
 59 of Division B of the General Employees Pension Plan as
 60 established by Chapter 81-497, Laws of Florida, as amended, upon
 61 the reaching social security normal retirement age, except as
 62 provided in Section 28(C) of this Contract, the benefit paid to
 63 the widow or widower shall be reduced by an amount equal to the
 64 actual social security benefit earned by the member for
 65 employment as a firefighter or police officer for the City to
 66 the extent that such employment is considered to be creditable
 67 service under this Fund; provided, however, that if the widow or
 68 widower does not receive the member's accrued social security
 69 benefit, there shall be no reduction in benefits paid to such
 70 widow or widower. The effect of such reduction shall be that the
 71 sum of the benefit paid herein and said social security benefit
 72 shall be equal to the amount of the benefit otherwise payable
 73 herein. The widow or widower of each such member shall, upon
 74 demand by the Board, authorize the Social Security
 75 Administration to release any information necessary to calculate

76 such reduction. The Board shall not make any payment for the
77 benefit payable herein for any period during which such widow or
78 widower willfully fails or refuses to authorize the release of
79 such information in the manner and within the time prescribed by
80 rules adopted by the Board.

81 (B) For each child until he or she shall have reached the
82 age of eighteen (18) years, or until such child or children
83 shall die or marry before reaching the age of eighteen (18)
84 years, or age twenty-three (23) if a full-time student, in equal
85 monthly installments an amount equal to fifteen per centum (15%)
86 of the final year's earnings, computed from date of death,
87 subject to a limitation of a total of one hundred per centum
88 (100%) ~~ninety-five per centum (95%)~~ of final yearly earnings for
89 widow or widower and children combined. Equal monthly
90 installments paid to the child or children in the aggregate
91 shall not exceed thirty percent per centum (30%) of the member's
92 final year's earnings, and the fifteen per centum (15%) per
93 child shall be adjusted in the event of more than two (2)
94 children. Monthly installment amounts paid to the child or
95 children shall reduce the widow or widower monthly installments
96 by the same amount paid to the child or children so that the
97 total combined annual benefits of the widow or widower and the
98 child or children do not exceed one hundred per centum (100%) of
99 the member's final year's earnings. Children's pensions shall
100 terminate at the earliest of death, ~~or marriage, as well as~~

101 reaching age eighteen (18), or reaching age twenty-three (23) if
 102 a full-time student. Adopted children shall participate. Pension
 103 payments no longer paid to the child or children shall continue
 104 to be paid to the widow or widower.

105 (C) Upon death of the widow or widower, the fifteen per
 106 centum (15%) child allowance shall be increased to thirty per
 107 centum (30%) for each child, and shall be paid in trust to
 108 eligible children, not to exceed a total of sixty per centum
 109 (60%) of member's final earnings.

110 (D) The trusteeship and disbursement of the pension to any
 111 child or children is to be determined by the Board of Trustees.

112 (E) No pension shall be allowed to any stepchild or
 113 stepchildren of a deceased member.

114 (F) In the absence of an eligible surviving spouse or
 115 minor children, to the extent required by the Florida Statutes,
 116 in the event of the death of a member prior to retirement, the
 117 member's designated beneficiary shall be entitled to the
 118 benefits otherwise payable to the member at normal retirement
 119 age for ten (10) years certain.

120 (G) In the case of a surviving widow or widower and a
 121 surviving child as defined in this act, who is in pay status on
 122 October 1, 2018 ~~2012~~, the benefit received shall be increased on
 123 the first payment date after October 1, 2018 ~~2012~~.

124 Section 3. The changes to the pension contract in this act
 125 for firefighters and police officers who are active members of

126 the City Pension Fund for Firefighters and Police Officers in
 127 the City of Tampa on or after the date this act becomes a law
 128 shall be made available in a supplemental pension contract, and
 129 an individual shall not be permitted to select some of said
 130 changes and reject other of said changes. Any firefighter or
 131 police officer who is entitled to benefits under the City
 132 Pension Fund for Firefighters and Police Officers in the City of
 133 Tampa who is actively employed as a firefighter or police
 134 officer in the City of Tampa on or after the date this act
 135 becomes a law shall have the opportunity to sign such
 136 supplemental pension contract before October 1, 2018. However,
 137 any person who becomes a member of the City Pension Fund for
 138 Firefighters and Police Officers in the City of Tampa on or
 139 after the date this act becomes a law shall be required, as a
 140 condition of membership into such pension fund, to sign a
 141 pension contract which includes the provisions of this act, and
 142 shall be required to make contributions if required as a result
 143 of such benefits.

144 Section 4. The City of Tampa Firefighters and Police
 145 Officers Pension Contract as prescribed by Section 28-17 of the
 146 Tampa City Code [Ordinance No. 4746-A, enacted September 30,
 147 1969], as amended by Section 28-19 of the City of Tampa Code
 148 [Ordinance No. 6038-A, enacted September 17, 1974], pursuant to
 149 chapter 74-613, Laws of Florida, as further amended by Ordinance
 150 No. 89-314, enacted December 21, 1989, and approved, ratified,

151 validated, and confirmed by chapter 90-391, Laws of Florida, and
 152 further amended by chapter 92-231, Laws of Florida, chapter 94-
 153 463, Laws of Florida, chapter 98-515, Laws of Florida, chapter
 154 2000-485, Laws of Florida, Ordinance No. 2001-133, enacted July
 155 3, 2001, chapter 2001-288, Laws of Florida, chapter 2002-369,
 156 Laws of Florida, Ordinance No. 2003-22, enacted January 23,
 157 2003, chapter 2004-427, Laws of Florida, chapter 2007-304, Laws
 158 of Florida, chapter 2011-240, Laws of Florida, chapter 2012-235,
 159 Laws of Florida, and chapter 2017-197, Laws of Florida, is in
 160 all other respects approved, ratified, validated, and confirmed.

161 Section 5. If any provision of this act or its application
 162 to any person or circumstance is held to be invalid, the
 163 invalidity shall not affect other provisions or applications of
 164 this act which can be given effect without the invalid provision
 165 or application, and to this end the provisions of this act are
 166 severable.

167 Section 6. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1141 Firefighters' Relief and Pension Fund of the City of Pensacola, Escambia County
SPONSOR(S): White
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Rivera <i>JHR</i>	Miller <i>E.H.M.</i>
2) Oversight, Transparency & Administration Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

The Florida Retirement System (FRS) provides a retirement, disability, and survivor benefit program for participating state and local government employees. FRS provides a defined benefit program and a defined contribution program. Participation in FRS is compulsory for state and county public officers and employees. A municipality, metropolitan planning optional participation organization, or special district may elect to participate in FRS.

Because firefighters and police officers carry out duties vital to public safety and welfare, the Legislature declared it a proper and legitimate state purpose to provide a uniform retirement system for their benefit. The Marvin B. Clayton Firefighters Pension Trust Fund Act creates a trust fund for eligible municipalities and special districts, not under FRS, that conform their retirement plans to meet the minimum requirements and standards. The trust fund is funded through an excise tax imposed on property insurance policies within the participating sponsor's limits. In 2015, the Clayton Act was amended requiring participating sponsors to establish an additional defined contribution plan to their retirement plans.

Pensacola firefighters do not participate in FRS and the Firefighters' Relief and Pension Fund of the City of Pensacola is a local law pension plan established by the Legislature in 1941 to comply with the Clayton Act. The plan offers a defined benefits plan but does not offer a defined contribution plan.

The bill creates and adds a defined contribution plan to comply with the Clayton Act and receive the premium tax revenue allocated to fund the new plan. The bill does not fund the plan if the city and collective bargaining units mutually consent to use the funds for another purpose. The bill affirms that the new plan will be a benefit in addition to, and not affecting, existing and future benefits offered. The bill affirms that the new plan is intended to comply with the requirements of 26 U.S.C. s. 401(a) and related regulations despite any conflicting language in the bill.

The bill does not require the city to make contributions to the new plan, either by tax levy or other source. The bill provides that the extra benefits provided to participants of the new plan are funded through individual accounts with participant-directed investments pursuant to 26 U.S.C. s. 401(a) and related regulations.

The bill provides the act will take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Retirement System Act

The Florida Retirement System (FRS) provides a retirement, disability, and survivor benefit program for participating state and local government employees.¹ FRS provides a defined benefit program (pension plan) and a defined contribution program (investment plan).² A defined benefit program promises a continuing benefit at retirement to eligible members based on certain factors such as salary and length of service.³ A defined contribution program provides for contributions from the employee, employer, or both to generate funds for distribution to members at retirement based on the contributions made and investment profits.⁴

Participation in FRS generally is compulsory for public officers and employees who are not employed by a municipality, metropolitan planning optional participation organization, or special district.⁵ A municipality, metropolitan planning optional participation organization, or special district may elect to participate in FRS.⁶

Florida Protection of Public Employee Retirement Benefits Act

Florida constitutionally mandates all units of state, county, special district, and municipal governments participating in, operating, or administering a retirement system for public employees, funded in whole or in part by public funds, to provide a retirement or pension benefit increase only if that benefit also provides a funding scheme based on an actuarially sound basis.⁷ The Florida Protection of Public Employee Retirement Benefits Act (Benefits Act), Part VII of ch. 112, F.S., implements this mandate and sets minimum standards for operating and funding public employee retirement systems.⁸

The Department of Management Services (DMS) reviews local government retirement systems for compliance the Benefits Act, cooperates with local governments on matters of mutual concern, and

¹ Department of Management Services (DMS), *Glossary*, at 4, available at <https://www.rol.frs.state.fl.us/forms/glossary.pdf> (accessed January 9, 2018). FRS was established in 1970 to consolidate existing state pension plans and create a single retirement system for state and local government employees.

² See State Board of Administration of Florida (SBA), *The Florida Retirement System Pension Plan*, https://www.myfrs.com/FRSPro_Pension.htm and SBA, *The Florida Retirement System Investment Plan*, https://www.myfrs.com/FRSPro_InvestPlan.htm. (accessed January 9, 2018)

³ DMS, *Glossary*, at 3, available at <https://www.rol.frs.state.fl.us/forms/glossary.pdf> (accessed January 9, 2018).

⁴ Id.

⁵ See ss. 121.011(3)(b) and 121.051(1)(a), F.S. Establishing compulsory participation except for elected officers who meet the requirements of s. 121.052(3), F.S. and providing that FRS will not impair or reduce retirement systems established by local or special act or municipal ordinance. See also s. 121.021(11), F.S. Defining officers and employees as persons receiving salary payments for work performed in a regularly established position and, if employed by a municipality, a metropolitan planning organization, or a special district, employed in a covered group; and excluding state or public employees covered by leasing agreements or co-employer relationships.

⁶ Section 121.051(2)(b)1, F.S. Before participation in FRS can begin, the local government is required to hold a referendum in which affected employees are permitted to opt out and continue under the existing local retirement system. After the referendum, all future employees would be compulsory members of FRS. Section 121.051(2)(b)2, F.S.

⁷ See Art. X, s. 14, Fla. Const. and s. 112.62, F.S.

⁸ Section 112.61, F.S. See also s. 112.62, F.S. and art. X, s. 14, Fla. Const. Provisions are supplemental to existing laws and local ordinances relating to covered retirement plans but prevail where there is a conflict of law.

provides technical assistance on the assessment and revision of their retirement systems and plans.⁹ The Office of Program Policy Analysis and Government Accountability (OPPAGA) determines FRS's compliance with the act, but must base its determination on the same practices, procedures, and actuarial standards employed by DMS.¹⁰

Before a unit of local government can agree to a proposed change in retirement benefits, a statement of actuarial impact of the proposed change must be issued and provided to the Division of Retirement (Division) of the Department of Management Services (DMS).¹¹ The statement must be issued before the adoption of the change by the governing body of the local government and before the last public hearing about the proposed change, and must indicate the proposed change complies with the constitutional mandate and the Benefits Act.¹²

Marvin B. Clayton Firefighters Pension Trust Fund Act

DMS currently monitors 200 municipality retirement plans and 47 special district retirement plans for local governments not participating FRS for those employees.¹³ Because firefighters and police officers carry out duties vital to public safety and welfare, the Legislature declared it a proper and legitimate state purpose to provide a uniform retirement system for their benefit.¹⁴

The Marvin B. Clayton Firefighters Pension Trust Fund Act (Clayton Act) establishes a Firefighters' Pension Trust Fund (Trust Fund) for eligible municipalities and special districts (participating sponsors) that conform their retirement plans to the minimum requirements and standards set out in ch. 175, F.S.¹⁵ The Division is responsible for overseeing and monitoring participating plans for actuarial soundness, receiving and holding the premium tax moneys collected, determining statutory compliance, and disbursing those moneys to participating plans.¹⁶ Participating sponsors receive annual distributions once the Division determines the plan is in compliance with all applicable statutory requirements.¹⁷

In 2015, the statute was amended and now requires participating sponsors to establish a defined contribution plan (new plan) in addition to a defined benefits plan.¹⁸ Participating sponsors are not required to fund the new plan.¹⁹ Participating sponsors must use 50% of any premium tax revenues received in excess of the amount received for the 2012 calendar year to fund the new plan unless the participating sponsor and the majority of the firefighter members, or their collective bargaining representative, mutually consent to use the revenue differently.²⁰ The new plan must be established by October 15, 2015 for participating plans covering non-represented firefighters, upon entering into a

⁹ Section 112.665(1), F.S.

¹⁰ Section 112.658(1) and (3), F.S.

¹¹ Sections 112.63(3) and 121.021(4) and (7), F.S.

¹² Section 112.63(3), F.S.

¹³ DMS, *2017 Local Government Annual Report*, Introduction, p. 8, available at <https://www.rol.frs.state.fl.us/forms/Introduction.pdf> (accessed on January 9, 2018) (hereinafter DMS Local Government Reports).

¹⁴ See ss. 175.021 and 185.01, F.S.

¹⁵ See s. 175.091, F.S. and DMS, *Municipal Police and Fire Plans Overview*, https://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview#intro_ (accessed January 10, 2018). The Trust Fund is financed by an excise tax imposed on the property insurance policies within the participating sponsor's limits or boundaries. The amount of premium taxes collected currently is equal to 1.85 percent.

¹⁶ Section 175.341, F.S. *But see* s. 175.071(5), F.S. (Vesting authority to handle daily operation with the Trust Fund's board of trustees, but the board is unable to amend provisions of a retirement plan without the participating sponsor's approval.)

¹⁷ See s. 175.341, F.S. and DMS, *Municipal Police and Fire Plans Overview*, https://www.dms.myflorida.com/workforce_operations/retirement/local_retirement_plans/municipal_police_and_fire_plans/overview#intro. (accessed January 10, 2018).

¹⁸ See Ch. 2015-39, Laws of Fla. and s. 175.351(6), F.S.

¹⁹ *Id.*

²⁰ See ss. 175.351(1)(b) and (1)(g), F.S.

collective bargaining agreement on or after July 1, 2015 for represented firefighters, or upon the creation date of a new participating plan.²¹

Pensacola Firefighters' Relief and Pension Fund

The City of Pensacola firefighters do not participate in FRS.²² The Firefighters' Relief and Pension Fund of the City of Pensacola (Pensacola Plan) is a local law pension plan established by the Legislature in 1941 to comply with the law.²³ The act governing the Pensacola Plan was most recently amended in 2015.²⁴ The Pensacola Plan utilizes public funds and is subject to the Florida Protection of Public Employee Retirement Benefits Act and art. X, s. 14, Fla. Const. As of September 30, 2017, the Pensacola Plan has 88 active members, 168 retired members, and 20 members in DROP.²⁵ The Pensacola Plan offers a defined benefits plan but does not offer a defined contribution plan.²⁶

Effect of Proposed Changes

The bill creates and adds a defined contribution plan to the Pensacola Plan to comply with s. 175.351(6), F.S., and receive the premium tax revenue allocated to fund the new plan in s. 175.351(1)(b), F.S. The bill provides the new plan need not be funded if the city and collective bargaining units mutually consent to use the funds for another purpose. The bill affirms that the new plan is an available benefit in addition to, and does not affect, existing and future benefits offered by the Pensacola Plan. The bill affirms that the new plan is intended to comply with the requirements of 26 U.S.C. s. 401(a) and related regulations despite any conflicting language in the bill.

The bill does **not** require the city to contribute to the new plan, either by tax levy or other source. Extra benefits provided to participants in the new plan are funded through individual accounts with participant-directed investments pursuant to 26 U.S.C. s. 401(a) and related regulations.

The bill provides the act will take effect upon becoming law.

B. SECTION DIRECTORY:

Section 1. Amends Ch. 21483, Laws of Fla. (1941), as amended, creating a defined contribution plan as required by s. 175.351, F.S.

Section 2. Provides that the act shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? August 17, 2017

WHERE? *Pensacola News Journal*, Escambia County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

²¹ Section 175.351(6), F.S.

²² DMS Local Government Reports, p. J-8 of Appendix J.

²³ Ch. 21483, Laws of Fla. (1941).

²⁴ Ch. 2015-206, Laws of Fla.

²⁵ DMS Local Government Reports, p. 12 of Appendix F.

²⁶ See Ch. 21483, Laws of Fla. (1941), as amended and DMS Local Government Reports, p. J-8 of Appendix J.

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:

The bill provides the defined contribution plan "shall be in addition to any other benefits" available under the plan, and any "extra benefits to be provided to or on behalf of participants" must be provided through individual accounts. It is unclear from the context of the bill whether the new plan is an alternative to the Pensacola Plan's defined benefits plan or whether members can participate in both the defined benefit plan and the new plan.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

CITY CLERK'S OFFICE/LEGAL ADS
3RD FLOOR, 222 WEST MAIN STREET
222 W MAIN ST

32502

Published Daily-Pensacola, Escambia County, FL
PROOF OF PUBLICATION

State of Florida
County of Escambia:

Before the undersigned authority personally appeared **Brittini L. Pennington**, who on oath says that he or she is a Legal Advertising Representative of the **Pensacola News Journal**, a daily newspaper published in Escambia County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

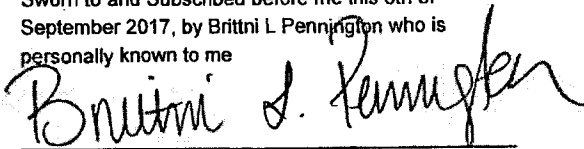
NOTICE OF INTENT TO SEEK

as published in said newspaper in the issue(s) of:

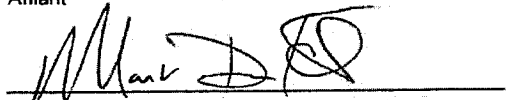
08/17/17

Affiant further says that the said **Pensacola News Journal** is a newspaper in said Escambia County, Florida and that the said newspaper has heretofore been continuously published in said Escambia County, Florida, and has been entered as second class matter at the Post Office in said Escambia 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 coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 6th of September 2017, by Brittini L Pennington who is personally known to me



Affiant



Mark Dee Kent
Notary Public for the State of Florida
My Commission expires October 27, 2019

**NOTICE OF INTENT TO SEEK ENACTMENT OF LEGISLATION
TO WHOM IT MAY CONCERN:**
NOTICE IS HEREBY GIVEN of intent to apply to the 2018 Legislature or any Special or Extended Session for passage of an act relating to the City of Pensacola, Florida, amending Chapter 21483, Laws of Florida 1941, as amended, relating to City of Pensacola Firefighters' Relief and Pension Fund, providing amendments to establish the Firefighters' Relief and Pension Fund Defined Contribution Plan as required by Chapter 175.351 of the Florida Statutes; providing for the repeal of conflicting laws; and providing an effective date.
CITY OF PENSACOLA
Ericka L. Burnett, City Clerk
Legal No. 1T 2346508 August 17, 2017

MARK DEE KENT
Notary Public - State of Florida
Comm. Expires October 27, 2019
Comm. No. FF 931266

HOUSE OF REPRESENTATIVES

2017 - 2018 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1141
SPONSOR(S): Representative Frank White
RELATING TO: Firefighters' Relief and Pension Fund of the City of Pensacola, Escambia County
[Indicate Area Affected (City, County, or Special District) and Subject]
NAME OF DELEGATION: Escambia County
CONTACT PERSON: Kaly Fox
PHONE NO.: (850) 487-5001 E-Mail: Fox.Kaly@flsenate.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:

Municipality and special fire control districts that want to create their own retirement plans for firefighters must comply with the requirements in s. 175.351, Florida Statutes

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES [checked] NO []

Date hearing held: 12/11/17

Location: WSRE Studio, 100 College Blvd, Pensacola, FL 32504

(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 8/17/17

Where? Pensacola News Journal County Escambia

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

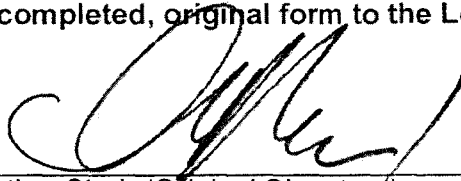
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

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)

1/9/18
Date

Senator Doug Broxson

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 1141
SPONSOR(S): City of Pensacola and IAFF Local 707
RELATING TO: Firefighters' Relief & Pension Plan Special Act
[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>0.00</u>	\$ <u>0.00</u>
Revenue increase due to bill:	\$ <u>0.00</u>	\$ <u>0.00</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>0.00</u>	\$ <u>0.00</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

Establishing a Defined Contribution Plan within the Firefighters' Relief and Pension Plan as required by Chapter 175.351, Florida Statutes.

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>N/A</u>	\$ <u>N/A</u>
State:	\$ <u>N/A</u>	\$ <u>N/A</u>
Federal:	\$ <u>N/A</u>	\$ <u>N/A</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: None

3. Advantages to Government: None

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. The services provided by the City will remain the same.

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.

None

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:

Richard Barker, Jr.

08/21/2017

Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

CFO

REPRESENTING:

City of Pensacola

PHONE:

(850)435-1823

E-MAIL ADDRESS:

rbarker@cityofpensacola.com

1 A bill to be entitled
 2 An act relating to the Firefighters' Relief and
 3 Pension Fund of the City of Pensacola, Escambia
 4 County; amending ch. 21483, Laws of Florida (1941), as
 5 amended; creating a defined contribution plan as
 6 required by general law; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Section 34 is added to chapter 21483, Laws of
 11 Florida (1941), as amended, to read:

12 Section 34. Defined contribution plan.-

13 (a) Pursuant to s. 175.351, Florida Statutes, a defined
 14 contribution plan is created, to be entitled the Firefighters'
 15 Relief and Pension Fund Defined Contribution Plan. The purpose
 16 of this plan is to receive fifty percent of the insurance
 17 premium tax revenues in excess of the insurance premium tax
 18 revenues received for calendar year 2012. The plan will not be
 19 funded if the city and collective bargaining units come to
 20 mutual consent on an alternative use of the funds. The separate
 21 defined contribution plan shall be in addition to any other
 22 benefits available to the members under the Firefighters' Relief
 23 and Pension Fund, and nothing herein shall in any way affect any
 24 other benefits that now or hereafter exist.

25 (b) Any extra benefits to be provided to or on behalf of
 26 participants in the Firefighters' Relief and Pension Fund
 27 Defined Contribution Plan shall be provided through individual
 28 accounts with participant-directed investments in accordance
 29 with section 401(a) of the Internal Revenue Code and its related
 30 regulations.

31 (c) The city shall not be required to levy any additional
 32 taxes on its residents or make any other contributions to the
 33 Firefighters' Relief and Pension Fund Defined Contribution Plan.

34 (d) Notwithstanding anything herein to the contrary, the
 35 Firefighters' Relief and Pension Fund Defined Contribution Plan
 36 shall at all times and in all events be construed and
 37 interpreted to be a qualified retirement plan within the meaning
 38 of section 401(a) of the Internal Revenue Code and its related
 39 regulations.

40 Section 2. This act shall take effect upon becoming a law.



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 White offered the following:

4

5 **Amendment**

6 Remove lines 25-28 and insert:

7 (b) Benefits to be provided to or on behalf of participants
 8 in the Firefighters' Relief and Pension Fund Defined
 9 Contribution Plan shall be provided through individual accounts
 10 in accordance