Ways & Means Committee

Thursday, February 8, 2024
10:30 AM – 1:30 PM
Sumner Hall (404 HOB)

MEETING PACKET

Paul Renner
Speaker

Stan McClain
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

(AMENDED 2/7/2024 4:00:59PM)

Amended(1)

Ways & Means Committee

Start Date and Time:	Thursday, February 08, 2024 10:30 am
End Date and Time:	Thursday, February 08, 2024 01:30 pm
Location:	Sumner Hall (404 HOB)
Duration:	3.00 hrs

Consideration of the following bill(s):

HB 337 Sales Tax on Motor Vehicle Leases and Rentals by Roth
CS/HB 769 Assessment of Renewable Energy Source Devices by Energy, Communications & Cybersecurity Subcommittee, Bankson
CS/HB 1065 Substance Abuse Treatment by Children, Families & Seniors Subcommittee, Caruso
CS/HB 1297 Affordable Housing in Counties Designated as Areas of Critical State Concern by Local Administration, Federal Affairs & Special Districts Subcommittee, Mooney
HB 1573 Pace Fire Rescue District, Santa Rosa County by Andrade
HB 1575 Avalon Beach-Mulat Fire Protection District, Santa Rosa County by Andrade
HB 1577 Midway Fire District, Santa Rosa County by Andrade

Consideration of the following proposed committee substitute(s):

PCS for HB 1105 -- Establishment of a New Homestead

Consideration of the following proposed committee bill(s):

PCB WMC 24-04 -- Private Activity Bonds

Presentation of Select Potential Tax Package Concepts

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

NOTICE FINALIZED on 02/07/2024 4:00PM by RSD

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 337 Sales Tax on Motor Vehicle Leases and Rentals
SPONSOR(S): Roth
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee		Berg	Aldridge
2) Commerce Committee			

SUMMARY ANALYSIS

The bill allows motor vehicle leasing companies to pay sales tax on the original purchase of vehicles, in lieu of collecting sales tax on rental or lease payments when the vehicle is later subject to a lease for a period of not less than 12 months and the renter or lessee will use the motor vehicle in their trade or business.

The Revenue Estimating Conference estimated the impact of the bill on General Revenue in FY 2024-25 to be +$9.1 million cash; -$1.1 million recurring, with an insignificant revenue impact to state trust funds and an impact on local government revenue in FY 2024-25 of +$2.4 million cash; -$0.2 million recurring.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Sales and Use Tax on Motor Vehicle Leases

The lease or rental of tangible personal property, including vehicles, is subject to state and local sales and use tax.[1] When a motor vehicle is leased or rented in Florida, the entire amount of such rental is taxable at the rate of 6 percent[2] of the gross proceeds derived from the lease or rental.[3] A "lease or rental" is defined as the leasing or renting of tangible personal property and the possession or use of property by the lessee or renter for a consideration, without transfer of title.[4] The lessor is required to be registered as a dealer and to collect tax on the total amount of the lease or rental charges from the lessee.[5] The lessor normally does not pay tax on the purchase of the vehicle, as that purchase is considered a sale for resale, and instead tax is normally collected and remitted on each lease payment.[6]

Long Term Leases of Commercial Motor Vehicles

There is an exception to the general rule that sales tax is not paid on the purchase of the car and is instead due and collected on lease or rental payments. The exception is for commercial motor vehicles in certain long-term leases. For the exemption to apply, the lease or rental must be for a period of at least 12 months, and the lessor must have paid sales tax on the vehicle when it was purchased.[7] In addition, the lessor must be an established business, or part of or related to an established business, that leases or rents commercial motor vehicles. Commercial motor vehicles are defined as any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if the vehicle has a gross vehicle weight rating of 10,000 pounds or more.[8]

Effect of the Bill

The bill expands the existing ability for a leasing company to pay tax up front on the purchase of a motor vehicle, instead of collecting and remitting tax on the subsequent long-term lease or rental of the vehicle, to apply to any motor vehicle as long as it is leased for use in the lessee's trade or business. "Motor vehicle" is defined as a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, electric bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device swamp buggy, or moped.[9]

B. SECTION DIRECTORY:

Section 1: Amends s. 212.05(1)(c)3., F.S., to allow for alternative taxation of motor vehicles when such vehicles will be used under certain long-term leases.

Section 2: Provides an effective date of July 1, 2024.

[1] S. 212.05(1), F.S.
[2] Discretionary county sales surtax, if any, is also owed if the 6 percent Florida state sales tax applies. *See* s. 212.054, F.S.
[3] S. 212.05(1)(c), F.S.
[4] S. 212.02(10)(g), F.S.
[5] Rule 12A-1.007(13)(a)1, F.A.C.
[6] Rule 12A-1.007(13)(a)2., F.A.C
[7] S. 212.05(1)(c)3., F.S.
[8] S. 316.003(14)(a), F.S.
[9] S. 316.003(46), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimated the impact of the bill on General Revenue in FY 2023-24 to be +$9.1 million cash; -$1.1 million recurring, as well as an insignificant revenue impact to state trust funds.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated the impact of the bill on local government revenue in FY 2023-24 to be +$2.4 million cash; -$0.2 million recurring.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

D. FISCAL COMMENTS:

The revenue impact of this bill adopted by the Revenue Estimating Conference reflects a shift in the timing of sales tax collections under the methodology allowed by the bill. Instead of an exempt original sale, and ongoing sales tax collections on the lease or rental payments, instead it is a taxable sale in the first year, and then exempt lease or rental payments. This results in positive revenue impacts for the first five years the provision would be in place, turning negative thereafter. Thus, the negative recurring impacts on General Revenue and local government revenues noted above.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the sales tax on motor vehicle leases and rentals; amending s. 212.05, F.S.; providing that certain sales tax does not apply to certain leases or rentals of motor vehicles used primarily in the trade or established business of the lessee or rentee; making a technical change; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making or facilitating remote sales; who rents or furnishes any of the things or services taxable under this chapter; or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(c) At the rate of 6 percent of the gross proceeds derived from the lease or rental of tangible personal property, as defined herein; however, the following special provisions apply to the lease or rental of motor vehicles and to peer-to-peer car-sharing programs:

1. When a motor vehicle is leased or rented by a motor vehicle rental company or through a peer-to-peer car-sharing program as those terms are defined in s. 212.0606(1) for a period of less than 12 months:

a. If the motor vehicle is rented in Florida, the entire amount of such rental is taxable, even if the vehicle is dropped off in another state.

b. If the motor vehicle is rented in another state and dropped off in Florida, the rental is exempt from Florida tax.

c. If the motor vehicle is rented through a peer-to-peer car-sharing program, the peer-to-peer car-sharing program shall collect and remit the applicable tax due in connection with the rental.

2. Except as provided in subparagraph 3., for the lease or rental of a motor vehicle for a period of not less than 12 months, sales tax is due on the lease or rental payments if the vehicle is registered in this state; provided, however, that no tax shall be due if the taxpayer documents use of the motor vehicle outside this state and tax is being paid on the lease or rental payments in another state.

3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s. 316.003(14)(a) to one lessee or rentee, or of a motor vehicle as defined in s. 316.003 which is to be used primarily in the trade or established business of the lessee or rentee, for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of the United States, or the District of Columbia, the Florida tax payable shall be reduced in accordance with s. 212.06(7). This subparagraph shall only be available when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

Section 2. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 769 Assessment of Renewable Energy Source Devices
SPONSOR(S): Energy, Communications & Cybersecurity Subcommittee, Bankson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy, Communications & Cybersecurity Subcommittee	14 Y, 0 N, As CS	Phelps	Keating
2) Ways & Means Committee		Berg	Aldridge
3) Commerce Committee			

SUMMARY ANALYSIS

The Florida Constitution authorizes local governments to impose ad valorem taxes on real property and tangible personal property and to assess such property for tax purposes. The Florida Constitution also authorizes the Legislature to implement limitations and exemptions to ad valorem taxes. Specifically, the Constitution authorizes the Legislature to implement limitations and exemptions to ad valorem taxes for the assessment of solar or renewable energy source devices in determining the assessed value of real property and the taxable value of tangible personal property.

The Legislature has implemented this authority by prohibiting a property appraiser who is determining the assessed value of real property from considering any increase in the just value of residential property attributable to the installation of a renewable energy source device, or 80 percent of the just value of non-residential property attributable to the installation of a renewable energy source device. Current law also provides an ad valorem tax exemption of 80 percent of the assessed value of a renewable energy source device that is considered tangible personal property.

The bill expands the ad valorem tax benefits for solar and renewable energy source devices to include infrastructure and equipment used in the collection, transmission, storage, or usage of energy derived from biogas for conversion into renewable natural gas. In order to qualify for the benefits, the equipment must convert biogas into renewable natural gas suitable for pipeline injection.

The bill does not appear to impact state government revenues or state or local government expenditures. The Revenue Estimating Conference estimated that the bill will have a recurring impact on local government revenues of -$1.3 million in fiscal year 2024-25 (-$0.5 million school taxes; -$0.8 million non-school taxes).

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Constitution authorizes local governments to impose ad valorem taxes on real property and tangible personal property[1] and to assess such property for tax purposes.[2] The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.[3] The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes.[4] Under Florida law, "just valuation" is synonymous with "fair market value," and is defined as what a willing buyer would pay a willing seller for property in an arm's length transaction.[5]

The Florida Constitution also provides for specified assessment limitations, property classifications, and exemptions for ad valorem taxes.[6] Among the limitations and exemptions is authorization for the Legislature to:

- Prohibit a property appraiser from considering the installation of a solar or renewable energy source device in determining the assessed value of real property for the purpose of ad valorem taxation;[7] and
- Exempt from ad valorem taxation the assessed value of such devices subject to tangible personal property tax.[8]

The Legislature has passed laws implementing this authority as discussed below.[9]

Limitations on Assessment of Real Property

Current law prohibits a property appraiser who is determining the assessed value of real property from considering any increase in the just value of residential property or 80 percent of the just value of non-residential property attributable to the installation of a renewable energy source device.[10] This law applies to a renewable energy source device installed on or after January 1, 2013, on new and existing residential real property, and to a renewable energy source device installed on or after January 1, 2018, to all other real property.[11] The statute defines the term "renewable energy source device" to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

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[1] Fla. Const. art. VII, s.9.
[2] Fla. Const. art. VII, s.4.
[3] Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.
[4] Fla. Const. art. VII, s. 4.
[5] S. 193.011, F.S*. See also, Walter v. Shuler*, 176 So. 2d 81, 85-86 (Fla. 1965).
[6] Fla. Const. art. VII, ss. 3, 4, and 6.
[7] Fla. Const. art. VII, s.4(i)2.
[8] Fla. Const. art. VII, s.3(e)2.
[9] *See* s. 193.624, F.S. (prohibiting the assessment of solar or renewable energy source device in determining the value of real property); s. 196.182, F.S. (exempting eighty percent of the assessed value of a renewable energy source device that is considered TPP).
[10] S. 193.624(2), F.S.
[11] S. 193.624(3), F.S.

- Solar energy collectors, photovoltaic modules, and inverters;
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks;
- Rockbeds;
- Thermostats and other control devices;
- Heat exchange devices;
- Pumps and fans;
- Roof ponds;
- Freestanding thermal containers;
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type;
- Windmills and wind turbines;
- Wind-driven generators;
- Power conditioning and storage devices that use wind energy to generate electricity or
- mechanical forms of energy; and
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.[12]

Partial Exemption of Tangible Personal Property

Tangible personal property (TPP) taxes apply to persons conducting business operations. Anyone who owns TPP and has a proprietorship, partnership, corporation, who leases, lends, or rents property, or who is a self-employed agent or contractor, must file a TPP return to the property appraiser by April 1 each year.[13] Each tangible personal property tax return is eligible for an exemption from ad valorem taxation of up to $25,000 of assessed value.[14] A single return must be filed for each site in the county where the owner of tangible personal property transacts business.[15]

Current law provides an ad valorem tax exemption of 80 percent of the assessed value of a renewable energy source device that is considered TPP, so long as the renewable energy source device[16]:

- Is installed on real property on or after January 1, 2018;
- Was installed before January 1, 2018, to supply a municipal electric utility located within a consolidated government; or
- Was installed after August 30, 2016, on municipal land as part of a project incorporating other renewable energy source devices under common ownership on municipal land for the sole purpose of supplying a municipal electric utility with specified megawatts of power.

Biogas and Renewable Natural Gas

Renewable Natural Gas (RNG) is biogas[17] that has been upgraded or refined for use in place of fossil natural gas. Under Florida Law, RNG is defined as "anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as

[12] S. 193.624(1), F.S.
[13] S. 193.062, F.S.; *see also* FLA. DEP'T OF REVENUE, *Tangible Personal Property*, https://floridarevenue.com/property/Pages/Taxpayers_TangiblePersonalProperty.aspx (last visited February 4, 2024).
[14] S. 196.183(1), F.S.
[15] S. 196.183(1), F.S.
[16] S. 196.182(1), F.S.; However, s. 196.182(2), F.S., does not allow an exemption on a device installed in a fiscally constrained county if there was an application for a comprehensive plan amendment or planned unit development zoning filed with the county on or before December 31, 2017.
[17] Section 366.91(2)(a), F.S. defines biogas as "a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas."

a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline."[18]

Sources of biogas that are later refined to produce RNG include organic waste from food, agriculture, wastewater treatment and landfills.[19] In order to complete the process of converting biogas into RNG, facilities capture the biogas, "clean" it to pipeline standards, and then inject it into the pipeline for customer use.[20] At least three facilities in Florida are converting biogas into RNG,[21] with more in development.[22]

Effect of Proposed Changes

The bill expands the ad valorem tax benefits for renewable energy source devices to include facilities used to capture and convert biogas to RNG. Specifically, it expands the definition of "renewable energy source device" used by both ss. 193.624 and 196.182, F.S., to include equipment that collects, transmits, stores or uses energy derived from biogas. Under the bill, such equipment includes pipes, equipment, structural facilities, structural support, interconnection, and any other machinery used in the production storage, compression, transportation, processing, and conversion of biogas from landfill waste, livestock farm waste, including manure, food waste, or treated wastewater into renewable natural gas suitable for pipeline injection.

The bill clarifies that equipment on the distribution or transmission side of the point at which a renewable energy source device is interconnected to a natural gas pipeline or distribution system is not a renewable energy source device

The expanded benefits affect existing facilities that otherwise meet the timing requirements of current law and facilities under construction, along with future facilities.

The bill takes effect upon becoming law.

B. SECTION DIRECTORY:

Section 1. Amends s. 193.624, F.S., relating to renewable energy source devices.

Section 2. Provides that the bill takes effect upon becoming law.

[18] S. 366.91(2)(f), F.S.; *see also* s. 212.08(5)(v)1., F.S.
[19] U.S. Environmental Protection Agency, *An Overview of Renewable Natural Gas from Biogas*, *available at* https://www.epa.gov/sites/default/files/2020-07/documents/lmop_rng_document.pdf (last visited February 4, 2024).
[20] Presentation on Florida's Energy Future (Liquefied Natural Gas, Renewable Natural Gas, and Small Modular Reactors), Tampa Electric Company (Dec. 6, 2023), slide 5, available at https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3226&Session=2024&DocumentType=Meeting+Packets&FileName=ecc+12-6-23.pdf (last visited February 4, 2024).
[21] *Id*. at slide 10, 12-16.
[22] Nasdaq, *Chesapeake Utilities Corporation to Develop its First RNG Facility in Florida* (Feb. 21, 2023), https://www.nasdaq.com/press-release/chesapeake-utilities-corporation-to-develop-its-first-rng-facility-in-florida-2023-02 (last visited February 4, 2024) (Chesapeake Utilities Corporation is installing a dairy manure renewable natural gas facility in Madison County, Florida).

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 Revenue Estimating Conference estimated that the bill will have a recurring impact on local government revenues of -$1.3 million in fiscal year 2024-25 (-$0.5 million school taxes; -$0.8 million non-school taxes).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Lower ad valorem taxes for taxpayers who install RNG facilities may facilitate private capital investment into developing RNG production.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Article VII, section 18, of the Florida Constitution, may apply because this bill reduces local government authority to raise revenue by reducing ad valorem tax bases compared to that which would exist under current law. An exemption may apply if the fiscal impact is insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 19, 2024, the Energy, Communications & Cybersecurity Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Specified that “structural facilities” used in the production, storage, compression, transportation, processing, and conversion of biogas into renewable natural gas are considered a renewable energy source device.
- Clarified that livestock farm waste used to produce biogas includes manure.
- Clarified that equipment on the distribution or transmission side of the point at which a renewable energy source device is interconnected to a natural gas pipeline or distribution system is not a renewable energy source device.

This analysis is drafted to the committee substitute as passed by the Energy, Communications & Cybersecurity Subcommittee.

A bill to be entitled

An act relating to assessment of renewable energy source devices; amending s. 193.624, F.S.; revising the definition of the term "renewable energy source device"; providing an effective date.

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

Section 1. Subsection (1) of section 193.624, Florida Statutes, is amended to read:

193.624 Assessment of renewable energy source devices.—

(1) As used in this section, the term "renewable energy source device" means any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits or biogas:

(a) Solar energy collectors, photovoltaic modules, and inverters.

(b) Storage tanks and other storage systems, excluding swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, wiring, structural supports, refrigerant handling systems, and other components used as integral parts of such systems; however, such equipment does not include conventional backup systems of any type or any equipment or structure that would be required in the absence of the renewable energy source device.

(j) Windmills and wind turbines.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that store or use solar energy, wind energy, or energy derived from geothermal deposits to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

(n) Pipes, equipment, structural facilities, structural support, interconnection, and any other machinery used in the production, storage, compression, transportation, processing, and conversion of biogas from landfill waste, livestock farm waste, including manure, food waste, or treated wastewater into renewable natural gas suitable for pipeline injection.

The term does not include equipment that is on the distribution or transmission side of the point at which a renewable energy source device is interconnected to an electric utility's distribution grid or transmission lines or a natural gas

pipeline or distribution system.

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

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	_____

Committee/Subcommittee hearing bill: Ways & Means Committee
Representative Bankson offered the following:

Amendment

Remove lines 15-45 and insert:

or energy derived from geothermal deposits or biogas, as defined in s. 366.91:

(a) Solar energy collectors, photovoltaic modules, and inverters.

(b) Storage tanks and other storage systems, excluding swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, wiring, structural supports, refrigerant handling systems, and other components used as integral parts of such systems; however, such equipment does not include conventional backup systems of any type or any equipment or structure that would be required in the absence of the renewable energy source device.

(j) Windmills and wind turbines.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that store or use solar energy, wind energy, or energy derived from geothermal deposits to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

(n) Pipes, equipment, structural facilities, structural support, and any other machinery integral to the interconnection, production, storage, compression, transportation, processing, and conversion of biogas from landfill waste, livestock farm waste, including manure, food waste, or treated wastewater into renewable natural gas as defined in s. 366.91.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1065 Substance Abuse Treatment
SPONSOR(S): Children, Families & Seniors Subcommittee, Caruso
TIED BILLS: **IDEN./SIM. BILLS:** SB 1180

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	15 Y, 0 N, As CS	Curry	Brazzell
2) Ways & Means Committee		Rexford	Aldridge
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health prevention, treatment, and recovery. DCF provides treatment for substance abuse through a community-based provider system.

A recovery residence is a residential dwelling unit, or other form of group housing, that provides a peer-supported, alcohol-free, and drug-free living environment. Florida requires residence to meet certain quality standards to be certified. CS/HB 1065 amends the definition of certified recovery residence to include standards regarding the level of care provided at those residences. The bill requires four levels of care that distinguish the residences based on their provided care. The levels of care include:

- Level I: These homes house individuals in recovery who are post-treatment, with a minimum of 9 months of sobriety. These homes are run by the members who reside in them.
- Level II: These homes provide oversight from a house manager. Residents are expected to follow rules outlined in a resident handbook, pay dues, and work toward achieving milestones.
- Level III: These homes offer 24-hour supervision by formally trained staff and peer-support services for residents.
- Level IV: These homes are dwelling offered, referred to, or provided to patients by licensed service providers. The patients receive intensive outpatient and higher levels of outpatient care. These homes are staffed 24 hours a day.

The bill provides an exemption on taxes that are imposed on transient accommodations, including state sales tax on transient rentals, convention development tax, tourist development taxes, and tourist impact tax.

CS/HB 1065 expands the Statewide Council on Opioid Abatement. To ensure the settlement proceeds related to the opioid epidemic are used to fund substance abuse education, treatment, and prevention, the Office of the Attorney General coordinated with local governments in the state to enter into the Florida Opioid Allocation and Statewide Response Agreement. The agreement required the state to establish an opioid abatement task force. The bill changes the membership determined by this agreement by adding nine additional members beyond the existing membership balanced between state and local representatives.

The Revenue Estimating Conference estimates that the bill will have a -$5.6 million recurring impact on General Revenue, an insignificant impact to state trust fund revenues, and a -$6.9 million recurring impact on local government tax revenues in Fiscal Year 2024-25.

The bill provides an effective date of July 1, 2024.

This 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:

Background

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.[1] Substance use disorders is the recurrent use of alcohol and/or drugs leading to clinically significant impairment, including health problems, disability, and failure to fulfil responsibilities.[2] Substance use disorders can happen with both legal substances such as alcohol, nicotine or prescription drugs and illicit or illegal drugs.[3] In the United States, the most common substance use disorders are from alcohol, opioid, stimulants, hallucinogens, cannabis, and tobacco.[4]

Substance Abuse Treatment in Florida

The Department of Children and Families (DCF) administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery. DCF provides treatment for substance abuse through a community-based provider system that offers detoxification, treatment and recovery support for adolescents and adults affected by substance misuse, abuse or dependence:[5]

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance abuse.[6]
- **Treatment Services:** Treatment services[7] include a wide array of assessment, counseling, case management, and support services that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support. Some of these services may also be offered to the family members of the individual in treatment.[8]
- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.[9]

Licensure of Substance Abuse Service Providers

DCF regulates substance abuse treatment, establishing licensure requirements and licensing service providers and individual service components under ch. 397, F.S., and rule 65D-30, F.A.C. Licensed

[1] World Health Organization, *Substance Abuse*, https://www.afro.who.int/health-topics/substance-abuse (last visited Feb 6, 2024).
[2] The Rural Health Information Hub, *Defining Substance Abuse and Substance Abuse Use Disorder*s, https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition (last visited Feb. 6, 2024).
[3] *Id.*
[4] *Id.*
[5] Department of Children and Families, *Treatment for Substance Abuse* https://www.myflfamilies.com/services/samh/treatment, (last visited Feb. 6, 2024).
[6] *Id*.
[7] *Id*. Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child protective system, employment, increased earnings, and better health.
[8] *Supra*, note 5.
[9] *Id*.

service components include a continuum of substance abuse prevention,[10] intervention,[11] and clinical treatment services.[12] DCF uses a tier-based system of classifying violations and may issue administrative fines of up to $500 for violations committed by a licensee.[13]

Clinical treatment is a professionally directed, deliberate, and planned regimen of services and interventions that are designed to reduce or eliminate the misuse of drugs and alcohol and promote a healthy, drug-free lifestyle.[14] "Clinical treatment services" include, but are not limited to, the following licensable service components: [15]

- Addictions receiving facility;
- Day or night treatment;
- Day or night treatment with community housing;
- Detoxification;
- Intensive inpatient treatment;
- Intensive outpatient treatment;
- Medication-assisted treatment for opiate addiction;
- Outpatient treatment; and
- Residential treatment.

Recovery Residences

Recovery residences (also known as "sober homes" or "sober living homes") are non-medical residential settings designed to support recovery from substance use disorders, helping individuals transition from highly structured residential treatment programs back into their day-to-day lives. Most recovery residences require or encourage attendance in a 12-step, mutual-help organization and are self-funded through resident fees.[16]

In Florida, a recovery residence is a residential dwelling unit, or other form of group housing, which is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment. In 2019 the definition was amended to also include as a recovery residence a community housing component of a licensed day or night treatment facility with community housing.[17]

Recovery residences can be located in single-family and two-family homes, duplexes, and apartment complexes. Most recovery residences are located in single-family homes, zoned in residential neighborhoods.[18] To live at a recovery residence, occupants may be required to pay a monthly fee or

[10] S. 397.311(26)(c), F.S. Prevention is a process involving strategies that are aimed at the individual, family, community, or substance and that preclude, forestall, or impede the development of substance use problems and promote responsible lifestyles. *See also,* Department of Children and Families, *Substance Abuse: Prevention* https://www.myflfamilies.com/services/samh/substance-abuse-prevention, (last visited Feb. 6, 2024). Substance abuse prevention is best accomplished through the use of ongoing strategies such as increasing public awareness and education, community-based processes and evidence-based practices. These prevention programs are focused primarily on youth, and, in recent years, have shifted to the local level, giving individual communities the opportunity to identify their own unique prevention needs and develop action plans in response. This community focus allows prevention strategies to have a greater impact on behavioral change by shifting social, cultural and community environments.
[11] S. 397.311(26)(b), F.S. Intervention is structured services directed toward individuals or groups at risk of substance abuse and focused on reducing or impeding those factors associated with the onset or the early stages of substance abuse and related problems.
[12] S. 397.311(26), F.S.
[13] S. 397.415, F.S.
[14] S. 397.311(25)(a), F.S.
[15] *Id*.
[16] Douglas L. Polcin, Ed.D., MFT, and Diane Henderson, B.A., *A Clean and Sober Place to Live: Philosophy, Structure, and Purported Therapeutic Factors in Sober Living Houses,* 40(2) J Psychoactive Drugs 153–159 (June 2008).
[17] Chapter 2019-159, Laws of Fla.
[18] Hearing before the Subcommittee on the Constitution and Civil Justice of the Committee on the Judiciary, House of Representatives, One Hundred Fifteenth Congress, Sept. 28, 2018, https://www.govinfo.gov/content/pkg/CHRG-115hhrg33123/html/CHRG-115hhrg33123.htm. *See also* The National Council for Behavioral Health, *Building Recovery: State Policy Guide for Supporting Recovery Housing* (2017), https://www.thenationalcouncil.org/wp-content/uploads/2018/05/18_Recovery-Housing-Toolkit_5.3.2018.pdf?daf=375ateTbd56 (last visited Feb. 6, 2024).

rent, which supports the cost of maintaining the home. Generally, recovery residences provide short-term residency, typically a minimum of at least 90 days. However, the length of time a person stays at a recovery residence varies based on the individuals' treatment needs.[19] Because recovery residences essentially provide short-term rental or leasing of living quarters, recovery residences may be classified as a transient rental accommodation and subject taxation of rental fees.

Day or Night Treatment: Community Housing Component

Community housing is a type of group home that provides supportive housing for individuals who are undergoing treatment for substance abuse.

Day or night treatment is one of the licensable service components of clinical treatment services. This service is provided in a nonresidential environment with a structured schedule of treatment and rehabilitative services.[20] Some day or night treatment programs have a community housing component, which is a program intended for individuals who can benefit from living independently in peer community housing while participating in treatment services at a day or night treatment facility for a minimum of 5 hours a day for a minimum of 25 hours per week.[21]

Prior to 2019, the community housing component of a licensed day or night treatment program was not included in the definition of "recovery residence". In 2019, after the Legislature amended the definition of "recovery residence" to include the community housing component, DCF addressed the statutory change to the definition of "recovery residence" in a memo. The department stated that as a result of the change in definition, providers licensed for day or night treatment with community housing must be certified as a recovery residence in order to accept or receive patient referrals from licensed treatment providers or existing recovery residences.[22] The memo did not specifically address whether the community housing component requires certification if the only individuals residing there were clients of the licensed day or night treatment program.

Voluntary Certification of Recovery Residences

A certified recovery residence is a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.[23] Florida has a voluntary certification program for recovery residences and recovery residence administrators, implemented by private credentialing entities.[24] Under the voluntary certification program, two DCF-approved credentialing entities administer certification programs and issue certificates: the Florida Association of Recovery Residences (FARR) certifies the recovery residences and the Florida Certification Board (FCB) certifies recovery residence administrators.[25]

As the credentialing entity for recovery residences in Florida, FARR is statutorily authorized to administer certification, recertification, and disciplinary processes as well as monitor and inspect recovery residences to ensure compliance with certification requirements. FARR is also authorized to deny, revoke, or suspend a certification, or otherwise impose sanctions, if recovery residences are not in compliance or fail to remedy any deficiencies identified. However, any decision that results in an adverse determination is reviewable by the Department.[26]

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[19] American Addiction Center, *Length of Stay at a Sober Living Home*, (October 2022), available at https://americanaddictioncenters.org/sober-living/length-of-stay, (last visited Feb. 6, 2024).
[20] S. 397.311(26)(a)2., F.S.
[21] S. 397.311(26)(a)3., F.S.
[22] DCF Memo to the Substance Abuse Prevention, Intervention, and Treatment Providers, dated July 1, 2019 (on file with the House Children, Families, & Seniors Subcommittee).
[23] Ss. 397.487–397.4872, F.S.
[24] *Id.*
[25] The DCF, *Recovery Residence Administrators and Recovery Residences,* available at https://www.myflfamilies.com/services/samh/recovery-residence-administrators-and-recovery-residences (last visited January 25, 2024).
[26] S. 397.487, F.S.

In order to become certified, a recovery residence must submit the following documents with an application fee to the credentialing entity:[27]

- A policy and procedures manual containing:
  - Job descriptions for all staff positions;
  - Drug-testing procedures and requirements;
  - A prohibition on the premises against alcohol, illegal drugs, and the use of prescription medications by an individual other than for whom the medication is prescribed;
  - Policies to support a resident's recovery efforts; and
  - A good neighbor policy to address neighborhood concerns and complaints.;
- Rules for residents;
- Copies of all forms provided to residents;
- Intake procedures;
- Sexual predator and sexual offender registry compliance policy;
- Relapse policy;
- Fee schedule;
- Refund policy;
- Eviction procedures and policy;
- Code of ethics;
- Proof of insurance;
- Proof of background screening; and
- Proof of satisfactory fire, safety, and health inspections.

There are currently 675 certified recovery residences in Florida.[28] DCF publishes a list of all certified recovery residences and recovery residence administrators on its website.[29]

National Alliance for Recovery Residences

The National Alliance for Recovery Residences (NARR) was established to develop and promote best practices in the operation of recovery residences.[30] The organization works with federal government agencies, national addiction and recovery organizations, state-level recovery housing organizations, and with state addiction services agencies to improve the effectiveness and accessibility of recovery housing.

In 2011, NARR established the national standard for all recovery residences. This standard defines the spectrum of recovery oriented housing and services and distinguishes four different types, which are known as "levels" or "levels of support." The standard was developed through a strength-based and collaborative approach that solicited input from all major regional and national recovery housing organizations.[31] NARR's levels of support are included in the Substance Abuse and Mental Health Services Administration's Best Practices for Recovery Housing.[32]

NARR Recovery Residence Levels of Support

A recovery residence is a broad term that describes safe and sober living environments that promote recovery from substance use disorders. These residences may also be referred to as halfway houses, three-quarter houses, transitional living facilities, or sober living homes. Since this is a broad term, to

[27] *Id*.
[28] DCF, 2023 *Agency Bill Analysis SB 1180*, on file with House Children, Families, and Seniors Subcommittee.
[29] S. 397.4872, F.S.
[30] NARR, *About Us,* available at https://narronline.org/about-us/, (last visited Feb. 6, 2024).
[31] NARR, *Standards and Certification Program¸ available at https://narronline.org/affiliate-services/standards-and-certification-program/,* (last visited Feb. 6, 2024).
[32] Substance Abuse and Mental Health Services Administration, *Best Practices for Recovery Housing,* available https://store.samhsa.gov/sites/default/files/pep23-10-00-002.pdf, (last visited Feb. 6, 2024).

help categorize recovery residences into more specific groups, NARR distinguishes these residences based on their levels of care. There are four levels of care for recovery residences; peer-run, monitored, supervised, and service provider.

Level I – Peer-Run

A Peer-Run recovery residence is a home operated by the residents themselves. In this type of residence, there is no external management or oversight from outside sources such as an administrative director. The administration of these facilities is done democratically by the residents. Services may include house meetings for accountability, drug screenings, and self-help meetings. These residences are generally set up in single-family residences like a house. [33]

Level II -Monitored

A monitored recovery residence has an external management structure, usually in the form of an administrative director. The director oversees operations, provides guidance and support, and ensures that all tenants are following rules. These facilities, provide a structured environment with documented rules, policies and procedures. These residences are typically managed by a house manager or senior resident and may offer peer-run groups, house meetings, drug screenings, and involvement in self-help treatment. These facilities are primarily single-family residences, but they may also be apartments or other dwelling types. [34]

Level III – Supervised

Supervised recovery residences have more intense levels of oversight than monitored residences and typically have an on-site staff member who provides 24/7 support to residents. The staff at a Level III residence includes a facility manager and certified staff or case managers. Staff members may also provide counseling services or facilitate group activities. Residents at Level III houses are expected to adhere to a strict set of rules and guidelines while living in this type of residence. Level III residences have an organizational hierarchy with administrative oversight for service providers, and documented policies and procedures. This type of residence emphasizes life skill development. In these residences, services may be utilized in the outside community while service hours may be provided in-house. The type of dwelling for Level III residences varies and may include all types of residential settings.[35]

Level IV – Service Provider

Service provider recovery residences are typically operated by organizations or corporations. These residences offer a wide range of services and activities for residents. Staff levels in Level IV residences are higher than staff levels for Levels I-III residences, and the environments are more structured and institutionalized. These residences have an overseen organizational hierarchy. Level IV recovery residence employ credentialed staff and have both clinical and administrative supervision for residents. These residences also provide clinical services and programming in-house and may offer residents life skill development. While Level IV residences may have a more institutionalized environment, all types of residence may be included as a client moves through the care continuum of a treatment center. [36]

[33] Isaiah House, *NARR Levels of Care for Addiction Recovery Residences,* (December 2022), available at https://isaiah-house.org/narr-levels-of-care-for-addiction-recovery-residences/, (last visited Feb. 7, 2024).
[34] *Id.*
[35] *Id.*
[36] *Id.*

NARR Recovery Residence Levels of Support[37]

NARR National Association of Recovery Residences		RECOVERY RESIDENCE LEVELS OF SUPPORT			
		LEVEL I Peer-Run	LEVEL II Monitored	LEVEL III Supervised	LEVEL IV Service Provider
STANDARDS CRITERIA	ADMINISTRATION	• Democratically run • Manual or P& P	• House manager or senior resident • Policy and Procedures	• Organizational hierarchy • Administrative oversight for service providers • Policy and Procedures • Licensing varies from state to state	• Overseen organizational hierarchy • Clinical and administrative supervision • Policy and Procedures • Licensing varies from state to state
	SERVICES	• Drug Screening • House meetings • Self help meetings encouraged	• House rules provide structure • Peer run groups • Drug Screening • House meetings • Involvement in self help and/or treatment services	• Life skill development emphasis • Clinical services utilized in outside community • Service hours provided in house	• Clinical services and programming are provided in house • Life skill development
	RESIDENCE	• Generally single family residences	• Primarily single family residences • Possibly apartments or other dwelling types	• Varies – all types of residential settings	• All types – often a step down phase within care continuum of a treatment center • May be a more institutional in environment
	STAFF	• No paid positions within the residence • Perhaps an overseeing officer	• At least 1 compensated position	• Facility manager • Certified staff or case managers	• Credentialed staff

FARR Recovery Residence Levels of Support

FARR recognizes four distinct support levels for recovery residences which were developed based on the NARR standards.[38] The levels are not a rating scale regarding the efficacy of valuation of any individual certified recovery residence, but instead offer a unique service structure most appropriate for a particular resident.[39] FARR recovery residence levels of support include:[40]

Level I

Level I residences are structured after the Oxford House model.[41] Individuals who enter FARR Level I homes have a high recovery capital with a minimum of 9 months of sobriety and the length of stay is

[37] NARR, *Recovery Residence Levels of Support,* available at https://narronline.org/wp-content/uploads/2016/12/NARR_levels_summary.pdf, (last visited Feb. 7, 2024).
[38] FARR, *Levels of Support*, available at https://www.farronline.org/levels-of-support-1, (last visited Feb. 7, 2024).
[39] *Id.*
[40] *Id*.
[41] Oxford House Model is a concept and a system of operation in recovery from drug and alcohol addiction. The concept is that recovering individuals can live together and democratically run an alcohol and drug-free living environment which supports the recovery of every resident. Oxford Houses are the one of the largest self-help residential programs in the US. See Oxford House, *The Purpose and Structure of Oxford House,* available at https://oxfordhouse.org/purpose_and_structure, and the National Library of Medicine, Oxford House Recovery Homes: Characteristics and Effectiveness, *available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2888149/,* (last visited Feb. 7, 2024).

determined by the resident. Level I homes are democratically run by the members who reside in the home through a guided policy and procedure manual or charter.

Level II

Level II residences encompass the traditional perspective of sober living homes. Oversight is provided from a house manager with lived experience, typically a senior resident. Residents are expected to follow the rules outlined in the resident handbook, pay dues, and work on achieving milestones within a chosen recovery path. This level of support is a resident-driven length of stay, while providers may suggest a minimum commitment length.

Level III

Level III residences offer higher supervision by staff with formal training to ensure resident accountability. Level III homes offer peer-support services and are staffed 24 hours a day. No clinical services are performed at the residence. The services offered usually include life skills, mentoring, recovery planning, and meal preparation. This support structure is most appropriate for residents who require a more structured environment during early recovery from addiction. Length of stay is determined by the resident; however, providers may ask for a minimum commitment length of stay to fully complete programming.

Level IV

A Level IV residence is any recovery residence offered or provided by a licensed service provider that provides housing to patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care at facilities that are operated by the same licensed service provider or a recovery residence used as the housing component of a day or night treatment with community housing, license issued pursuant to Rule 65D-30.0081, Florida. Administrative Code.

Opioids

Opioids are a class of medications derived from the opium poppy plant or mimic its naturally occurring substances.[42] Opioids function by binding to specific receptors in the brain that are associated with pain sensation, resulting in pain relief.[43] The opioid family includes several drugs, such as oxycodone, fentanyl, morphine, codeine, and heroin.[44] These drugs are effective at reducing pain; however, they can be highly addictive even when prescribed by a doctor. Overtime, individuals who use opioids can develop a tolerance to the drug, a physical dependence on it, and ultimately, succumb to an opioid use disorder. This condition can have grave consequences, including a heightened risk of overdose and even death.

Opioid Overdose

Opioid overdoses result from an overabundance of opioid in the body which leads to suppression of the respiratory system. Opioids account for two thirds of all deaths relating to drug use, most of which are the result of overdoses.[45] More than 106,000 Americans died from drug-involved overdose in 2021, including illicit drugs and prescription opioids.[46] Opioid-involved overdose deaths increased from 21,088 in 2010 to 47,600 in 2017; the rate of such deaths remained relatively consistent for the next

[42] John Hopkins Medicine, *Opioids*, https://www.hopkinsmedicine.org/health/treatment-tests-and-therapies/opioids (last visited Feb. 7, 2024).
[43] *Id.*
[44] *Id.*
[45] United Nations Office on Drugs and Crime, World Drug Report 2022, Global Overview: Drug Demand and Drug Supply (Jun. 2022), https://www.unodc.org/res/wdr2022/MS/WDR22_Booklet_1.pdf (last visited Feb. 7, 2024).
[46] National Institute on Drug Abuse, *Overdose Death Rates*, https://www.drugabuse.gov/drug-topics/trends-statistics/overdose-death-rates (last visited Feb. 7, 2024).

two years with 49,860 opioid-involved overdose deaths in 2019.[47] This was followed by a sharp increase in opioid-involved overdose deaths associated with the COVID-19 pandemic beginning in 2020.[48] Nationally, there were 63,630 reported opioid-involved overdose deaths in 2020 and 80,411 in 2021.[49]

Multistate Opioid Lawsuit and Settlement

In 2018, the Florida Attorney General filed a lawsuit against multiple opioid manufacturers and distributors. The lawsuit was later expanded to include the pharmacies CVS and Walgreens.[50] The complaint alleged that the defendants caused the opioid crisis by, among other things:[51]

- Engaging in a campaign of misrepresentations and omissions about opioid use designed to increase opioid prescriptions and opioid use, despite the risks.
- Funding ostensibly neutral and independent "front" organizations to publish information touting the benefits of opioids for chronic pain while omitting the information about the risks of opioid treatment.
- Paying ostensibly neutral medical experts called "key opinion leaders" who were really manufacturer "mouthpieces" to publish articles promoting the use of opioids to treat pain while omitting information regarding the risks.

In 2021, McKesson, Cardinal Health, and AmerisourceBergen, the nation's three largest pharmaceutical distributors, as well as manufacturer Janssen Pharmaceuticals, Inc., agreed to a national settlement in which the distributors agreed to pay $21 billion over 18 years and Janssen agreed to pay $5 billion over nine years.[52] Of the $26 billion available, approximately $22.7 billion was earmarked for use by states that participated in the lawsuit, including Florida.[53]

Florida additionally negotiated individual settlements with multiple other companies including:[54]

- $65 million settlement with Endo Health Solutions;
- $440 million settlement with CVS Pharmacy, Inc.;
- $177,114,999 settlement with Teva Pharmaceuticals Industries, Ltd.;
- $122 million settlement with Allergan Finance, LLC.;
- $620 million settlement with Walgreens Boots Alliance, Inc. and Walgreens Co.; and
- $215 million settlement with Walmart.

Additionally, Teva Pharmaceuticals has agreed to provide the state with a supply of Naloxone Hydrochloride, an opioid antagonist,[55] valued at $84 million.[56]

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[47] *Id.*
[48] Ghose, R., Forati, A.M. & Mantsch, J.R. *Impact of the COVID-19 Pandemic on Opioid Overdose Deaths: A Spatiotemporal Analysis.* J Urban Health 99, 316–327 (2022), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8856931/ (last visited Feb. 7, 2024).
[49] *Supra*, note 46.
[50] Sullivan, E., NPR, *Florida Sues Walgreens, CVS for Alleged Role in Opioid Crisis*, (Nov. 2018), available at https://www.npr.org/2018/11/19/669146432/florida-sues-walgreens-cvs-for-alleged-role-in-opioid-crisis (last visited Feb. 7, 2024).
[51] Florida Attorney General, *Florida's Opioid Lawsuit*, available at http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AYSNED/$file/Complaint+summary.pdf (last visited Feb. 7, 2024).
[52] National Opioid Settlement, *Executive Summary of National Opioid Settlements*, (Feb. 2023), available at https://nationalopioidsettlement.com/executive-summary/#:~:text=In%20all%2C%20the%20Distributors%20will,additional%20manufacturers%E2%80%94Allergan%20and%20Teva, (last visited Feb. 7, 2024).
[53] Office of the Attorney General, Attorney General Moody Secures Relief for Opioid Crisis, available at https://myfloridalegal.com/opioidsettlement,(last visited Feb. 7, 2024).
[54] *Id.*
[55] An opioid antagonist, such as Narcan or Naloxone Hydrochloride, is a drug that blocks the effects of exogenously administered opioids. They are used in opioid overdoses to counteract life-threatening depression of the central nervous system and respiratory system, allowing an overdose victim to breathe normally. See Harm Reduction Coalition, *Understanding Naloxone,* (Sept. 8, 2020), available at http://harmreduction.org/issues/overdose-prevention/overview/overdose-basics/understanding-naloxone/ (last visited Feb. 7, 2024).
[56] *Id.*

These settlements will pay out over a period of time ranging from 10 to 18 years. In general, the monies from the settlements must be used for opioid abatement, including prevention efforts, treatment, and recovery services, and to pay litigation fees and costs incurred by the state, cities, and counties.[57]

Florida Opioid Allocation and Statewide Response Agreement

To ensure the settlement proceeds are used to fund opioid and substance abuse education, treatment, prevention, and other related programs and services, the Office of the Attorney General coordinated with certain local governments in the state to enter into the Florida Opioid Allocation and Statewide Response Agreement.[58] The agreement requires the state to establish an opioid abatement task force or council to advise the Governor, the Legislature, DCF, and local governments on the priorities that should be addressed by the expenditure of settlement funds, as well as review the spending of such funds and the results achieved.

The Council's membership, administration, and duties are outlined in the agreement.[59] Per the agreement, the Council's membership must consist of ten members equally balanced between state and local government representatives.

Appointments from the local governments must include:

- Two municipality representatives appointed by or through the Florida League of Cities.
- Two county representatives, one appointed from a qualified county and one appointed from a county within the state that is not a qualified county.
- One representative appointment that will alternate every two years between being a county representative appointed by or through the Florida Association of Counties or a municipality representative appointed by or through the Florida League of Cities.

Further, the agreement requires that one municipality representative must be from a city of less than 50,000 people and that one county representative must be from a county of less than 2000,000 people and the other county representative must be from a county with a population greater than 200,000 people.

Appointments from the state must include:

- Two members appointed by the Governor.
- One member appointed by the Speaker of the House.
- One member appointed by the President of the Senate.
- The Attorney General or a designee.

Statewide Council on Opioid Abatement

In 2023, the Florida Legislature established the Statewide Council on Opioid Abatement (council). The council is tasked with enhancing the development and coordination of state and local efforts to abate the opioid epidemic and to support the victims and families of the crisis.[60] The council is composed of the following 10 members:[61]

[57] *Id.*
[58] *Florida Opioid Allocation and Statewide Response Agreement Between State of Florida Department of Legal Affairs, Office of the Attorney General and Certain Local Governments in the State of Florida* (Nov. 2021), available at https://nationalopioidsettlement.com/wp-content/uploads/2021/11/FL-Opioid-AllocSW-Resp-Agreement.pdf (last visited Feb. 7, 2024).
[59] *Florida Opioid Allocation and Statewide Response Agreement Between State of Florida Department of Legal Affairs, Office of the Attorney General and Certain Local Governments in the State of Florida* (Nov. 2021), available at https://nationalopioidsettlement.com/wp-content/uploads/2021/11/FL-Opioid-AllocSW-Resp-Agreement.pdf (last visited Feb. 7, 2024).
[60] S. 397.335, F.S.
[61] *Id.*

- The Attorney General, or a designee, who serves as a chair.
- The Secretary of DCF, or a designee, who services as vice-chair.
- A member appointed by the Governor.
- A member appointed by the President of the Senate.
- A member appointed by the Speaker of the House.
- Two members appointed by the Florida League of Cities who are commissioners or mayors of municipalities. At least one of such members must be from a municipality with a population of less than 50,000.
- Two members appointed by, or though, the Florida Association of Counties who are county commissioners or mayors. One of such members must represent a county with a population of more than 200,000; the other must represent a county with a population of fewer than 200,000.
- One member who is appointed on a rotational basis by either the Florida Association of Counties or the Florida League of Cities.

The council has a series of duties associated with the monitoring of the abatement of the opioid epidemic in Florida and review of settlement fund expenditures associated with opioid litigation.[62]

Transient Rental Accommodations

Under current law, rental charges or room rates paid for the right to use or occupy living quarters or sleeping or housekeeping accommodations for a rental period of six months or less are subject taxation.[63] Such rentals are often referred to as "transient rental accommodations" or "transient rentals."[64] Examples of transient rentals include hotel and motel rooms, condominium units, timeshare resort units, single-family homes, apartments or units in multiple unit structures, mobile homes, beach or vacation houses, campground sites, and trailer or RV parks.[65]

In Florida, a 6 percent state sales tax, plus any applicable discretionary sales surtax, is assessed on the total rental charges or room rates for transient rental accommodations, unless a statutory exemption applies.[66] Counties may also impose a local option tax on transient rental accommodations, such as the tourist development tax,[67] convention development tax,[68] tourist impact tax,[69] or a municipal resort tax.[70] These taxes are often called local option transient rental taxes and are in addition to the state sales tax.

Currently, transient rentals are potentially subject to the following taxes:

1. Local Option Tourist Development Taxes: Current law authorizes five separate tourist development taxes on transient rental transactions. Section 125.0104(3)(a), F.S., provides that the local option tourist development tax is levied on the "total consideration charged for such lease or rental."

[62] *Id.*
[63] S. 212.03, F.S.
[64] Department of Revenue, *Sales and Use Tax on Rental of Living or Sleeping Accommodations*, available at https://floridarevenue.com/Forms_library/current/gt800034.pdf, (last visited Feb. 6, 2024).
[65] S. 212.03, F.S.
[66] Rental charges or room rates paid by a person with a written lease longer than six months, a full-time student enrolled in postsecondary institution offering housing, and military personnel on active duty and present in the community under official orders are exempt. S. 212.03(4) and (7), F.S.
[67] S. 125.0104, F.S.
[68] S. 212.0305, F.S.
[69] S. 125.0101, F.S.
[70] Certain municipalities may impose a municipal resort tax as authorized under chapter 67-930, Laws of Florida. Currently, there are only three municipalities in Miami-Dade County are eligible to impose the tax.

a. The tourist development tax may be levied at the rate of 1 or 2 percent.[71] Currently, 62 counties levy this tax at 2 percent; all 67 counties are eligible to levy this tax.[72]
b. An additional tourist development tax of 1 percent may be levied.[73] Currently 56 counties levy this tax; only 59 counties are currently eligible to levy this tax.[74]
c. A professional sports franchise facility tax may be levied up to an additional 1 percent on transient rental transactions.[75] Currently 46 counties levy this additional tax; all 67 counties are eligible to levy this tax.[76]
d. A high tourism impact county may levy an additional 1 percent on transient rental transactions.[77] Currently 10 counties levy this tax; only 14 are eligible to levy.[78]
e. An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.[79] Out of 65 eligible counties, 36 levy this tax.[80]

2. Local Option Tourist Impact Tax: The local option tourist impact tax under s. 125.0108, F.S., is levied at the rate of 1 percent of the total consideration charged. Only Monroe County is eligible and does levy this tax in areas designated as areas of critical state concern because they created a land authority pursuant to s. 380.0663(1), F.S.

3. Local Convention Development Tax: The convention development tax under s. 212.0305, F.S., is imposed on the total consideration charged for the transient rental. Each county operating under a home rule charter, as defined in s. 125.011(1), F.S., may levy the tax at 3 percent (Miami-Dade County); each county operating under a consolidated government may levy the tax at 2 percent (Duval County); and each county chartered under Article VIII of the State Constitution that had a tourist advertising district on January 1, 1984, may levy the tax at up to 3 percent (Volusia County).[81] No county authorized to levy this tax can levy more than 2 percent of the tourist development tax, excluding the professional sports franchise facility tax.[82]

4. Municipal Resort Tax: Certain municipalities may levy the municipal resort tax at a rate of up to 4 percent on transient rental transactions.[83] The tourist development tax may not be levied in any municipality imposing the municipal resort tax. The tax is collected by the municipality. Currently only three municipalities in Miami-Dade County are eligible to impose the tax.

5. State Sales Tax: The state sales tax on transient rentals under s. 212.03, F.S., is levied in the amount of 6 percent of the "total rental charged" for the living quarters or sleeping or housekeeping accommodations in, from, or part of, or in connection with any hotel, apartment house, roominghouse, or tourist or trailer camp.

6. Local Option Discretionary Sales Surtax: Counties have been granted limited authority to levy a discretionary sales surtaxes for specific purposes on transactions subject to state sales tax.[84]

[71] S. 125.0104(3)(c), F.S.
[72] Florida Tax Handbook (2023), available on the Office of Economic and Demographic Research website at http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf (last visited Feb. 6, 2024).
[73] S. 125.0104(3)(d), F.S.
[74] Supra, note 72.
[75] Section 125.0104(3)(l), F.S.
[76] Supra, note 72.
[77] Section 125.0104(3)(m), F.S.
[78] Supra, note 72.
[79] Section 125.0104(3)(n), F.S.
[80] Supra, note 72.
[81] Id.
[82] Section 125.0104(3)(b), (3)(l)4., and (3)(n)2., F.S.
[83] Chapter 67-930, L.O.F., amended by chs. 82-142, 83-363, 93-286, and 94-344, L.O.F.
[84] Ss. 212.054, 212.055, F.S.

Rates range from 0.5% to 1.5%, and are levied by 66 of the 67 counties.[85] Approved purposes include:

a. Operating a transportation system in a charter county;[86]
b. Financing local government infrastructure projects;[87]
c. Providing additional revenue for specified small counties;[88]
d. Providing medical care for indigent persons;[89]
e. Funding trauma centers;[90]
f. Operating, maintaining, and administering a county public general hospital;[91]
g. Constructing and renovating schools;[92]
h. Providing emergency fire rescue services and facilities; and[93]
i. Funding pension liability shortfalls.[94]

Certain rentals or leases are exempt from the taxes; these include rentals to active-duty military personnel, full-time students, bona fide written leases for continuous residence longer than 6 months, and accommodations in migrant labor camps.[95]

Effect of the Bill

Certified Recovery Residence

CS/HB 1065 amends the definition of certified recovery residence to include standards regarding the levels of care offered within those residences. This amendment will help to better align recovery residences in Florida with industry best practices. The levels of care are as follows:

- Level I: these homes house individuals in recovery who are post-treatment, with a minimum of 9 months of sobriety. These homes are run by the members who reside in them.
- Level II: in these homes, there is oversight from a house manager (typically a senior resident). Residents are expected to follow rules outlines in a resident handbook, pay dues, and work toward achieving milestones.
- Level III: these homes offer 24-hour supervision by staff with formal training with peer-support services
- Level IV: these homes are offered, referred to, or provided to patients by licensed service providers. The patients receive intensive outpatient and higher levels of outpatient care. These homes are staffed 24 hours a day.

CS/HB 1065 defines “community housing” to mean a certified recovery residence, offered, referred to, or provided by a licensed service provider that provides housing to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. The bill also requires a certified recovery residence used by a licensed service provider that meets the definition of community housing to be classified as a Level IV level of support.

[85] Discretionary Sales Surtax Information for Calendar Year 2024, Form DR-15DSS, available at https://floridarevenue.com/Forms_library/current/dr15dss.pdf (last visited Feb. 6, 2024).
[86] S. 212.055(1), F.S.
[87] S. 212.055(2), F.S.
[88] S. 212.055(3), F.S. Note that the small county surtax may be levied by extraordinary vote of the county governing board if the proceeds are to be expended only for operating purposes.
[89] S. 212.055(4)(a), F.S. (for counties with more than 800,000 residents); s. 212.055(7), F.S. (for counties with less than 800,000 residents).
[90] S. 212.055(4)(b), F.S.
[91] S. 212.055(5), F.S.
[92] S. 212.055(6), F.S.
[93] S. 212.055(8), F.S.
[94] S. 212.055(9), F.S.
[95] S. 212.03(7), F.S. See also ss. 125.0104(3)(a), 125.0108(1)(b), 212.0305(3)(a), F.S.

Statewide Council on Opioid Abatement

CS/HB 1065 expands the Statewide Council on Opioid Abatement by adding more members, increasing its membership from 10 to 19. The additional members include:

- Two members appointed by or through the State Surgeon General. One of such members must be from the department with experience coordinating state and local efforts to abate the opioid epidemic; the other must be a licensed physician board certified in both addiction medicine and psychiatry.
- One member appointed by the Florida Association of Recovery Residences.
- One member appointed by the Florida Association of EMS Medical Directors.
- One member appointed by the Florida Society of Addiction Medicine who is a medical doctor board certified in addiction medicine.
- One member appointed by the Florida Behavioral Health Association.
- One member appointed by Floridians for Recovery.
- One member appointed by the Florida Certification Board.
- One member appointed by the Florida Association of Managing Entities.

This will add additional members to represent the providers and clinicians providing behavioral health services, but will expand membership beyond those named in the agreement between the Attorney General and local governments, which included only state and local government representatives.

Transient Rental Accommodations

CS/HB 1065 specifies that recovery residences that rent properties are not subject to taxes that are imposed on transient accommodations, including state sales tax on transient rentals, convention development tax, tourist development taxes, and tourist impact tax.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.02, F.S., relating to definitions and creating an exemption from state sales tax and local tourist impact tax, convention development tax and tourist development taxes.

Section 2: Amends s. 397.311, F.S., relating to definitions.

Section 3: Amends s. 397.355, F.S., relating to Statewide Council on Opioid Abatement.

Section 4: Amends s. 119.077, F.S., making conforming changes consistent with other provisions of the bill.

Section 5: Amends s. 381.0038, F.S., making conforming changes consistent with other provisions of the bill.

Section 6: Amends s. 394.4573, F.S., making conforming changes consistent with other provisions of the bill.

Section 7: Amends s. 394.9085, F.S., making conforming changes consistent with other provisions of the bill.

Section 8: Amends s. 397.4012, F.S., making conforming changes consistent with other provisions of the bill.

Section 9: Amends s. 397.407, F.S., making conforming changes consistent with other provisions of the bill.

Section 10: Amends s. 397.410, F.S., making conforming changes consistent with other provisions of the bill.

Section 11: Amends s. 397.416, F.S., making conforming changes consistent with other provisions of the bill.

Section 12: Amends s. 893.13, F.S., making conforming changes consistent with other provisions of the bill.

Section 13: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Revenue Estimating Conference (REC) estimates that the sales and use tax portion of the bill will have a -$5.6 million recurring impact on General Revenue and an insignificant impact on state trust fund revenues in Fiscal Year 2024-25.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The REC estimates that the sales and use tax portion of the bill will have a -$1.6 million recurring impact on local government tax revenues in Fiscal Year 2024-25. The tourist development tax portion of the bill is estimated to have a -$5.3 million recurring impact on local tax revenues in Fiscal Year 2024-25.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a positive fiscal impact on recovery residences which will no longer be required to pay transient rental taxes. The elimination of the taxes may reduce operational costs for recovery residences. The tax elimination and reduction of costs may also incentivize recovery residences that are not certified to become certified to benefit from the tax elimination.

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 reduces the county/municipality's ability to levy local tourist impact tax, convention development tax and tourist development taxes on the rental of recovery residences. 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 does not provide rulemaking authority to implement the bill. However, the Department of Children and Families has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to substance abuse treatment; amending s. 212.02, F.S.; eliminating certain tax liabilities imposed on certified recovery residences; amending s. 397.311, F.S.; providing the levels of care at certified recovery residences and their respective levels of care for residents; defining the term "community housing"; amending s. 397.335, F.S.; revising the membership of the Statewide Council on Opioid Abatement to include additional members; amending ss. 119.071, 381.0038, 394.4573, 394.9085, 397.4012, 397.407, 397.410, 397.416, and 893.13, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraph (k) is added to subsection (10) of section 212.02, Florida Statutes, to read:

212.02 Definitions.—The following terms and phrases when used in this chapter have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(10) "Lease," "let," or "rental" means leasing or renting of living quarters or sleeping or housekeeping accommodations in

hotels, apartment houses, roominghouses, tourist or trailer camps and real property, the same being defined as follows:

(k) For purposes of this chapter, recovery residences certified pursuant to s. 397.487 which rent properties are not subject to any taxes imposed on transient accommodations, including taxes imposed under s. 212.03; any locally imposed discretionary sales surtax or any convention development tax imposed under s. 212.0305; any tourist development tax imposed under s. 125.0104; or any tourist impact tax imposed under s. 125.0108.

Section 2. Subsections (9) through (50) of section 397.311, Florida Statutes, are renumbered as subsections (10) through (51), respectively, subsection (5) and present subsection (43) are amended, and a new subsection (9) is added to that section, to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(5) "Certified recovery residence" means a recovery residence that holds a valid certificate of compliance and is actively managed by a certified recovery residence administrator.

(a) Level I certified recovery residences that house individuals in recovery who are post-treatment, with a minimum of 9 months of sobriety. Level I certified homes are democratically run by the members who reside in the home.

(b) Level II certified recovery residences encompass the traditional perspectives of sober living homes. There is oversight from a house manager with lived experience, typically a senior resident. Residents are expected to follow rules outlined in a resident handbook, pay dues, if applicable, and work toward achieving milestones within a chosen recovery path.

(c) Level III certified recovery residences offer higher supervision by staff with formal training to ensure resident accountability. These homes offer peer-support services and are staffed 24 hours a day. Clinical services are not performed at the residence. The services offered may include, but are not limited to, life skill mentoring, recovery planning, and meal preparation. This support structure is most appropriate for residents who require a more structured environment during early recovery from addiction.

(d) A Level IV certified recovery residence are dwellings offered, referred to, or provided by, a licensed service provider to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. Level IV recovery residences are staffed 24 hours a day and combine outpatient licensable services with recovery residential living. Residents are required to follow a treatment plan, attend group and individual sessions, in addition to developing a recovery plan within the social model of recovery spectrum. No clinical services are provided at the

residence and all licensable services are provided off-site.

(9) "Community housing" means a certified recovery residence offered, referred to, or provided by a licensed service provider that provides housing to its patients who are required to reside at the residence while receiving intensive outpatient and higher levels of outpatient care. A certified recovery residence used by a licensed service provider that meets the definition of community housing shall be classified as a Level IV level of support, as described in subsection (5).

(44) ~~(43)~~ "Service component" or "component" means a discrete operational entity within a service provider which is subject to licensing as defined by rule. Service components include prevention, intervention, and clinical treatment described in subsection (27) ~~(26)~~.

Section 3. Paragraph (a) of subsection (2) of section 397.335, Florida Statutes, is amended to read:

397.335 Statewide Council on Opioid Abatement.—

(2) MEMBERSHIP.—

(a) Notwithstanding s. 20.052, the council shall be composed of the following members:

1. The Attorney General, or his or her designee, who shall serve as chair.

2. The secretary of the department, or his or her designee, who shall serve as vice chair.

3. One member appointed by the Governor.

4. One member appointed by the President of the Senate.

5. One member appointed by the Speaker of the House of Representatives.

6. Two members appointed by the Florida League of Cities who are commissioners or mayors of municipalities. One member shall be from a municipality with a population of fewer than 50,000 people.

7. Two members appointed by or through the Florida Association of Counties who are county commissioners or mayors. One member shall be appointed from a county with a population of fewer than 200,000, and one member shall be appointed from a county with a population of more than 200,000.

8. One member who is either a county commissioner or county mayor appointed by the Florida Association of Counties or who is a commissioner or mayor of a municipality appointed by the Florida League of Cities. The Florida Association of Counties shall appoint such member for the initial term, and future appointments must alternate between a member appointed by the Florida League of Cities and a member appointed by the Florida Association of Counties.

9. Two members appointed by or through the State Surgeon General. One shall be a staff member from the department who has experience coordinating state and local efforts to abate the opioid epidemic, and one shall be a licensed physician who is board certified in both addiction medicine and psychiatry.

10. One member appointed by the Florida Association of Recovery Residences.

11. One member appointed by the Florida Association of EMS Medical Directors.

12. One member appointed by the Florida Society of Addiction Medicine who is a medical doctor board certified in addiction medicine.

13. One member appointed by the Florida Behavioral Health Association.

14. One member appointed by Floridians for Recovery.

15. One member appointed by the Florida Certification Board.

16. One member appointed by the Florida Association of Managing Entities.

Section 4. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive

property information that may reveal the home address.

b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

c. "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in

compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges, and of current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former justices and judges and of current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges and of current judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers,

photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth,

and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended

by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or

former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction

treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed service component described in s. 397.311(27) ~~s. 397.311(26)~~.

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s.

119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

v. The home addresses, telephone numbers, dates of birth, and photographs of current or former inspectors or investigators of the Department of Agriculture and Consumer Services; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former inspectors or investigators; and the names and locations of schools and day care facilities attended by the children of current or former inspectors or investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s. 192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's

records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must

specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. Except as otherwise expressly provided in this paragraph, this paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 5. Paragraph (a) of subsection (4) of section 381.0038, Florida Statutes, is amended to read:

381.0038 Education; sterile needle and syringe exchange programs.—The Department of Health shall establish a program to educate the public about the threat of acquired immune deficiency syndrome.

(4) A county commission may authorize a sterile needle and syringe exchange program to operate within its county boundaries. The program may operate at one or more fixed locations or through mobile health units. The program shall offer the free exchange of clean, unused needles and hypodermic syringes for used needles and hypodermic syringes as a means to prevent the transmission of HIV, AIDS, viral hepatitis, or other blood-borne diseases among intravenous drug users and their sexual partners and offspring. Prevention of disease transmission must be the goal of the program. For the purposes

of this subsection, the term "exchange program" means a sterile needle and syringe exchange program established by a county commission under this subsection. A sterile needle and syringe exchange program may not operate unless it is authorized and approved by a county commission in accordance with this subsection.

(a) Before an exchange program may be established, a county commission must:

1. Authorize the program under the provisions of a county ordinance;

2. Enter into a letter of agreement with the department in which the county commission agrees that any exchange program authorized by the county commission will operate in accordance with this subsection;

3. Enlist the local county health department to provide ongoing advice, consultation, and recommendations for the operation of the program;

4. Contract with one of the following entities to operate the program:

a. A hospital licensed under chapter 395.

b. A health care clinic licensed under part X of chapter 400.

c. A medical school in this state accredited by the Liaison Committee on Medical Education or the Commission on Osteopathic College Accreditation.

d. A licensed addictions receiving facility as defined in s. 397.311(27)(a)1. ~~s. 397.311(26)(a)1.~~

e. A s. 501(c)(3) HIV/AIDS service organization.

Section 6. Paragraph (e) of subsection (2) of section 394.4573, Florida Statutes, is amended to read:

394.4573 Coordinated system of care; annual assessment; essential elements; measures of performance; system improvement grants; reports.—On or before December 1 of each year, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an assessment of the behavioral health services in this state. The assessment shall consider, at a minimum, the extent to which designated receiving systems function as no-wrong-door models, the availability of treatment and recovery services that use recovery-oriented and peer-involved approaches, the availability of less-restrictive services, and the use of evidence-informed practices. The assessment shall also consider the availability of and access to coordinated specialty care programs and identify any gaps in the availability of and access to such programs in the state. The department's assessment shall consider, at a minimum, the needs assessments conducted by the managing entities pursuant to s. 394.9082(5). The department shall compile and include in the report all plans submitted by managing entities pursuant to s. 394.9082(8) and the department's evaluation of each plan.

(2) The essential elements of a coordinated system of care include:

(e) Case management. Each case manager or person directly supervising a case manager who provides Medicaid-funded targeted case management services shall hold a valid certification from a department-approved credentialing entity as defined in s. 397.311(11) ~~s. 397.311(10)~~ by July 1, 2017, and, thereafter, within 6 months after hire.

Section 7. Subsection (6) of section 394.9085, Florida Statutes, is amended to read:

394.9085 Behavioral provider liability.—

(6) For purposes of this section, the terms "detoxification ~~services~~," "addictions receiving facility," and "receiving facility" have the same meanings as those provided in ss. 397.311(27)(a)4., 397.311(27)(a)1. ~~ss. 397.311(26)(a)3., 397.311(26)(a)1.~~, and 394.455(40), respectively.

Section 8. Subsection (8) of section 397.4012, Florida Statutes, is amended to read:

397.4012 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(8) A legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including prevention services, which are solely religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the

licensed service components itemized under s. 397.311(27) ~~s. 397.311(26)~~ is not exempt from substance abuse licensure but retains its exemption with respect to all services which are solely religious, spiritual, or ecclesiastical in nature.

The exemptions from licensure in subsections (3), (4), (8), (9), and (10) do not apply to any service provider that receives an appropriation, grant, or contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated under s. 397.4014. Furthermore, this chapter may not be construed to limit the practice of a physician or physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, a psychotherapist licensed under chapter 491, or an advanced practice registered nurse licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, physician assistant, psychologist, psychotherapist, or advanced practice registered nurse does not represent to the public that he or she is a licensed service provider and does not provide services to individuals under part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Subsections (1) and (6) of section 397.407,

Florida Statutes, are amended to read:

397.407 Licensure process; fees.—

(1) The department shall establish the licensure process to include fees and categories of licenses and must prescribe a fee range that is based, at least in part, on the number and complexity of programs listed in s. 397.311(27) ~~s. 397.311(26)~~ which are operated by a licensee. The fees from the licensure of service components are sufficient to cover the costs of regulating the service components. The department shall specify a fee range for public and privately funded licensed service providers. Fees for privately funded licensed service providers must exceed the fees for publicly funded licensed service providers.

(6) The department may issue probationary, regular, and interim licenses. The department shall issue one license for each service component that is operated by a service provider and defined pursuant to s. 397.311(27) ~~s. 397.311(26)~~. The license is valid only for the specific service components listed for each specific location identified on the license. The licensed service provider shall apply for a new license at least 60 days before the addition of any service components or 30 days before the relocation of any of its service sites. Provision of service components or delivery of services at a location not identified on the license may be considered an unlicensed operation that authorizes the department to seek an injunction

against operation as provided in s. 397.401, in addition to other sanctions authorized by s. 397.415. Probationary and regular licenses may be issued only after all required information has been submitted. A license may not be transferred. As used in this subsection, the term "transfer" includes, but is not limited to, the transfer of a majority of the ownership interest in the licensed entity or transfer of responsibilities under the license to another entity by contractual arrangement.

Section 10. Subsection (1) of section 397.410, Florida Statutes, is amended to read:

397.410 Licensure requirements; minimum standards; rules.—

(1) The department shall establish minimum requirements for licensure of each service component, as defined in s. 397.311(27) ~~s. 397.311(26)~~, including, but not limited to:

(a) Standards and procedures for the administrative management of the licensed service component, including procedures for recordkeeping, referrals, and financial management.

(b) Standards consistent with clinical and treatment best practices that ensure the provision of quality treatment for individuals receiving substance abuse treatment services.

(c) The number and qualifications of all personnel, including, but not limited to, management, nursing, and qualified professionals, having responsibility for any part of

an individual's clinical treatment. These requirements must include, but are not limited to:

1. Education; credentials, such as licensure or certification, if appropriate; training; and supervision of personnel providing direct clinical treatment.

2. Minimum staffing ratios to provide adequate safety, care, and treatment.

3. Hours of staff coverage.

4. The maximum number of individuals who may receive clinical services together in a group setting.

5. The maximum number of licensed service providers for which a physician may serve as medical director and the total number of individuals he or she may treat in that capacity.

(d) Service provider facility standards, including, but not limited to:

1. Safety and adequacy of the facility and grounds.

2. Space, furnishings, and equipment for each individual served.

3. Infection control, housekeeping, sanitation, and facility maintenance.

4. Meals and snacks.

(e) Disaster planning policies and procedures.

(f) A prohibition on the premises against alcohol, marijuana, illegal drugs, and the use of prescribed medications by an individual other than the individual for whom the

medication is prescribed. For the purposes of this paragraph, "marijuana" includes marijuana that has been certified by a qualified physician for medical use in accordance with s. 381.986.

Section 11. Section 397.416, Florida Statutes, is amended to read:

397.416 Substance abuse treatment services; qualified professional.—Notwithstanding any other provision of law, a person who was certified through a certification process recognized by the former Department of Health and Rehabilitative Services before January 1, 1995, may perform the duties of a qualified professional with respect to substance abuse treatment services as defined in this chapter, and need not meet the certification requirements contained in s. 397.311(36) ~~s. 397.311(35)~~.

Section 12. Paragraph (h) of subsection (1) of section 893.13, Florida Statutes, is amended to read:

893.13 Prohibited acts; penalties.—

(1)

(h) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a mental health facility, as that term is used in chapter 394; a health care facility licensed under chapter 395 which provides

substance abuse treatment; a licensed service provider as defined in s. 397.311; a facility providing services that include clinical treatment, intervention, or prevention as described in s. 397.311(27) ~~s. 397.311(26)~~; a recovery residence as defined in s. 397.311; an assisted living facility as defined in chapter 429; or a pain management clinic as defined in s. 458.3265(1)(a)1.c. or s. 459.0137(1)(a)1.c. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

Section 13. This act shall take effect July 1, 2024.

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	_____

Committee/Subcommittee hearing bill: Ways & Means Committee

Representative Caruso offered the following:

Amendment (with title amendment)

Remove lines 18-35

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

Remove lines 3-4 and insert:

s.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1297 Affordable Housing in Counties Designated as Areas of Critical State Concern
SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee, Mooney
TIED BILLS: **IDEN./SIM. BILLS:** SB 1456

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	14 Y, 0 N, As CS	Burgess	Darden
2) Ways & Means Committee		Berg	Aldridge
3) State Affairs Committee			

SUMMARY ANALYSIS

The Governor and Cabinet, acting as the Administration Commission, are authorized to designate certain areas within the state that contain resources of statewide significance as areas of critical state concern. In 1975, the Florida Keys were designated as an area of critical state concern. The designation includes the municipalities of Key West, Islamorada, Marathon, Layton and Key Colony Beach, and unincorporated Monroe County. State, regional, and local governments in the Florida Keys Area of Critical State Concern are required to coordinate development plans and carry out programs and activities in accordance with development principles.

The bill:

- Provides that the authorization for a local government to approve the development that would otherwise be precluded by state or local law or regulation does not apply in the Florida Keys Area of Critical State Concern;
- Expands the local option affordable housing exemption in s. 196.1979, F.S., to include a full exemption for a single-family residential unit or a residential duplex if the property is used to provide affordable housing and certain other conditions are met. This provision applies statewide.
- Revises eligibility for the local option affordable housing ad valorem tax exemption to allow Monroe County to exempt properties even if they are not within a multifamily project containing 50 or more units, at least 20 percent of which provide affordable housing;
- Revises hurricane evacuation clearance time modeling criteria;
- Authorizes land authorities to require compliance with income limitations on land conveyed for affordable housing by memorializing the original land authority funding or donation in a recordable perpetual deed restriction;
- For five years, exempts Monroe County from a requirement to only provide assistance to very-low-income and low-income persons with funding from the local housing assistance trust fund; and
- Allows Monroe County to transfer its cumulative surplus from tourist development and tourist impact taxes incurred through September 30, 2024, for the purpose of providing affordable housing for employees whose housing opportunities are impacted by the operation of tourist-related businesses in the county.

The Revenue Estimating Conference has not estimated the impact of the bill, but staff estimates that the negative local revenue impact of the statewide change to the affordable housing exemption could be significant, and that the recurring negative local revenue impact to Monroe County from the provision allowing a local exemption could also be significant. These impacts apply at the option of the local government, however, so staff estimates that the revenue impact to local governments will be recurring negative indeterminate. The bill does not impact state revenues.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Areas of Critical State Concern

The Governor and Cabinet, acting as the Administration Commission,[1] are authorized to designate certain areas within the state that contain resources of statewide significance as areas of critical state concern.[2] An area of critical state concern may be designated for an area:

- Containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources;[3]
- Containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts;[4] or
- Having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment, including highways, ports, airports, energy facilities, and water management projects.[5]

The designated areas of critical state concern in the state are: the Big Cypress Area,[6] the Green Swamp Area,[7] the Florida Keys Area, the City of Key West Area,[8] and the Apalachicola Bay Area.[9]

Florida Keys Area of Critical State Concern

In 1975, the Florida Keys Area was designated as an area of critical state concern, including unincorporated Monroe County and its municipalities, including Islamorada, Marathon, Layton and Key Colony Beach.[10] In 1984, the City of Key West was also designated an Area of Critical State Concern.[11] The designation is intended to:

- Establish a land use management system that protects the natural environment of the Florida Keys; conserves and promotes the community character of the Florida Keys; promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services; and promotes and supports a diverse and sound economic base;
- Provide affordable housing in close proximity to places of employment in the Florida Keys;

[1] *See* ss. 380.031(1) and 14.202, F.S.
[2] S. 380.05, F.S.
[3] S. 380.05(2)(a), F.S.
[4] S. 380.05(2)(b), F.S.
[5] S. 380.05(2)(c), F.S.
[6] S. 380.055, F.S.
[7] S. 380.0551, F.S.
[8] S. 380.0552, F.S.
[9] S. 380.0555, F.S.
[10] S. 380.0552, F.S.; *2020 Florida Keys Area of Critical State Concern Annual Report* available at https://floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/2020keysacscannualreport.pdf?sfvrsn=51c94eb0_2 (last visited February 5, 2024).
[11] The City of Key West challenged the designation as a critical area and after litigation in 1984 was given its own area of critical state concern designation. *See 2020 Florida Keys Area of Critical State Concern Annual Report* available at https://floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/2020keysacscannualreport.pdf?sfvrsn=51c94eb0_2 (last visited February 5, 2024).

- Protect the constitutional rights of property owners to own, use, and dispose of their real property;
- Promote coordination and efficiency among governmental agencies that have permitting jurisdiction over land use activities in the Florida Keys;
- Promote an appropriate land acquisition and protection strategy for environmentally sensitive lands within the Florida Keys;
- Protect and improve the nearshore water quality of the Florida Keys through the construction and operation of wastewater management facilities, as applicable; and
- Ensure that the population of the Florida Keys can be safely evacuated.[12]

State, regional, and local governments in the Florida Keys Area of Critical State Concern are required to coordinate development plans and conduct programs and activities consistent with principles for guiding development that:

- Strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation;
- Protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat;
- Protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (e.g., hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat;
- Ensure the maximum well-being of the Florida Keys and its citizens through sound economic development;
- Limit the adverse impacts of development on the quality of water throughout the Florida Keys;
- Enhance natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys;
- Protect the historical heritage of the Florida Keys;
- Protect the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
    - The Florida Keys Aqueduct and water supply facilities;
    - Sewage collection, treatment, and disposal facilities;
    - Solid waste treatment, collection, and disposal facilities;
    - Key West Naval Air Station and other military facilities;
    - Transportation facilities;
    - Federal parks, wildlife refuges, and marine sanctuaries;
    - State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
    - City electric service and the Florida Keys Electric Co-op; and
    - Other utilities, as appropriate;
- Protect and improve water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems;
- Ensure the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems;
- Limit the adverse impacts of public investments on the environmental resources of the Florida Keys;
- Make available adequate affordable housing for all sectors of the population of the Florida Keys;
- Provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post-disaster reconstruction plan; and

[12] S. 380.0552(2)(a)-(j), F.S.

- Protect the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.[13]

A land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the Department of Commerce (Commerce).[14] Amendments to local comprehensive plans must also be reviewed for compliance with the following:

- Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed criteria for wastewater treatment and disposal facilities or onsite sewage treatment and disposal systems; and
- Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time must be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by Commerce.[15]

In 2011, the Administration Commission directed Commerce and the Division of Emergency Management to enter into a Memorandum of Understanding (MOU) with Monroe County, the Village of Islamorada, and the cities of Marathon, Key West, Key Colony Beach, and Layton regarding hurricane evacuation modeling.[16] The MOU is the basis for an analysis on the maximum build-out capacity of the Florida Keys while maintaining the ability of the permanent population to evacuate within 24 hours.[17]

Land Authorities

Current law authorizes each county in which one or more designated areas of critical state concern are located to create a land authority by ordinance.[18] The Legislature authorized the creation of land authorities to equitably address the challenges of implementing comprehensive land use plans developed pursuant to the area of critical state concern program, which can be complicated by the environmental sensitivity of such areas.[19] Monroe County is the only county in the state that has established a land authority pursuant to this statutory authority.[20]

Land authorities are intended to provide stable funding, be flexible enough to address plan implementation innovatively, and to act as intermediaries between individual landowners and the governmental entities regulating land use.[21] The governing body of the land authority is the governing board of the county.[22]

Land authorities' powers are statutorily enumerated and include, among other powers, the powers to sue and be sued; to make and execute contracts and other instruments; to commission studies and analyses of county land planning needs within areas of critical state concern; to acquire and dispose of real and personal property under specified conditions; to contribute tourist impact tax revenues to certain authorized government and state agency recipients for specified purposes under certain

[13] S. 380.0552(7), F.S.
[14] S. 380.552(9)(a), F.S.
[15] S. 380.0552(9)(a)1. and 2., F.S.
[16] Dept. of Commerce, *Florida Keys Hurricane Evacuation Modeling Report*, available at http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/city-of-key-west-and-the-florida-keys/florida-keys-hurricane-evacuation (last visited February 5, 2024).
[17] *Id.*
[18] S. 380.0663(1), F.S.
[19] S. 380.0661(1), F.S.
[20] *See Monroe County, Monroe County Land Authority,* https://www.monroecounty-fl.gov/272/Land-Authority (last visited February 5, 2024).
[21] S. 380.0661(2), F.S.
[22] S. 380.0663(1), F.S.

conditions; to borrow money through the issuance of bonds and to buy, hold, cancel, or resell such bonds; and to do any and all things otherwise necessary or convenient to carry out the purposes of the land authority.[23]

Monroe County Land Authority

The Monroe County Comprehensive Plan Land Authority, known as the Monroe County Land Authority (Authority), has a core mission of acquiring property for conservation use.[24] The Authority also provides funding for affordable housing projects, prevention or satisfaction of private property acquisition, and maintains the conservation land stewardship program in Monroe County within the Florida Keys and Key West Areas of Critical State Concern.[25]

The Authority was established to assist in the implementation of land use plans and to serve as an intermediary between landowners and government agencies that regulate land use. The Authority is a component of Monroe County government created in 1986 and governed by the Monroe County Board of County Commissioners.[26]

Affordable Housing

Affordable housing is defined in terms of household income. Resident eligibility for Florida's state and federally-funded housing programs is governed by area median income (AMI) or statewide median family income,[27] published annually by the United States Department of Housing and Urban Development (HUD).[28] The following are standard household income level definitions and their relationship to the 2023 Florida statewide AMI of $85,500 for a family of four (as family size changes, the income range also varies):[29]

- Extremely low income – earning up to 30 percent AMI (at or below $ 24,850);[30]
- Very low income – earning from 30.01 to 50 percent AMI ($24,851 to $41,450);[31]
- Low income – earning from 50.01 to 80 percent AMI ($41,451 to $66,350);[32] and
- Moderate income – earning from 80.01 to 120 percent of AMI ($66,351 to $102,600).[33]

Zoning and Land Use Preemption for Affordable Developments

The Growth Management Act requires every county and municipality to create and implement a comprehensive plan to guide future development.[34] All development, both public and private, and all development orders[35] approved by local governments must be consistent with the local government's comprehensive plan unless otherwise provided by law.[36] The future land use element in a comprehensive plan establishes a range of allowable uses and densities and intensities over large

[23] S. 380.0666, F.S.
[24] Monroe County, *Monroe County Land Authority,* https://www.monroecounty-fl.gov/272/Land-Authority (last visited February 5, 2024).
[25] *Id.*
[26] *Id.*
[27] The 2023 Florida SMI for a family of four was $ 85,500. U.S. Dept. of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas*, available at https://www.huduser.gov/portal/datasets/il.html#2023 (last visited February 5, 2024).
[28] U.S. Dept. of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas*, available at https://www.huduser.gov/portal/datasets/il.html#2023 (last visited February 5, 2024).(SMI and AMI available under the "Access Individual Income Limits Area" dataset).
[29] U.S. Dept. of Housing and Urban Development, *Income Limits*, *Access Individual Income Limits Areas*, available at https://www.huduser.gov/portal/datasets/il.html#2023 (last visited February 5, 2024).
[30] S. 420.0004(9), F.S.
[31] S. 420.0004(17), F.S.
[32] S. 420.0004(11), F.S.
[33] S. 420.0004(12), F.S.
[34] S. 163.3167(2), F.S.
[35] "Development order" means any order granting, denying, or granting with conditions an application for a development permit. See s. 163.3164(15), F.S. "Development permit" includes 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. See s. 163.3164(16), F.S.
[36] S. 163.3194(3), F.S.

areas, and the specific use and intensities for specific parcels[37] within that range are decided by a more detailed, implementing zoning map.[38]

Counties and municipalities may, notwithstanding any other law or local ordinance or regulation to the contrary, may approve the development of affordable housing, including mixed-use residential development, on any parcel zoned for commercial or industrial use where state or local law or regulation would otherwise preclude such development.[39] At least 10 percent of the units in a project on a commercial or industrial parcel must be affordable.[40]

This provision allowed local governments to expedite the development of affordable housing by allowing locals to bypass state law and their comprehensive plans and zoning regulations that would otherwise preclude or delay such development.

Local Option Affordable Housing Exemption

The ad valorem tax is an annual tax levied by counties, municipalities, school districts, and some special districts based on the taxable value of real and tangible personal property as of January 1 of each year.[41] The Florida Constitution allows the Legislature to exempt from ad valorem taxation portions of property that are used predominantly for educational, literary, scientific, religious or charitable purposes.[42] The Legislature has implemented these exemptions and set forth criteria to determine whether property is entitled to an exemption.[43]

The Live Local Act authorized the counties and municipalities to enact an ad valorem tax exemption for certain property used for providing affordable housing.[44]

Portions of property eligible for the exemption must be utilized to house persons or families whose household income does not exceed 30 percent of AMI for that area or whose household income is between 30 to 60 percent of AMI for that area, be contained in a multifamily project of at least 50 units where at least 20 percent are reserved for affordable housing, and have rent set such that it provides affordable housing to people in the target income bracket, or no higher than 90 percent of the fair market rent value as determined by a rental market study, whichever is less.[45] Additionally, the property must not have been cited for code violations on three or more occasions in the preceding 24 months and must not have outstanding code violations or related fines.[46]

In adopting this exemption, a local government may choose to exempt properties for those with household incomes that do not exceed 30 percent of AMI for that area, those whose household income is between 30 and 60 percent of AMI, or both, so long as the other conditions are met. The value of the exemption is up to 75 percent of the assessed value of each unit if less than 100 percent of the

[37] When local governments make changes to their zoning regulations or comprehensive plans some structures may no longer be in compliance with the newly approved zoning and may be deemed a "nonconforming use." A nonconforming use or structure is one in which the use or structure was legally permitted prior to a change in the law, and the change in law would no longer permit the re-establishment of such structure or use. Mark A. Rothenberg, *The Status of Nonconforming Use Law in Florida*, Florida B.J. Vol 79, no. 3 (2005), https://www.floridabar.org/the-florida-bar-journal/the-status-of-nonconforming-use-law-in-florida (last visited February 5, 2024).
[38] Richard Grosso, A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215, 34 J. Envtl. L. & Litig. 129, 154 (2019) *citing* Brevard Cty. v. Snyder, 627 So. 2d 469, 475 (Fla. 1993).
[39] Ss. 125.01055(6) and 166.04151(6), F.S.
[40] *Id.*
[41] S. 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. S. 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in Art. VII, s. 1(b), Fla. Const., and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.
[42] Art. VII, s. 3(a), Fla. Const.
[43] S. 196.196, F.S.
[44] Ch. 2023-17, s. 9, Laws of Fla., codified as s. 196.1979, F.S.
[45] S. 196.1979(1)(a)1.-3., F.S.
[46] S. 196.1979(1)(a)4., F.S.

multifamily project's units are used to provide affordable housing, or up to 100 percent of the assessed value if all of the project's units are used to provide affordable housing.[47]

An ordinance enacting such an exemption must:

- Be adopted under normal non-emergency procedures;
- Designate the local entity under the supervision of the governing body which must develop, receive, and review applications for certification and develop notices of determination of eligibility;
- Require the property owner to apply for certification on a form including the most recent market study, which must have been conducted by an independent certified general appraiser in the preceding three years; a list of units for which the exemption is sought; and the rent amount received for each unit;
- Require the designated entity to verify and certify the property as having met the requirements for the exemption, and to notify unsuccessful applicants with the reasons for denial;
- Set out the requirements for each unit discussed above;
- Require the property owner to submit an application for exemption accompanied by certification to the property appraiser by March 1;
- Specify that such exemption only applies to taxes levied by the unit of government granting the exemption;
- Specify that the property may not receive such an exemption after the expiration of the ordinance granting the exemption;
- Identify the percentage of assessed value to be exempted, and which allowable income limitation applies to the exemption; and
- Require that the deadline to submit an application and a list of certified properties be published on the government's website.[48]

The ordinance must expire before the fourth January 1 after adoption; however, the governing body may adopt a new ordinance renewing the exemption.[49]

If the property appraiser determines that such an exemption has been improperly granted within the last 10 years, the property appraiser must serve the owner with a notice of intent to record a tax lien. Such property will be subject to the taxes improperly exempted, plus a penalty of 50 percent and 15 percent annual interest. Penalty and interest amounts do not apply to exemptions erroneously granted due to clerical mistake or omission by the property appraiser.[50]

Keys Workforce Housing Initiative

The Florida Keys Area Protection Act[51] provides, in part, that comprehensive plan amendments within the covered area, which includes the majority of Monroe County, must comply with "goals, objectives and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours."[52] Monroe County, applicable municipalities, and DEO have agreed to use a multi-phase evacuation model and limit residential building permits going forward in order to comply with these standards.[53]

In response to need for affordable housing, DEO developed, and the Administration Commission approved in 2018, the Keys Workforce Housing Initiative ("Initiative"), which provided for up to 1,300

[47] S. 196.1979(1)(b), F.S.
[48] S. 196.1979(3), F.S.
[49] S. 196.1979(5), F.S.
[50] S. 196.1979(6), F.S.
[51] S. 380.0552, F.S.
[52] S. 380.0052(9)(a)2.
[53] *See Mattino v. City of Marathon*, 345 So.3d 939 (Fla. 3d DCA 2022).

building permit allocations for deed-restricted affordable housing properties agreeing to evacuate at least 48 hours in advance of a hurricane making landfall.[54]

In 2023, the Live Local Act passed an uncodified provision that states the Initiative is an exception to the evacuation time constraints of the Florida Keys Protection Act.[55] Instead, deed-restricted affordable workforce housing properties receiving permit allocations under the Initiative must agree to evacuate at least 48 hours in advance of hurricane landfall. The bill provides that the comprehensive plan amendment approved by Commerce to implement the Initiative is valid and authorizes the respective local government to adopt ordinances or regulations to implement the plan amendment.

State Housing Initiatives Program (SHIP)

The SHIP program was created in 1992[56] to provide funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The SHIP program provides funds to all 67 counties and 52 Community Development Block Grant[57] entitlement cities on a population-based formula to finance and preserve affordable housing based on locally adopted housing plans.[58] The program was designed to serve very-low, low-, and moderate-income families and is administered by FHFC. SHIP program funds may be used to pay for emergency repairs, rehabilitation, down payment and closing cost assistance, impact fees, construction and gap financing, mortgage buydowns, acquisition of property for affordable housing, matching dollars for federal housing grants and programs, and homeownership counseling.[59]

Funds are expended per each local government's adopted Local Housing Assistance Plan (LHAP), which details the housing strategies it will use.[60] Local governments submit their LHAPs to FHFC for review to ensure they meet the broad statutory guidelines and the requirements of the program rules. FHFC must approve an LHAP before a local government may receive SHIP program funding.

Certain statutory requirements restrict a local government's use of funds made available under the SHIP program (excluding amounts set aside for administrative costs):

- At least 75 percent of SHIP program funds must be reserved for construction, rehabilitation, or emergency repair of affordable, eligible housing;[61] and
- Up to 25 percent of SHIP program funds may be reserved for allowed rental services.[62]

Within those distributions by local governments, additional requirements must be met:

- At least 65 percent of SHIP program funds must be reserved for home ownership for eligible persons;[63]
- At least 20 percent of SHIP program funds must serve persons with special needs;[64]

[54] These residents would be part of the first evacuation phase, which under most circumstances evacuates in the 48 to 24-hour window before a hurricane. Florida Administration Commission, Exhibit b, Supporting Documentation for Agenda Item 2., Presentation of the Department of Economic Opportunity's Keys Workforce Housing Initiative, *available at* https://www.myflorida.com/myflorida/cabinet/agenda18/0515/ADCOM051518.pdf (last visited February 5, 2024).
[55] Ch. 2023-17, s. 42, Laws of Fla.
[56] Ch. 92-317, Laws of Fla.
[57] The CDBG program is a federal program created in 1974 that provides funding for housing and community development activities.
[58] *See* ss. 420.907-420.9089, F.S.
[59] S. 420.072(7), F.S.
[60] Sections 420.9075 and 420.9075(3), F.S., outline a list of strategies LHAPs are encouraged to employ, such as helping those affected by mobile home park closures, encouraging innovative housing design to reduce long-term housing costs, preserving assisted housing, and reducing homelessness.
[61] S. 420.9075(5)(c), F.S.
[62] S. 420.9075(5)(b), F.S. However, a local government may not expend money distributed to it to provide ongoing rent subsidies, except for: security and utility deposit assistance; eviction prevention not to exceed six months' rent; or a rent subsidy program for very-low-income households with at least one adult who is a person with special needs or is homeless, not to exceed 12 months' rental assistance.
[63] S. 420.9075(5)(a), F.S. "Eligible person" or "eligible household" means one or more natural persons or a family determined by the county or eligible municipality to be of very low income, low income, or moderate income based upon the annual gross income of the household.
[64] S. 420.9075(5)(d), F.S.

- Up to 20 percent of SHIP program funds may be used for manufactured housing;[65] and
- At least 30 percent of SHIP program funds must be used for awards to very-low-income persons or eligible sponsors serving very-low-income persons, and another 30 percent must be used for awards for low-income-persons or eligible sponsors serving low-income persons.[66]

Tourist Development Taxes

The Local Option Tourist Development Act[67] authorizes counties to levy five separate taxes on transient rental[68] transactions (tourist development taxes or TDTs). Depending on a county's eligibility to levy such taxes, the maximum potential tax rate varies:

- The original TDT may be levied at the rate of 1 or 2 percent.
- An additional 1 percent tax may be levied by counties who have previously levied the original TDT at the 1 or 2 percent rate for at least three years.
- A high tourism impact tax may be levied at an additional 1 percent.
- A professional sports franchise facility tax may be levied up to an additional 1 percent.
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.[69]

Tourist Development Tax Uses

Current law authorizes counties to levy and spend TDTs as a mechanism for funding a variety of tourist-related uses, including tourism promotion, financing and constructing of public facilities needed to increase tourist-related business activities in the county, beach restoration and maintenance projects, convention centers, and professional sports franchise facilities.[70] Such uses are tied to the specific TDT being levied.

For example, the revenue derived from the original 1 or 2% TDT and from the additional 1% TDT levied by counties who have previously levied the original TDT
may be used to:

- Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote a:
  - Publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium;
  - Auditoriums that are publicly owned but operated by a 501(c)(3) organization; or
  - Aquarium or museum that is publicly owned and operated or owned and operated by a not-for-profit organization.[71]
- Promote zoos that are publicly owned and operated or owned and operated by not-for-profit organizations;[72]
- Promote or advertise tourism in the state;[73]
- Fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies, or by contract with chambers of commerce or similar associations in the county;[74]
- Finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup or restoration of

[65] S. 420.9075(5)(e), F.S.
[66] S. 420.9075(5)(g)2., F.S.
[67] S. 125.0104, F.S.
[68] S. 125.0104(3)(a)(1), F.S. considers "transient rental" to be the rental or lease of any accommodation for a term of six months or less.
[69] S. 125.0104(3)(c)-(d), (l), and (m)-(n), F.S.
[70] S, 125.0104, F.S.
[71] S. 125.0104(5)(a)1., F.S.
[72] S. 125.0104(5)(a)2., F.S.
[73] S. 125.0104(5)(a)3., F.S.
[74] S. 125.0104(5)(a)4., F.S.

inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river;[75] or

- Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or finance public facilities needed to increase tourist-related business activities in the area, including any related land acquisition, land improvement, design and engineering costs, and all other professional and related costs required to bring the facilities into service.[76]
- In counties with populations less than 950,000, the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.[77]
- In certain coastal counties, up to 10% of the revenues can be used to reimburse the county for public safety services necessary to address impact related to increased tourism.[78]
- Secure revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum, or financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.[79]

Tourist Impact Tax

In addition to tourist development tax, any county that has created a land authority may levy a tourist impact tax of 1 percent on all transient rental facilities within the county located in areas designated as an area of critical state concern.[80] If more than 50 percent of the land area of the county is located in an area of critical state concern, the tax may be levied countywide. The proceeds of the tax are used to purchase property in the area of critical state concern and to offset the loss of ad valorem taxes due to those land acquisitions.[81] Currently, Monroe County is the only county eligible to levy this tax.[82]

Effect of Proposed Changes

The bill provides the authorization for a local government to approve a development that would otherwise be precluded by state or local law or regulation does not apply to local governments located in the Florida Keys Area of Critical State Concern.

The bill revises eligibility for the local option affordable housing ad valorem tax exemption by allowing a county to provide an ad valorem property tax exemption up to 100 percent of the assessed value for single-family residential units or residential duplexes used to provide affordable housing. This applies to all counties in the state.

The bill also provides that a county or municipality located in the Florida Keys Area of Critical State Concern or the Key West Area of Critical State Concern may provide an affordable housing tax exemption under the existing provisions of s. 196.1978 even if the property does not have more than 50

[75] In counties with populations less than 100,000, up to 10 percent of tourist development tax revenues may be used for financing beach park facilities. See s. 125.0104(5)(a)5., F.S.
[76] S. 125.0104(5)(a)6., F.S. This provision is limited to counties in which $10 million in tourist development tax revenues were received in the prior year, the county governing board approves such used by a 2/3 vote, no more than 70% of the proposed public facilities will be funded with TDT revenue, at least 40% of all TDT revenue collected in the county are spent to promote and advertise tourism, and an independent analysis demonstrates the positive impact the infrastructure project will have on tourist-related businesses.
[77] S. 125.0104(5)(b), F.S.
[78] S. 125.0104(5)(c), F.S. The counties must have more than $10 million in TDT revenue, have three or more municipalities, and have a population of less than 225,000.
[79] S. 125.0104(5)(d), F.S.
[80] S. 125.0108, F.S.
[81] S. 125.0108(3), F.S.
[82] Office of Economic and Demographic Research, *2023 Florida Tax Handbook*, 306 http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf (last visited February 5, 2024).

units, at least 20% of which are used for affordable housing. This provision would apply starting with the 2025 tax roll.

As it pertains to hurricane evacuation clearance time modeling, the bill provides that mobile home residents are not considered permanent residents for purposes of the 24 hour evacuation requirement in s. 380.0552(9)(a)2.,F.S., and clarifies that the Key West Area of Critical State Concern will be included in the hurricane evaluation study.

The bill authorizes land authorities to require compliance with income limitations on land conveyed for affordable housing by memorializing the original land authority funding or donation in a recordable perpetual deed restriction. The bill provides that if a purchase receives state or federal funding that requires a priority lien position over the land authority deed restriction, the land authority funding or contribution may be subordinate to a first purchase money mortgage and the state or federal funding lien.

The bill provides that a county or municipality that that includes or has included within the previous five years an area of critical state concern designated by the Legislature for which the Legislature has declared its intent to provide affordable housing is exempt from the following requirements for awards made under the SHIP program:

- At least 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to very-low-income persons or eligible sponsors who will serve very-low-income persons; and
- At least an additional 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to low-income persons or eligible sponsors who will serve low-income persons.

This provision expires on July 1, 2029, and applies retroactively.

The bill allows for a county that has been designated as an area of critical state concern that levies a tourist development tax and a tourist impact tax to transfer its cumulative surplus from those taxes incurred through September 30, 2024, for the purpose of providing affordable housing for employees whose housing opportunities are impacted by the operation of tourist-related businesses in the county. Any housing financed with funds from this surplus will maintain its status as affordable housing for a minimum of 99 years.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.01055, F.S., relating to county affordable housing.

Section 2: Amends s. 166.04151, F.S., relating to municipal affordable housing.

Section 3: Amends s. 196.1979, F.S., relating to county and municipal affordable housing property exemption.

Section 4: Amends s. 380.0552, F.S., relating to requirements to local comprehensive plans relating to the hurricane evaluation study.

Section 5: Amends s. 680.0666, F.S., relating to powers of land authorities.

Section 6: Amends s. 420.9075, F.S., relating to local housing assistance plans.

Section 7: Provides for the one-time transfer of certain tourist development tax proceeds for certain purposes.

Section 8: Provides an effective date of July 1, 2024.

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 Revenue Estimating Conference has not estimated the impact of the bill, but staff estimates that the negative local revenue impact of the statewide change to the affordable housing exemption could be significant, and that the recurring negative local revenue impact to Monroe County from the provision allowing a local exemption could also be significant. These impacts apply at the option of the local government, however, so staff estimates that the revenue impact to local governments will be recurring negative indeterminate.

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 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 neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The provision amending a statewide affordable housing provision does not fall within the relating to clause of the bill, “An act relating to affordable housing in counties designated as areas of critical state concern.”

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 31, 2024, the Local Administration, Federal Affairs & Special Districts Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment allows for a county that has been designated as an area of critical state concern that levies a tourist development tax and a tourist impact tax to transfer its cumulative surplus from those taxes incurred through September 30, 2024, for the purpose of providing affordable housing for employees whose housing opportunities are impacted by the operation of tourist-related businesses in the county. Any housing financed with funds from this surplus will maintain its status as affordable housing for a minimum of 99 years.

The analysis is drafted to the committee substitute as passed by the Local Administration, Federal Affairs & Special Districts Subcommittee.

A bill to be entitled

An act relating to affordable housing in counties designated as areas of critical state concern; amending ss. 125.01055 and 166.04151, F.S.; excluding land designated as an area of critical state concern from county and municipality affordable housing provisions; amending s. 196.1979, F.S.; providing for an ad valorem property tax exemption of a specified amount for certain property used to provide affordable housing; specifying that certain housing units may be eligible for tax exemptions if certain requirements are met; providing applicability; conforming provisions to changes made by the act; amending s. 380.0552, F.S.; adding certain requirements to local comprehensive plans relating to the hurricane evaluation study; amending s. 380.0666, F.S.; revising the powers of the land authority; providing requirements for conveying affordable housing homeownership units; providing lien status prioritization for certain purposes; amending s. 420.9075, F.S.; excluding land designated as an area of critical state concern within a specified time period from award requirements made to specified sponsors or persons for the purpose of providing eligible housing as a part of a local housing

assistance plan; providing for expiration and retroactive applicability; authorizing counties that have been designated as areas of critical state concern to use tourist development tax revenue and tourist impact tax revenue for affordable housing; requiring affordable housing financed with such funds to maintain its status for a specified period of time; providing for distribution of such funds; providing an effective date.

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

Section 1. Subsection (5) of section 125.01055, Florida Statutes, is amended to read:

125.01055 Affordable housing.—

(5) Subsections ~~Subsection~~ (4) and (6) do ~~does~~ not apply in an area of critical state concern, as designated in s. 380.0552.

Section 2. Subsection (5) of section 166.04151, Florida Statutes, is amended to read:

166.04151 Affordable housing.—

(5) Subsections ~~Subsection~~ (4) and (6) do ~~does~~ not apply in an area of critical state concern, as designated by s. 380.0552 or chapter 28-36, Florida Administrative Code.

Section 3. Paragraph (b) of subsection (1) and paragraph

(e) of subsection (3) of section 196.1979, Florida Statutes, are amended, and paragraph (d) is added to subsection (1) of that section, to read:

196.1979 County and municipal affordable housing property exemption.—

(1)

(b) Qualified property may receive an ad valorem property tax exemption of:

1. Up to 75 percent of the assessed value of each residential unit used to provide affordable housing if fewer than 100 percent of the multifamily project's residential units are used to provide affordable housing meeting the requirements of this section.

2. Up to 100 percent of the assessed value if 100 percent of the multifamily project's residential units are used to provide affordable housing meeting the requirements of this section.

3. Up to 100 percent of the assessed value if the residential unit is a single-family residential unit or a residential duplex, and such property is used to provide affordable housing meeting the requirements of this section.

(d)1. Notwithstanding subparagraph (1)(a)2., a housing unit located within the Florida Keys Area pursuant to s. 380.0552 or the Key West Area pursuant to chapter 28-36, Florida Administrative Code, as amended, effective August 23, 1984, may

be eligible for a tax exemption under this section if the housing unit meets the requirements of this section and the unit is being offered for rent.

2. This paragraph first applies to the 2025 tax roll.

(3) An ordinance granting the exemption authorized by this section must:

(e) Require the eligible unit to meet the eligibility criteria of paragraph (1)(a) or paragraph (1)(d).

Section 4. Paragraph (a) of subsection (9) of section 380.0552, Florida Statutes, is amended to read:

380.0552 Florida Keys Area; protection and designation as area of critical state concern.—

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed the criteria in s. 403.086(11) for wastewater treatment and disposal facilities or s. 381.0065(4)(l) for onsite sewage treatment and disposal systems.

2. Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time shall be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by the state land planning agency. For purposes of hurricane evacuation clearance time modeling:

a. Mobile home residents are not considered permanent residents.

b. The Key West Area pursuant to chapter 28-36, Florida Administrative Code, as amended, effective August 23, 1984, shall be included in the hurricane evaluation study.

Section 5. Subsection (14) of section 380.0666, Florida Statutes, is added to read:

380.0666 Powers of land authority.—The land authority shall have all the powers necessary or convenient to carry out

and effectuate the purposes and provisions of this act, including the following powers, which are in addition to all other powers granted by other provisions of this act:

(14) For affordable housing homeownership units, to require compliance with the income requirements under paragraph (3)(a) at the time of conveyance each time a unit is conveyed. The original land authority funding or contribution shall be memorialized in a recordable perpetual deed restriction. If the purchase receives state or federal funding and that state or federal funding program requires a priority lien position over the land authority deed restriction, the land authority funding or contribution may be subordinate to a first purchase money mortgage and the state or federal funding lien.

Section 6. Paragraph (g) of subsection (5) of section 420.9075, Florida Statutes, is amended to read:

420.9075 Local housing assistance plans; partnerships.—

(5) The following criteria apply to awards made to eligible sponsors or eligible persons for the purpose of providing eligible housing:

(g)1. All units constructed, rehabilitated, or otherwise assisted with the funds provided from the local housing assistance trust fund must be occupied by very-low-income persons, low-income persons, and moderate-income persons except as otherwise provided in this section.

2.a. At least 30 percent of the funds deposited into the

local housing assistance trust fund must be reserved for awards to very-low-income persons or eligible sponsors who will serve very-low-income persons, and at least an additional 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to low-income persons or eligible sponsors who will serve low-income persons.

b. This subparagraph does not apply to a county or an eligible municipality that includes or has included within the previous 5 years an area of critical state concern designated by the Legislature for which the Legislature has declared its intent to provide affordable housing. This sub-subparagraph expires on July 1, 2029, and applies retroactively.

Section 7. A county that has been designated as an area of critical state concern by law or by action of the Administration Commission pursuant to s. 380.05, Florida Statutes, and that levies a tourist development tax pursuant to s. 125.0104, Florida Statutes, and a tourist impact tax pursuant to s. 125.0108, Florida Statutes, may transfer its cumulative surplus from such taxes incurred through September 30, 2024, for the purpose of providing affordable housing as defined in s. 420.0004, Florida Statutes, for employees whose housing opportunities are impacted by the operation of tourist-related businesses in the county. Any housing financed with funds from this surplus shall maintain its status as affordable housing for a period of no less than 99 years. The transferred surplus shall

be distributed pursuant to s. 125.0108(3), Florida Statutes.

Section 8. This act shall take effect July 1, 2024.

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	_____	

Committee/Subcommittee hearing bill: Ways & Means Committee
Representative Mooney offered the following:

Amendment

Remove lines 50-79 and insert:

Section 3. Paragraph (d) is added to subsection (1) of section 196.1979, Florida Statutes, to read:

196.1979 County and municipal affordable housing property exemption.—

(1)

(d)1. Notwithstanding subparagraph (1)(a)2., a housing unit located within the Florida Keys Area pursuant to s. 380.0552 or the Key West Area pursuant to chapter 28-36, Florida Administrative Code, as amended, effective August 23, 1984, may be eligible for a tax exemption under this section if the

housing unit otherwise meets the requirements of this section and the unit is being offered for rent.

2. In addition to the tax exemptions otherwise provided in this section, up to 100 percent of the assessed value of a single-family residential unit or a residential duplex located within the Florida Keys Area pursuant to s. 380.0552 or the Key West Area pursuant to chapter 28-36, Florida Administrative Code, as amended, effective August 23, 1984, may be exempt if such property is used to provide affordable housing that meets the requirements of this section other than subparagraph (1)(a)2 and the unit is being offered for rent.

3. This paragraph first applies to the 2025 tax roll.

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	_____	

Committee/Subcommittee hearing bill: Ways & Means Committee
Representative Mooney offered the following:

Amendment (with title amendment)

Remove lines 163-176 and insert:

Section 7. (1) A county that has been designated as an area of critical state concern by law or by action of the Administration Commission pursuant to s. 380.05, Florida Statutes, and that levies both a tourist development tax pursuant to s. 125.0104, Florida Statutes, and a tourist impact tax pursuant to s. 125.0108, Florida Statutes, shall use its accumulated surplus from such taxes collected through September 30, 2024, whether held by the county directly or held by a land authority in that county created pursuant to s. 380.0663, for the purpose of providing housing that is:

(a) Affordable, as defined in s. 420.0004, Florida Statutes, and

(b) Available to employees of tourism-related businesses in the county.

(2) Any housing financed with funds from this surplus shall only be used to provide housing that is affordable, as defined in s. 420.0004, Florida Statutes, for a period of no fewer than 99 years.

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

Remove lines 31-33 and insert:
requiring housing financed with such funds to be solely used for affordable housing for a specified period of time; providing an

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1573 Pace Fire Rescue District, Santa Rosa County
SPONSOR(S): Andrade
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	15 Y, 0 N	Roy	Darden
2) Ways & Means Committee		Rexford	Aldridge
3) State Affairs Committee			

SUMMARY ANALYSIS

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, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.

Independent special fire control districts are a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district. Independent fire control districts are governed by both the Uniform Special District Accountability Act and the Independent Special Fire Control District Act. Fire control districts may levy ad valorem taxes as provided in the special act creating the district. Fire control districts may also levy non-ad valorem assessments subject to statutory limitation and referendum approval.

The Pace Fire Rescue District (District) was created by special act in 2018. The District is a successor entity to a municipal services benefit unit established in 1959 and is comprised of two fire stations and employs 22 career personnel, one fulltime fire inspector, and one full-time administrative personnel. The District currently levies an ad valorem tax of 1.53 mills, generating approximately $4.1 million in revenue annually.

The bill amends the District's charter, effective October 1, 2024, to remove the authority to assess and levy ad valorem taxes. The bill also imposes restrictions on the District's ability to levy non-ad valorem assessments, imposing maximum rates in the following;

- $250 for residential properties up to 1,600 square feet, with an additional $0.1544 per square foot in excess of 1,600 square feet.
- $30.96 for vacant land.
- $500 for commercial properties up to 950 square feet, with an additional $0.1544 per square foot in excess of 950 square feet.
- $30.96 for unimproved acreage up to three acres, with an additional $10.32 per acre in excess of three acres.

The bill provides that the District's board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in the bill, by resolution without the need for a referendum.

The Economic Impact Statement anticipates the assessments authorized by the bill will generate approximately $3,336,626 in revenue the first fiscal year and that revenue will increase by $344,669 in the second fiscal year.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.[1] Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.[2] 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.[3] Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.[4]

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as "dependent" if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district's governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.[5]

A district is classified as "independent" if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of single municipality.[6]

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.[7]

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.[8] The Independent Special Fire Control District Act (Act)[9] is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of

[1] S. 189.012(6), F.S.
[2] *See* ss. 189.02(1), 189.031(3), and. 190.005(1), F.S. *See generally* s. 189.012(6), F.S.
[3] Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3227&Session=2024&DocumentType=General+Publications&FileName=2022+Local+Government+Formation+Manual.pdf (last visited Feb. 1, 2024).
[4] The method of financing a district must be stated in its charter. Ss. 189.02(4)(g), 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. *See, e.g.,* ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). *See also, e.g.,* ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), 388.221 (mosquito control), ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).
[5] S. 189.012(2), F.S.
[6] S. 189.012(3), F.S.
[7] *See, e.g.*, ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).
[8] S. 191.003(5), F.S.
[9] Chapter 191, F.S.

members to the governing boards for greater public accountability.[10] The Act controls over more specific provisions in any special act or general law of local application creating an independent fire control district's charter.[11] The Act requires every independent special fire control district be governed by a five-member board[12] and provides for general powers, special powers, and issuance of district bonds and evidences of debt.[13]

The Act provides that a fire control district may levy and assess ad valorem taxes on all taxable property in the district to construct, operate, and maintain district facilities and services at rate not to exceed 3.75 mills, unless a higher amount has been previously authorized by law approved the electors of the district.[14]

A fire control district may also levy non-ad valorem assessments to construct, operate and maintain district facilities and services provided pursuant to the district's general powers, special powers, any applicable general laws of local application, and a district's enabling legislation.[15] The initial assessment of such a levy must be approved by the electors of the district in a referendum. The rate of the assessment is set using an assessment apportionment methodology that meets fair apportionment standards.[16] The rate set by the board may not exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years, unless a higher rate is approved by the voters in a referendum.[17]

Independent special fire control districts are authorized to cooperate and contract with other governmental agencies to provide effective mutual aid, including exercising powers outside the district's boundary in cooperation with another governmental agency that shares such powers in common with the district.[18]

As a type of independent special district,[19] independent special fire control districts are subject to applicable provisions of ch. 189, F.S., the "Uniform Special District Accountability Act."[20]

Pace Fire Rescue District

The Pace Fire Rescue District (District) was created by special act in 2018.[21] The District is a successor entity to a municipal services benefit unit established in 1959 and is comprised of two fire stations and employs 22 career personnel, one fulltime fire inspector, and one full-time administrative personnel.[22] The District serves the Pace, Pea Ridge, Floridatown and Wallace communities, as well as the southern tip of the Chumuckla area, a total area of 64 square miles with approximately 35,000 residences.[23]

[10] S. 191.002, F.S.
[11] S. 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section. *Id.*
[12] S. 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.
[13] Ss. 191.006, 191.008, and 191.012, F.S.
[14] S. 191.009(1), F.S.
[15] S. 191.009(2)(a), F.S.
[16] *See* s. 191.011(1), F.S.
[17] S. 191.009(2)(a), F.S.
[18] S. 191.006(13), F.S.
[19] S. 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.
[20] S. 189.031, F.S.
[21] Ch. 2017-221, Laws of Fla.
[22] Pace Fire Rescue District, *Pace Fire Rescue District 7 Year Strategic Plan Fiscal Years 2020 through 2026*, available at https://pacefireresquedistrict.com/required-reporting (last visited Feb. 1, 2024).
[23] Kevin Robinson, *Pace fire district seeks independence,* Pensacola News Journal (October 30, 2016), http://www.pnj.com/story/news/local/pace/2016/10/30/pace-fire-district-seeks-independence/92793094/ (last visited Feb. 1, 2024).

The District's ad valorem tax rate is limited to 2.5 mills by its charter.[24] In the District's budget for fiscal year 2023-24, revenue of approximately $4.1 million is projected to be raised by levying an ad valorem tax of 1.53 mills.[25] The District's charter authorizes the District to levy non-ad valorem assessments; however, the first-time levy must be approved by a referendum. Currently, the District is not levying non-ad valorem assessments.

Effect of Proposed Changes

The bill amends the District's charter, effective October 1, 2024, to remove the ability to assess and levy ad valorem taxes. The bill also allows the District to levy a first-time, non-ad valorem assessment by resolution and without a referendum, if the District levies within the following rates:

- $250 for residential properties up to 1,600 square feet, with an additional $0.1544 per square foot in excess of 1,600 square feet.
- $30.96 for vacant land.
- $500 for commercial properties up to 950 square feet, with an additional $0.1544 per square foot in excess of 950 square feet.
- $30.96 for unimproved acreage up to three acres, with an additional $10.32 cents per acre in excess of three acres.

The Economic Impact Statement anticipates the assessments authorized by the bill will generate approximately $3,336,626 in revenue the first fiscal year and increasing by $344,669 in the second fiscal year.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2017-221, Laws of Fla., repealing the District's authority to levy ad valorem taxes and establishes a maximum rate for non-ad valorem assessments.

Section 2: Provides that, notwithstanding s. 191.009 or any other provision of law, the District may adopt an initial levy of a non-ad valorem assessment without a referendum.

Section 3: Provides that the bill is effective upon becoming law except as otherwise expressly provided.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? November 16, 2023.

WHERE? *Navarre Press*, a weekly newspaper published in Santa Rosa County.

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [x] No []

[24] Ch. 2017-221, s. 13, Laws of Fla.
[25] Pace Fire Rescue District, *FY 2023-2024 Budget*, available at https://pacefirerescuedistrict.com/required-reporting (last visited Feb. 1, 2024).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Pace Fire Rescue District, Santa Rosa County; amending chapter 2017-221, Laws of Florida; repealing the district's authority to levy and collect ad valorem taxes; establishing maximum rates for non-ad valorem assessments; providing an exception to general law relating to the initial levy of non-ad valorem assessments; providing effective dates.

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

Section 1. Effective October 1, 2024, subsection (1) of section 7 and section 8 of chapter 2017-221, Laws of Florida, are amended to read:

Section 7. Powers; use of district funds.—

(1) The district shall have, and the board may exercise, all the powers and duties set forth in chapters 189 and 191, Florida Statutes, as they may be amended from time to time, and shall include fire control, fire prevention, and emergency medical, rescue response and public safety services, except the authority to levy and collect ad valorem taxes.

Section 8. Finances.—

(1) The powers, functions, and duties of the district regarding ~~ad valorem taxation,~~ bond issuance, other revenue-

raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements, and the methods for financing the district and for collecting non-ad valorem assessments, fees, or service charges, shall be as set forth in this charter, in chapters 170, 189, 191, and 197, Florida Statutes, and in any applicable general or special law except as limited herein.

~~(2) The district shall have the authority to levy and collect ad valorem taxes in accordance with s. 191.009, Florida Statutes, and chapter 200, Florida Statutes. The taxes levied and assessed by the district shall be a lien upon the land so assessed along with the county taxes assessed against such land until such assessments and taxes have been paid, and if the taxes levied by the district become delinquent, such taxes shall be considered a part of the county tax subject to the same penalties, charges, fees, and remedies for enforcement and collection and shall be enforced and collected as provided by general law for the collection of such taxes. The maximum ad valorem millage rate that can be levied in any one year shall be 3.75 mills, unless a lower maximum rate is authorized by referendum.~~

(2)~~(3)~~ The district shall have the authority to levy non-ad valorem assessments. The methods for assessing and collecting non-ad valorem assessments, fees, or service charges shall be as

set forth in this charter, chapter 170, Florida Statutes, chapter 189, Florida Statutes, chapter 191, Florida Statutes, and chapter 197, Florida Statutes.

(3) The non-ad valorem assessments may be levied up to the following maximum amounts:

(a) Two hundred fifty dollars for residential properties up to 1,600 square feet, with an additional $0.1544 per square foot in excess of 1,600 square feet.

(b) Thirty dollars and 96 cents for vacant land.

(c) Five hundred dollars for commercial properties up to 950 square feet, with an additional $0.1544 per square foot in excess of 950 square feet.

(d) Thirty dollars and 96 cents for unimproved acreage up to 3 acres, with an additional $10.32 per acre in excess of 3 acres ~~Pursuant to s. 191.009, Florida Statutes, the first-time levy of non-ad valorem assessments must be approved by a referendum of the electors of the district~~.

(4) The district shall have the authority to charge and collect impact fees for capital improvements on new construction within the district as prescribed in chapter 191, Florida Statutes, or any other applicable general law. The district shall comply with the requirements in ss. 163.31801 and 191.009(4), Florida Statutes, in its collection and use of impact fees. New facilities and equipment shall be as provided for in s. 191.009(4), Florida Statutes. The district is

authorized to enter into agreements regarding the collection of impact fees.

(5) The district shall have the authority to issue general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes, and other evidences of indebtedness to finance all or a part of any proposed improvements in accordance with s. 191.012, Florida Statutes, chapter 189, Florida Statutes, and any other applicable general or special law.

(6) The board shall annually prepare, consider, and adopt a district budget pursuant to the applicable requirements of chapters 189 and 191, Florida Statutes. The fiscal year shall be from October 1 through September 30. The budget shall state the purpose for which the money is required and the amount necessary to be raised by taxation within the district. Such budget and proposed non-ad valorem assessment ~~millage~~ rate shall be noticed, heard, and adopted in accordance with chapters 189, 192, and 200, Florida Statutes.

(7) All warrants for the payment of labor, equipment, materials, and other allowable expenses incurred by the district board in carrying out the provisions of this charter shall be payable on accounts and vouchers approved by the district board.

Section 2. Notwithstanding s. 191.009, Florida Statutes, or any other provision of law, the Board of Commissioners of the Pace Fire Rescue District may adopt an initial levy of a non-ad valorem assessment, subject to the rate limitations set forth in

section 1 of this act, by resolution pursuant to s. 191.011, Florida Statutes, without the need for a referendum. Future non-ad valorem assessment rates are subject to s. 191.009, Florida Statutes, and other applicable law.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1575 Avalon Beach-Mulat Fire Protection District, Santa Rosa County
SPONSOR(S): Andrade
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	15 Y, 0 N	Roy	Darden
2) Ways & Means Committee		Rexford	Aldridge
3) State Affairs Committee			

SUMMARY ANALYSIS

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, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.

Independent special fire control districts are a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district. Fire control districts may levy ad valorem taxes as provided in the special act creating the district. Fire control districts may also levy non-ad valorem assessments subject to statutory limitation and referendum approval.

The Avalon Beach-Mulat Fire Protection District (District) is a independent special fire control district in Santa Rosa County created in 1980. The charter of the district was re-codified in 2005. The District provides emergency and non-emergency services for the preservation of life, property, and the environment, through professional development and dedication. The District is governed by an elected five-member board that serves four-year terms. The District's charter provides that the maximum millage proposed in an initial referendum cannot be more than 1 mill; the millage can be further increased in later referendums. The District levied an ad valorem tax of 2 mills during the 2022-2023 fiscal year, generating $982,108 in revenue.

The bill amends the District's charter, effective October 1, 2024, to remove the authority to assess and levy ad valorem taxes. The bill also establishes maximum rates that the District can levy for non-ad valorem assessments:

- $250 for residential properties up to 1,600 square feet, with an additional $0.1544 per square foot in excess of 1,600 square feet.
- $30.96 for vacant land.
- $500 for commercial properties up to 950 square feet, with an additional $0.1544 per square foot in excess of 950 square feet.
- $30.96 for unimproved acreage up to three 3 acres, with an additional $10.32 cents per acre in excess of 3 acres.

The bill provides that the board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in the bill, by resolution without the need for a referendum.

The Economic Impact Statement indicates the assessments authorized by the bill will generate approximately $700,351 in revenue for the first fiscal year and that revenue will increase by $84,123 the second fiscal year.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.[1] Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.[2] 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.[3] Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.[4]

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as "dependent" if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district's governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.[5]

A district is classified as "independent" if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of single municipality.[6]

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.[7]

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.[8] The Independent Special Fire Control District Act (Act)[9] is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of

[1] S. 189.012(6), F.S.
[2] *See* ss. 189.02(1), 189.031(3), and. 190.005(1), F.S. *See generally* s. 189.012(6), F.S.
[3] Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3227&Session=2024&DocumentType=General+Publications&FileName=2022+Local+Government+Formation+Manual.pdf (last visited Feb. 1, 2024).
[4] The method of financing a district must be stated in its charter. Ss. 189.02(4)(g), 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. *See, e.g.,* ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). *See also, e.g.,* ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), 388.221 (mosquito control), ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).
[5] S. 189.012(2), F.S.
[6] S. 189.012(3), F.S.
[7] *See, e.g.*, ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).
[8] S. 191.003(5), F.S.
[9] Ch. 191, F.S.

members to the governing boards for greater public accountability.[10] The Act controls over more specific provisions in any special act or general law of local application creating an independent fire control district's charter.[11] The Act requires every independent special fire control district be governed by a five-member board[12] and provides for general powers, special powers, and issuance of district bonds and evidences of debt.[13]

A fire control district may also levy non-ad valorem assessments to construct, operate and maintain district facilities and services provided pursuant to the district's general powers, special powers, any applicable general laws of local application, and a district's enabling legislation.[14] The initial assessment of such a levy must be approved by the electors of the district in a referendum. The rate of the assessment is set using an assessment apportionment methodology that meets fair apportionment standards.[15] The rate set by the board may not exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years, unless a higher rate is approved by the voters in a referendum.[16]

Independent special fire control districts are authorized to cooperate and contract with other governmental agencies to provide effective mutual aid, including exercising powers outside the district's boundary in cooperation with another governmental agency that shares such powers in common with the district.[17]

As a type of independent special district,[18] independent special fire control districts are subject to applicable provisions of ch. 189, F.S., the "Uniform Special District Accountability Act."[19]

Avalon Beach-Mulat Fire Protection District

The Avalon Beach-Mulat Fire Protection District (District) is an independent special fire control district in Santa Rosa County created in 1980.[20] The District is a successor entity of a volunteer fire department founded in 1964.[21] The charter of the district was re-codified in 2005.[22] The District provides emergency and non-emergency services for the preservation of life, property, and the environment, through professional development and dedication.[23] The District is governed by an elected five-member board that serves four-year terms.[24]

The District's charter provides that the maximum millage proposed in an initial referendum cannot be more than 1 mill; the millage can be further increased in later referendums.[25] The District levied an ad valorem tax of 2 mills during the 2022-2023 fiscal year, generating $982,108 in revenue.[26] The District's charter gives the District the authority to levy non-ad valorem assessments.[27]

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[10] S. 191.002, F.S.
[11] S. 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section. *Id.*
[12] S. 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.
[13] Ss. 191.006, 191.008, and 191.012, F.S.
[14] S. 191.009(2)(a), F.S.
[15] *See* s. 191.011(1), F.S.
[16] S. 191.009(2)(a), F.S.
[17] S. 191.006(13), F.S.
[18] S. 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.
[19] S. 189.031, F.S.
[20] Ch. 80-608, Laws of Fla.
[21] Avalon Fire Rescue, *Our Story*, http://www.avalonfirerescue.com/History.html (last visited Feb. 1, 2024).
[22] Ch. 2005-347, Laws of Fla.
[23] Avalon Fire Rescue, *Avalon Fire Rescue District*, http://www.avalonfirerescue.com/District.html (last visited Feb. 1, 2024)
[24] Ch. 2005-347, s. 3(2)(1), Laws of Fla. *See also* s. 191.005(1)(a), F.S.
[25] Ch. 2005-347, s. 3(3)(2), Laws of Fla.
[26] Avalon Fire Rescue, *Budget Summary Avalon Fire Rescue District, Fiscal Year 2022-2023*, http://www.avalonfirerescue.com/District.html (last visited Feb. 1, 2024).
[27] Ch. 2005-347, s. 3(2)(1), Laws of Fla.

Effect of Proposed Changes

The bill amends the District's charter, effective October 1, 2024, to remove the ability to assess and levy ad valorem taxes. The bill also establishes maximum rates that the District can levy for non-ad valorem assessments:

- $250 for residential properties up to 1,600 square feet, with an additional $0.1544 per square foot in excess of 1,600 square feet.
- $30.96 for vacant land.
- $500 for commercial properties up to 950 square feet, with an additional $0.1544 per square foot in excess of 950 square feet.
- $30.96 for unimproved acreage up to 3 acres, with an additional $10.32 cents per acre in excess of 3 acres.

The bill provides the board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in the bill, by resolution without the need for a referendum.

The Economic Impact Statement indicates the assessments authorized by the bill will generate approximately $700,351 in revenue for the first fiscal year and that revenue will increase by $84,123 the second fiscal year.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2005-347, Laws of Fla., repealing the District's authority to levy ad valorem taxes and establishes a maximum rate for non-ad valorem assessments.

Section 2: Provides that, notwithstanding s. 191.009 or any other provision of law, the District may adopt an initial levy of a non-ad valorem assessment without a referendum.

Section 3: Provides that the bill is effective upon becoming law except as otherwise expressly provided.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? November 16, 2023.

WHERE? *Navarre Press*, a weekly newspaper published in Santa Rosa county.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Avalon Beach-Mulat Fire Protection District, Santa Rosa County; amending chapter 2005-347, Laws of Florida; repealing the district's authority to levy ad valorem taxes; establishing maximum rates for non-ad valorem assessments; providing an exception to general law relating to the initial levy of non-ad valorem assessments; providing effective dates.

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

Section 1. Effective October 1, 2024, subsection (1) of section 2 and section 3 of section 3 of chapter 2005-347, Laws of Florida, are amended to read:

Section 2. (1) District created.—There is hereby created a special taxing fire protection and rescue service district incorporating lands in Santa Rosa County described in subsection (2) which shall be a public corporation having the powers, duties, obligations, and immunities herein set forth, under the name of the Avalon Beach-Mulat Fire Protection District and also known as the Avalon Fire/Rescue District with all the powers and duties specified in chapter 191, Florida Statutes, including the authority to levy and collect non-ad valorem ~~and ad valorem~~ assessments but not including the authority to assess and levy

ad valorem taxes.

Section 3. Procedures for the levy and collection of non-ad valorem assessments ~~Ad valorem taxation.—~~

(1) The district is authorized to levy and enforce non-ad valorem assessments in accordance with chapters 170, 189, 191, and 197, Florida Statutes, as amended from time to time ~~board shall have the right, power, and authority to levy ad valorem tax millage within the district to provide funds for the purposes of the district~~.

(2) The non-ad valorem assessments may be levied up to the following maximum amounts:

(a) Two hundred fifty dollars for residential properties up to 1,600 square feet, with an additional $0.1544 per square foot in excess of 1,600 square feet.

(b) Thirty dollars and 96 cents for vacant land.

(c) Five hundred dollars for commercial properties up to 950 square feet, with an additional $0.1544 per square foot in excess of 950 square feet.

(d) Thirty dollars and 96 cents for unimproved acreage up to 3 acres, with an additional $10.32 per acre in excess of 3 acres ~~rate of taxation shall be fixed by a resolution of the board; however, the maximum millage proposed in the initial referendum shall not exceed 1 mill, unless increased by referendum pursuant to section 191.009, Florida Statutes~~.

Section 2. Notwithstanding s. 191.009, Florida Statutes,

or any other provision of law, the Board of Commissioners of the Avalon Beach-Mulat Fire Protection District may adopt an initial levy of a non-ad valorem assessment, subject to the rate limitations set forth in section 1 of this act, by resolution pursuant to s. 191.011, Florida Statutes, without the need for a referendum. Future non-ad valorem assessment rates are subject to s. 191.009, Florida Statutes, and other applicable law.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1577 Midway Fire District, Santa Rosa County
SPONSOR(S): Andrade
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	14 Y, 0 N	Roy	Darden
2) Ways & Means Committee		Rexford	Aldridge
3) State Affairs Committee			

SUMMARY ANALYSIS

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, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.

The Midway Fire District (District) is an independent special fire control district created by special act in 1980. The charter of the District was re-codified in 2003. The District is governed by a five-member board elected by residents of the District to serve four-year terms.

The District has the power to levy an ad valorem tax of up to 3.75 mills. During fiscal year 2022-23, the District levied an ad valorem tax of 2.4818 mills, which generated approximately $6.6 million in revenue.

The bill amends the District's charter, effective October 1, 2024, to remove the authority to assess and levy ad valorem taxes. The bill also establishes maximum rates that the District can levy for non-ad valorem assessments:

- $300 for residential properties up to 1,600 square feet, with an additional $0.1544 per square foot in excess of 1,600 square feet.
- $30.96 for vacant land.
- $500 for commercial properties up to 950 square feet, with an additional $0.1544 per square foot in excess of 950 square feet.
- $30.96 for unimproved acreage up to three acres, with an additional $10.32 per acre in excess of three acres.

The bill provides that the board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in this bill, by resolution without the need for a referendum.

The Economic Impact Statement indicates the bill will decrease revenue by approximately $661,983 for the first fiscal year after the bill is in effect.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.[1] Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.[2] 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.[3] Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.[4]

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as "dependent" if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district's governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.[5]

A district is classified as "independent" if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of single municipality.[6]

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.[7]

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.[8] The Independent Special Fire Control District Act (Act)[9] is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of

[1] S. 189.012(6), F.S.
[2] *See* ss. 189.02(1), 189.031(3), and. 190.005(1), F.S. *See generally* s. 189.012(6), F.S.
[3] Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3227&Session=2024&DocumentType=General+Publications&FileName=2022+Local+Government+Formation+Manual.pdf (last visited Feb. 1, 2024).
[4] The method of financing a district must be stated in its charter. Ss. 189.02(4)(g), 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. *See, e.g.,* ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). *See also, e.g.,* ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), 388.221 (mosquito control), ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).
[5] S. 189.012(2), F.S.
[6] S. 189.012(3), F.S.
[7] *See, e.g.*, ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).
[8] S. 191.003(5), F.S.
[9] Chapter 191, F.S.

members to the governing boards for greater public accountability.[10] The Act controls over more specific provisions in any special act or general law of local application creating an independent fire control district's charter.[11] The Act requires every independent special fire control district be governed by a five-member board[12] and provides for general powers, special powers, and issuance of district bonds and evidences of debt.[13]

The Act provides that a fire control district may levy and assess ad valorem taxes on all taxable property in the district to construct, operate, and maintain district facilities and services at rate not to exceed 3.75 mills, unless a higher amount has been previously authorized by law approved the electors of the district.[14]

A fire control district may also levy non-ad valorem assessments to construct, operate and maintain district facilities and services provided pursuant to the district's general powers, special powers, any applicable general laws of local application, and a district's enabling legislation.[15] The initial assessment of such a levy must be approved by the electors of the district in a referendum. The rate of the assessment is set using an assessment apportionment methodology that meets fair apportionment standards.[16] The rate set by the board may not exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years, unless a higher rate is approved by the voters in a referendum.[17]

Independent special fire control districts are authorized to cooperate and contract with other governmental agencies to provide effective mutual aid, including exercising powers outside the district's boundary in cooperation with another governmental agency that shares such powers in common with the district.[18]

As a type of independent special district,[19] independent special fire control districts are subject to applicable provisions of ch. 189, F.S., the "Uniform Special District Accountability Act."[20]

Midway Fire District

The Midway Fire District (District) is an independent special fire control district created by special act in 1980.[21] The charter of the district was re-codified in 2003.[22] The District is governed by a five-member board elected by residents of the District to serve four-year terms.[23]

The District has the power to levy an ad valorem tax of up to 3.75 mills.[24] The District's charter also provides the authority to assess non-ad valorem assessments in accordance with general law.[25] During fiscal year 2022-23, the District levied an ad valorem tax of 2.4818 mills which generated approximately $6.6 million in revenue.[26]

[10] S. 191.002, F.S.
[11] S. 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section. *Id.*
[12] S. 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.
[13] Ss. 191.006, 191.008, and 191.012, F.S.
[14] S. 191.009(1), F.S.
[15] S. 191.009(2)(a), F.S.
[16] *See* s. 191.011(1), F.S.
[17] S. 191.009(2)(a), F.S.
[18] S. 191.006(13), F.S.
[19] S. 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.
[20] S. 189.031, F.S.
[21] Ch. 80-607, Laws of Fla.
[22] Ch. 2003-364, Laws of Fla.
[23] Ch. 2003-364, s. 3(3)(1), Laws of Fla.
[24] Ch. 2003-364, s.3(5)(1), Laws of Fla. *See also* s. 191.009(1), F.S.
[25] Ch. 2003-364, s. 3(5)(3), Laws of Fla.
[26] Midway Fire District, *FY2023 Final Budget*, available at https://www.midwayfire.com/financial-information (last visited Feb. 1, 2024).

Effect of Proposed Changes

The bill amends the District's charter, effective October 1, 2024, to remove the ability to assess and levy ad valorem taxes. The bill also establishes maximum rates that the District can levy for non-ad valorem assessments:

- $300 for residential properties up to 1,600 square feet, with an additional $0.1544 per square foot in excess of 1,600 square feet.
- $30.96 for vacant land.
- $500 for commercial properties up to 950 square feet, with an additional $0.1544 per square foot in excess of 950 square feet.
- $30.96 for unimproved acreage up to three acres, with an additional $10.32 cents per acre in excess of three acres.

The bill provides the board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in the bill, by resolution without the need for a referendum.

The Economic Impact Statement indicates the bill will decrease revenue by approximately $661,983 for the first fiscal year after the bill is in effect.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2003-364, Laws of Fla., repealing the District's authority to levy ad valorem taxes and establishes a maximum rate for non-ad valorem assessments.

Section 2: Provides that, notwithstanding s. 191.009 or any other provision of law, the District may adopt an initial levy of a non-ad valorem assessment without a referendum.

Section 3: Provides that the bill is effective upon becoming law except as otherwise expressly provided.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? November 16, 2023.

WHERE? *Navarre Press*, a weekly newspaper published in Santa Rosa county.

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Midway Fire District, Santa Rosa County; amending chapter 2003-364, Laws of Florida; repealing the district's authority to levy ad valorem taxes; establishing maximum rates for non-ad valorem assessments; providing an exception to general law relating to the initial levy of non-ad valorem assessments; providing effective dates.

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

Section 1. Effective October 1, 2024, section 1 and sections 5 and 7 through 16 of section 3 of chapter 2003-364, Laws of Florida, are amended to read:

Section 1. Pursuant to section 191.015, Florida Statutes, this act constitutes the codification of all special acts relating to Midway Fire District, formerly the Midway Fire Protection District, located in Santa Rosa County. It is the intent of the Legislature to provide a single, comprehensive special act charter for the district, including all current legislative authority granted to the district by its several legislative enactments and any additional authority granted by this act and chapters 189 and 191, Florida Statutes, as amended from time to time. ~~It is further the intent of this act to preserve all district authority, including the authority to~~

~~annually assess and levy against the taxable property in the district an ad valorem tax not to exceed the limit provided in the district's prior special acts, chapters 80-607, 82-377, and 90-425, Laws of Florida, and chapter 191, Florida Statutes, as amended from time to time.~~

Section 3. Midway Fire District is re-created and the charter for the district is re-created and reenacted to read:

Section 5. Powers; duties; responsibilities.—

(1) The district shall have and the board may exercise all the powers and duties set forth in this act, and chapters 189, 191, and 197, Florida Statutes, as they may be amended from time to time, including, but not limited to, ~~ad valorem taxation,~~ bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements. The district may be financed by any method established in this act or chapter 189 or chapter 191, Florida Statutes, as amended from time to time, except ad valorem taxation.

~~(2) The board shall continue to have the right, power, and authority to levy annually an ad valorem tax against the taxable real estate within the district to provide funds for the purposes of the district as authorized by chapters 80-607, 82-377, and 90-425, Laws of Florida, in an amount not to exceed the limit provided in chapter 191, Florida Statutes, as amended from~~

~~time to time. Although the district is authorized to levy a maximum millage rate as provided for in section 191.009(1), Florida Statutes, the district must receive referendum approval, as required by the State Constitution and section 191.009, Florida Statutes, for any increased millage rate above such rate that has been previously authorized by a special act and approved by referendum.~~

(2)~~(3)~~ The methods for assessing and collecting non-ad valorem assessments, fees, or service charges shall be as set forth in this act, chapter 170, chapter 189, chapter 191, or chapter 197, Florida Statutes, as amended from time to time.

~~(4) The district shall levy and collect ad valorem taxes in accordance with chapter 200, Florida Statutes, as amended from time to time.~~

(3)~~(5)~~ The district is authorized to levy and enforce non-ad valorem assessments in accordance with chapters 170, 189, 191, and 197, Florida Statutes, as amended from time to time. The non-ad valorem assessments may be levied up to the following maximum amounts:

(a) Three hundred dollars for residential properties up to 1,600 square feet, with an additional $0.1544 per square foot in excess of 1,600 square feet.

(b) Thirty dollars and 96 cents for vacant land.

(c) Five hundred dollars for commercial properties up to 950 square feet, with an additional $0.1544 per square foot in

excess of 950 square feet.

(d) Thirty dollars and 96 cents for unimproved acreage up to 3 acres, with an additional $10.32 per acre in excess of 3 acres.

(4) ~~(6)~~ The district's planning requirements shall be as set forth in this act and chapters 189 and 191, Florida Statutes, as amended from time to time.

(5) ~~(7)~~ Requirements for financial disclosure, meeting notices, reporting, public records maintenance, and per diem expenses for officers and employees shall be as set forth in this act and chapters 112, 119, 189, 191, and 286, Florida Statutes, as amended from time to time.

~~Section 7. Ad valorem taxes a lien.—The taxes levied and assessed by the district shall be a lien upon the land so assessed along with the county taxes assessed against such land until said assessments and taxes have been paid, and if the taxes levied by the district become delinquent, such taxes shall be considered a part of the county tax subject to the same penalties, charges, fees, and remedies for enforcement and collection and shall be enforced and collected as provided by general law for the collection of such taxes.~~

Section 7 ~~8~~. Deposit of taxes, assessments, fees; authority to disburse funds.—

(1) The funds of the district shall be deposited in qualified public depositories, in accordance with chapters 191

and 280, Florida Statutes, as they may be amended from time to time.

(2) All warrants for the payment of labor, equipment, and other expenses of the board, and in carrying into effect this act and the purposes thereof, shall be payable by the treasurer of the board on accounts and vouchers approved and authorized by the board.

Section 8 ~~9~~. Authority to borrow money.—

(1) The board of commissioners shall have the power and authority to borrow money or issue other evidences of indebtedness for the purpose of the district in accordance with chapters 189 and 191, Florida Statutes, as amended from time to time; provided, however, that the total payments in any one year, including principal and interest, on any indebtedness incurred by the district shall not exceed 50 percent of the total annual budgeted revenues of the district for the year in which said payments are to be made.

(2) The board of commissioners shall not be personally or individually liable for the repayment of such loan. Such repayment shall be made out of the tax receipts of the district except as provided in this subsection. The commissioners shall not create any indebtedness or incur obligations for any sum or amount which they are unable to repay out of district funds then in their hands except as otherwise provided in this act; provided, however, that the commissioners may make purchases of

equipment on an installment basis as necessary if funds are available for the payment of the current year's installment on such equipment plus the amount due in that year of any other installments and the repayment of any bank loan or other existing indebtedness which may be due in that year.

Section 9 ~~10~~. Use of district funds.—No funds of the district shall be used for any purposes other than the administration of the affairs and business of the district; the construction, care, maintenance, upkeep, operation, and purchase of firefighting and rescue equipment or a fire station or stations; the payment of public utilities; and the payment of salaries of district personnel as the board may from time to time determine to be necessary for the operations and effectiveness of the district.

Section 10 ~~11~~. Record of board meetings; authority to adopt policies and regulations; annual reports; budget.—

(1) A record shall be kept of all meetings of the board, and in such meetings concurrence of a majority of the commissioners present shall be necessary to any affirmative action by the board.

(2) The board shall have the authority to adopt and amend policies and regulations for the administration of the affairs of the district under the terms of this act and chapters 189 and 191, Florida Statutes, which shall include, but not be limited to, the authority to adopt the necessary policies and

regulations for the administration and supervision of the property and personnel of the district and for the prevention of fires, fire control, and rescue work within the district. Said commissioners shall have all the lawful power and authority necessary to implement the purposes for which the said fire district is created, which power and authority shall include, but not be limited to, the power to purchase all necessary fire equipment, rescue equipment, and all other equipment necessary to carry out the purposes of said fire district; to purchase all necessary real and personal property; to purchase and carry standard insurance policies on all such equipment; to employ such personnel as may be necessary to carry out the purpose of said fire district; to provide adequate insurance for said employees; to purchase and carry appropriate insurance for the protection of all firefighters and personnel as well as all equipment and personal property on loan to the district; to sell surplus real and personal property in the same manner and subject to the same restrictions as provided for such sales by counties; and to enter into contracts with qualified service providers, other fire departments, municipalities, and state and federal governmental units for the purpose of obtaining financial aid, assistance, or benefits, expanding services, providing effective mutual aid, and for otherwise carrying out the purposes of the district. The commissioners shall adopt a fiscal year for said fire district which shall be October 1 to

September 30.

(3) For the purposes of carrying into effect this act, the board shall annually prepare, consider, and adopt a district budget pursuant to the applicable requirements of chapters 189 and 191, Florida Statutes, as they may be amended from time to time.

Section 11 ~~12~~. Authority to enact fire prevention ordinances; appoint fire marshal; acquire land; enter contracts; establish salaries; general and special powers; authority to provide emergency medical and rescue services.—

(1) The board of commissioners shall have the right and power to enact fire prevention ordinances in the same manner provided for the adoption of policies and regulations in section 11(2), and when the provisions of such fire prevention ordinances are determined by the board to be violated, the office of the state attorney, upon written notice of such violation issued by the board, is authorized to prosecute such person or persons held to be in violation thereof. Any person found guilty of a violation may be punished as provided in chapter 775, Florida Statutes, as a misdemeanor of the second degree. The cost of such prosecution shall be paid out of the district funds unless otherwise provided by law.

(2) The board shall have the power to appoint a fire marshal, who shall be a person experienced in all types of firefighting and fire prevention and who shall work with and

cooperate with the Florida State Fire Marshal in which the district is situated in the prevention of fires of all types. The district fire marshal shall be authorized to enter, at all reasonable hours, any building or premises for the purpose of making any inspection or investigation which the State Fire Marshal is authorized to make pursuant to state law and regulation. The owner, lessee, manager, or operator of any building or premises shall permit the district fire marshal to enter and inspect the building or premises at all reasonable hours. The district fire marshal shall report any violations of state fire safety law or regulations to the appropriate officials.

(3) The board shall have the power to acquire, by gift or purchase, lands or rights in lands, and any other property, real and personal, tangible or intangible, necessary, desirable, or convenient for carrying out the purposes of the district, and to pay any and all costs of same out of the funds of the district.

(4) The board shall have the power to enter into contracts or to otherwise join with any other district, city, town, the United States of America, or any agency or authority thereunder, for the purpose of expanding services, providing effective mutual aid, and accomplishing and carrying out the purposes for which the district was created and for the further purpose of specifically obtaining financial aid, assistance, or subsidy.

(5) The district is authorized to establish and maintain

emergency medical and rescue response services and to acquire and maintain rescue, medical, and other emergency equipment, subject to the provisions of chapter 401, Florida Statutes.

Section 12 ~~13~~. Annexations.—If any municipality or other fire control district annexes any land included in the district, such annexation shall follow the procedures set forth in section 171.093, Florida Statutes, as amended from time to time.

Section 13 ~~14~~. Dissolution.—The district shall exist until dissolved in the same manner as it was created.

Section 14 ~~15~~. Immunity from tort liability.—

(1) The district and its officers, agents, and employees shall have the same immunity from tort liability as other agencies and subdivisions of the state. The provisions of chapter 768, Florida Statutes, as from time to time amended, shall apply to all claims asserted against the district.

(2) The district commissioners and all officers, agents, and employees of the district shall have the same immunity and exemption from personal liability as is provided by general law of the state for state, county, and municipal officers.

(3) The district shall defend all claims against the commissioners, officers, agents, and employees which arise within the scope of employment or purposes of the district and shall pay all judgments against said persons, except where said persons acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights,

safety, or property.

Section 15 ~~16~~. District expansion.—The district boundaries may be extended from time to time as follows:

(1)(a) Land contiguous to the boundaries of the district in unincorporated Santa Rosa County may be included in the district when a written petition for inclusion signed and sworn to by a majority of the owners of the real property within the tract or tracts to be included in the district has been presented to the board of commissioners and the proposal has been approved by the affirmative vote of no fewer than three members of the board of commissioners at a regular meeting.

(b) The petition must contain the legal description of the property sought to be added to the district and the names and addresses of the owners of the property.

(2) If a proposal to add an area to the district as defined in subsection (1) is approved by the affirmative vote of no fewer than three members of the board of commissioners at a regular meeting, the board of commissioners shall thereafter adopt a resolution describing the lands to be included within the district and shall cause such resolution to be duly enrolled in the record of the meeting and a certified copy of the resolution to be recorded in the Office of the Clerk of the Circuit Court in Santa Rosa County.

(3) Upon adoption of the resolution by the board, the district shall, pursuant to chapter 191, Florida Statutes,

request that its legislative delegation approve said addition and sponsor legislation amending the district boundary. Upon approval by the Legislature, the boundary shall be amended.

(4) Lands within municipal boundaries of cities contiguous to district boundaries may be included in the district upon request by the governing board of the municipality, approval of said request by affirmative vote of no fewer than three members of the district board, and referendum approval of inclusion by the electors of the municipality whose residences are located within the proposed amended boundary of the district. The referendum shall be conducted by the municipality at the next available special or general election. Upon approval by the Legislature, the boundary shall be amended.

Section 2. Notwithstanding s. 191.009, Florida Statutes, or any other provision of law, the Board of Commissioners of the Midway Fire District may adopt an initial levy of a non-ad valorem assessment, subject to the rate limitations set forth in section 1 of this act, by resolution pursuant to s. 191.011, Florida Statutes, without the need for a referendum. Future non-ad valorem assessment rates are subject to s. 191.009, Florida Statutes, and other applicable law.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1105 Establishment of a New Homestead
SPONSOR(S): Ways & Means Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Rexford	Aldridge

SUMMARY ANALYSIS

The Florida Constitution requires all property to be assessed at just value as of January 1 of each year for purposes of ad valorem taxation. The taxable value against which local governments levy tax rates each year reflects the just value as reduced by applicable exceptions and exemptions allowed by the Florida Constitution. The constitution provides that every person who holds legal or equitable title to real estate and uses said real estate as a permanent residence for themselves or a legal or natural dependent is entitled to exemption from taxes on the first $25,000 in assessed value. Further, there is an exemption on the assessed value between $50,000 and $75,000, which is exempt from all taxes other than school district taxes.

Florida law requires a taxpayer applying for a homestead exemption for the first time to apply to the property appraiser before March 1, listing and describing the property for which the exemption is claimed and certifying its ownership and use. If the property appraiser determines that the taxpayer is entitled to a homestead exemption, the exemption will appear on the taxpayer's Truth in Millage (TRIM) notice, which is sent out yearly before August 25 and contains specific information about each taxpayer's parcel.

The bill allows a taxpayer who filed a homestead exemption application to rescind the application between August 1 and September 15 of the same taxable year in which he or she filed the homestead application. To rescind the application, the taxpayer must notify the property appraiser. A taxpayer can only rescind if:

- The taxpayer owned the property when the property was assessed on January 1 of the previous year;
- The property was assessed as non-homestead property on January 1 of the previous year; and
- The taxpayer has had continuous ownership of the property from the time of assessment on January 1 of the previous year, until the time in which the taxpayer filed an application for a homestead exemption on the property.

The bill authorizes the Department of Revenue to adopt emergency rules.

The bill takes effect on July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.[1] The ad valorem tax is an annual tax levied by counties, municipalities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.[2] The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,[3] and it provides for specified assessment limitations, property classifications, and exemptions.[4] After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.[5]

Exemptions

Article VII, Section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title, and maintains their permanent residence or the permanent residence of their dependent upon such real estate, is eligible for a $25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional $25,000 homestead exemption applies to homesteads that have an assessed value greater than $50,000 and up to $75,000, excluding school district levies.

Ad Valorem Tax Exemption Application

Generally, Florida law requires that every person entitled to an ad valorem exemption, including a homestead exemption, annually apply with the property appraiser before March 1, listing and describing the property for which the exemption is claimed and certifying its ownership and use;[6] however, there are exceptions. For instance, certain types of properties are exempt from the annual application,[7] a property appraiser may modify the annual application requirement in some situations,[8] and a county may waive the annual application requirement for most exemptions.[9] Applications filed after the first year the exemption is granted are referred to as "renewal applications."[10] Failure to timely file a required application constitutes a waiver of the exemption for that year.[11]

[1] Art. VII, s. 1(a), Fla. Const.
[2] S. 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. S. 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in Art. VII, s. 1(b), Fla. Const., and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.
[3] Art. VII, s. 4, Fla. Const.
[4] Art. VII, ss. 3, 4, and 6, Fla. Const.
[5] S. 196.031, F.S.
[6] S. 196.011(1), F.S.
[7] S. 196.011(3), F.S.
[8] S. 196.011(4), F.S.
[9] S. 196.011(9)(a), F.S.
[10] *See* s. 196.011(6), F.S.
[11] S. 196.011(1), F.S.

The Truth in Millage (TRIM) Notice

Every year, a notice of proposed property taxes and non-ad valorem assessments is sent out by the property appraiser to all taxpayers providing specific information about their parcel.[12] This notice is commonly referred to as a Truth in Millage (TRIM) notice.[13] TRIM notices are typically mailed to property owners in mid-August, but generally must be mailed no later than August 25.[14]

The TRIM notice lists each taxing authority that levies taxes on the property, how much they collected from that parcel in the previous year, how much they propose to collect this year, and how much would be levied on the property if the taxing authority made no budget changes.[15] It also lists the day and time that the taxing authority will be holding its preliminary budget hearing, so that the taxpayer can participate in the process and provide input to the taxing authority if they disagree with the proposed taxes.[16]

The TRIM notice also provides key information about the valuation of the property. It lists the value the property appraiser has placed on the property, shows any reductions which have been made to that value due to a classification or assessment limitation, and shows what exemptions have been granted on that property and the value of those exemptions.[17] This gives taxpayers notice of the assessment of their property, lets them review any assessment limitations or classifications applied, allows them to check to make sure they are getting all of the exemptions they are entitled to receive, and allows them to dispute any of these matters before the tax bills are sent out.

Effect of Proposed Changes

The bill amends s. 196.011, F.S., to allow a taxpayer who timely filed a homestead exemption application to rescind the application between August 1 and September 15 of the same taxable year in which he or she filed the homestead application. To rescind the application, the taxpayer must notify the property appraiser, and can only rescind if:

- The taxpayer owned the property when the property was assessed on January 1 of the previous year;
- The property was assessed as non-homestead property on January 1 of the previous year; and
- The taxpayer has had continuous ownership of the property from the time of assessment on January 1 of the previous year, until the time in which the taxpayer filed an application for a homestead exemption on the property.

If a taxpayer elects to rescind his or her filed application, the property appraiser must adjust the tax roll before certifying the tax roll to the tax collector.

The bill gives emergency rulemaking authority to the Department of Revenue to implement the act.

The bill provides that the act first applies to the 2025 tax roll.

[12] S. 200.069, F.S.
[13] *See* Florida Department of Revenue, *Florida's Property Tax System*, available at https://floridarevenue.com/property/Documents/PTSDetail.pdf (last visited Feb. 2, 2024).
[14] Pursuant to s. 200.065(2)(b), F.S., property appraisers have 55 days from the time in which they certify the taxable value of properties in the jurisdiction to the taxing authorities, which, under s. 193.023, F.S., must be done no later than July 1.
[15] *Id.*
[16] S. 200.069(4)(g), F.S.
[17] S. 200.069(6), F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.011, F.S., allowing a taxpayer to rescind a homestead exemption application if certain conditions are met. Requiring the property appraiser to adjust the tax roll if a taxpayer elects to rescind a homestead exemption application.

Section 2: Authorizes the Department of Revenue to adopt emergency rules to implement the act.

Section 3: Provides that the act first applies to the 2025 tax roll.

Section 4: Provides an effective date.

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:

If the bill passes, certain taxpayers will have the option to rescind a homestead exemption application during a specific time period.

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:

The bill authorizes the Department of Revenue to adopt emergency rules to implement the act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to rescinding a homestead exemption application; amending s. 196.011, F.S.; allowing a taxpayer to rescind his or her homestead exemption application; providing requirements for rescinding the application; requiring the property appraiser to adjust the tax roll; authorizing the Department of Revenue to adopt emergency rules; providing applicability; providing an effective date.

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

Section 1. Subsection (13) is added to section 196.011, Florida Statutes, to read:

196.011 Annual application required for exemption.—

(13)(a) A taxpayer having filed an application for a homestead exemption on a property pursuant to s. 196.031 by March 1, may elect to rescind his or her filed application by notifying the property appraiser. A taxpayer making such election must notify the property appraiser on a form provided by the department of such election between August 1 and September 15 of the same taxable year for which the taxpayer filed an application for a homestead exemption. To qualify to make the election authorized by this subsection, the following conditions must be met:

1. The taxpayer owned the property when the property was assessed on January 1 of the previous year;

2. The property was assessed under s. 193.1554 or s. 193.1555 on January 1 of the previous year; and

3. The taxpayer has had continuous ownership of the property from the time of assessment on January 1 of the previous year, until the time in which the taxpayer filed an application for a homestead exemption on the property.

(b) If a taxpayer elects to rescind his or her filed application for a homestead exemption under this subsection, the property appraiser shall adjust the tax roll prior to certification to the tax collector pursuant to s. 197.322, to reflect the effect of such rescindment.

Section 2. (1) The Department of Revenue may, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer this act.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to this section are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules.

Section 3. The amendments made by this act to s. 196.011, Florida Statutes first apply to the 2025 tax roll.

Section 4. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB WMC 24-04 Private Activity Bonds
SPONSOR(S): Ways & Means Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Ways & Means Committee		Rexford	Aldridge

SUMMARY ANALYSIS

The bill substantially revises Part VI, Private Activity Bonds, of ch. 159, F.S. The bill modernizes, updates, and streamlines out-of-date provisions throughout the part, and codifies certain Division of Bond Finance (Division) rules related to the administration of private activity bonds. Specifically, the bill:

- Provides legislative intent to maximize the annual use of private activity bonds to finance improvements, projects, and programs serving public purposes and benefitting the social and economic well-being of Floridians;
- Refines and adds definitions used throughout;
- Revises the regions, pools, and timelines related to bond allocations to consolidate infrequently used pools and expedite usage of bonds;
- Codifies current rules and procedures related to requests for volume limitation by notice of intent to issue, evaluating such notices, and the division's role in final certification of bond issuance;
- Allows for all volume cap allocated in a confirmation to be entitled to be carried forward, rather than limiting to specific types of projects or basing it on the amount of the confirmation;
- Replaces the existing processes for requesting and granting allocation of volume cap with an electronic application wherein all Notices and Issuance Reports will be submitted on the Division's website in lieu of via certified/overnight mail;
- Repeals the Division's rulemaking authority;
- Combines the purposes of Florida First Business allocation pool, the Manufacturing Facility Bond pool, and the existing State allocation pool;
- Consolidates a number of regions from the existing Regional Allocation Pools and specifies that the regional pools are specific to affordable housing projects; and
- Amends related statutes to correct cross references and outdated references.

The bill takes effect January 1, 2025.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Private Activity Bonds

State and local governments receive direct and indirect tax benefits under the Internal Revenue Code (the "Code") and associated federal tax regulations that typically result in lower borrowing costs for capital projects through the issuance of tax-exempt bonds.[1] The tax exemption lowers the cost of capital because the interest earnings on taxable bonds carry a tax liability, allowing investors to receive the same rate of return while charging a lower interest rate.[2]

Tax-Exempt Status of Governmental & Private Activity Bonds

Bonds issued by state and local governments, and conduit issuers on their behalf,[3] are classified as either governmental bonds,[4] or private activity bonds ("PABs").[5] Governmental bonds are those bonds which are issued to finance programs and projects that are owned, operated, or used by, governmental entities, including construction, maintenance, and repair of public infrastructure;[6] and which have only a *de minimis* benefit to private businesses.[7] All other bonds issued by state and local governments are considered PABs.[8] PABs can be issued by designated state agencies and units of local government, including conduit issuers, to finance projects that are owned, operated, or used by, nongovernmental, private businesses, that provide a public benefit.

Generally, interest on governmental bonds excluded from gross income for federal income tax purposes[9] and the interest on PABs is taxable; [10] however, Congress has authorized the issuance of tax-exempt PABs as a mechanism to subsidize the development of capital projects by private businesses that provide a public purpose by affording such projects the same tax benefits as governmental bonds.[11] Such projects include affordable housing projects, public works projects (e.g., utility, water, sewage, solid waste facilities), and projects that will be used by 501(c)(3) non-profit organizations.[12] These types of projects are deemed to provide sufficient public benefits to merit

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[1] United States Department of the Treasury, Internal Revenue Service "Publication 4078, Tax-Exempt PABs" (Rev. 9-2019) Catalog Number 34662G, available at https://www.irs.gov/pub/irs-pdf/p4078.pdf (last visited Feb. 2, 2024).
[2] For example, if the interest earnings on taxable bonds carry a tax liability of 35% of the interest earnings, the after-tax rate of return on taxable bonds that yield a 10% rate of return before taxes is equivalent to tax-exempt bonds that yield a 6.5% rate of return; the investor receives the same return in both instances but, by issuing tax-exempt bonds capital can be raised at an interest cost that is 3.5 percentage points lower. The greater the yield spread between taxable and tax-exempt bonds, the greater the nominal savings. *See* Congressional Research Service, "Tax-Exempt Bonds: A Description of State and Local Government Debt," updated February 15, 2018, available at: https://crsreports.congress.gov/product/pdf/RL/RL30638 (last visited Feb. 2, 2024).
[3] Conduit issuers include governmental and quasi-governmental agencies and corporations, such as special districts, industrial development authorities, local housing finance authorities, and other agencies statutorily authorized to issue PABs (e.g., the Florida Housing Finance Corporation and the Florida Development Finance Corporation).
[4] Treas. Reg. § 1.141-1(b).
[5] I.R.C. § 141(a).
[6] United States Department of the Treasury, Internal Revenue Service "Publication 4079, Tax-Exempt Governmental Bonds" (Rev. 9-2019) Catalog Number 34663R, available at https://www.irs.gov/pub/irs-pdf/p4079.pdf (last visited Feb. 2, 2024).
[7] If more than 10% of the proceeds will be used by a private business (the "private business use test") and more than 10% of the proceeds will be secured by property used by a private business (the "the private security or payment test"), then the bonds will satisfy both prongs of the private business tests will be considered PABs and not governmental bonds. Additionally, if more than the lesser of 5% of the proceeds or $5 million will be used to make or finance loans to persons or entities other than governmental units, then the bonds will satisfy the private loan financing test and will be considered PABs and not governmental bonds. *See* I.R.C. § 141(b)-(c).
[8] I.R.C. § 141(a).
[9] I.R.C. § 103(a).
[10] I.R.C. § 103(b)(1).
[11] Congressional Research Service, "PABs: An Introduction," updated January 31, 2022, available at: https://crsreports.congress.gov/product/pdf/RL/RL31457 (last visited Feb. 2, 2024).
[12] I.R.C. §§ 142-145.

excluding the interest on the PABs issued to finance such projects from gross income for federal income tax purposes.[13] As such, governments can incentivize the private sector to invest in infrastructure and develop programs and projects that benefit their citizens by providing those private businesses with a more affordable (lower interest rate) source of funds through the issuance of tax-exempt PABs.[14]

The Division of Bond Finance

The Division of Bond Finance of the State Board of Administration of Florida (the "Division") was created to provide capital financing for state agencies and associated entities by issuing and administering a variety of bonds authorized by s. 11, art. VII of the state constitution for education, environmental, transportation, state facilities, and insurance programs.[15] The Division is administratively housed within the State Board of Administration, and is governed by the Governor and Cabinet.

Included in their duties is the administration of PABs, which includes calculating the volume cap, allocating those bonds from the federal grant of authority to end users across the state, and reporting their ultimate usage to the Internal Revenue Service to maintain tax exempt status.[16] The Division receives and executes applications for use of PABs from local governments, end users, and conduit issuers such as the Florida Housing Finance Corporation and the Florida Development Finance Corporation.

Types of Tax-Exempt PABs

Since PABs were defined in 1968, Congress has more than doubled the purposes for which PABs can qualify for the tax exemption.[17] A "qualified bond" (i.e., one that may be issued as tax-exempt) is any one of the following types of PABs[18] that also meets the applicable requirements of Sections 146 and 147 of the Code:

- Exempt facility bonds[19] that are issued to finance airports, docks and wharves, ***mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, qualified residential rental projects, facilities for the local furnishing of electric energy or gas, local district heating or cooling facilities, qualified hazardous waste facilities, high-speed intercity rail facilities***, environmental enhancements of hydro-electric generating facilities, qualified public educational facilities, qualified green building and sustainable design projects, qualified highway or surface freight transfer facilities, ***qualified broadband projects, and qualified carbon dioxide capture facilities***.
- ***Qualified mortgage bonds***[20]
- Qualified veterans' mortgage bonds[21]
- ***Qualified small issue bonds*** [22]

[13] Tax-exempt status only applies to PABs that are "qualified bonds" as defined in I.R.C. § 141. *See* I.R.C. § 103(b).
[14] *Supra*, note 7.
[15] The Division currently reports ratings for more than 30 different bonds. *See* State of Florida Division of Bond Finance, *Summary of Bond Program Ratings*, available at https://www.flabonds.com/state-of-florida-investor-relations-fl/additional-info/i678?i=3 (last visited Feb. 5, 2024).
[16] *See Generally,* "Florida Private Activity Bond Allocation Act," Part VI, Ch. 159, F.S.; *Office of Program Policy Analysis and Government Accountability*, State Board of Administration of Florida, Bond Finance, available at https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=4041 (last visited Feb. 5, 2024).
[17] *Supra*, note 12.
[18] Those that are in ***bold italics*** are the ones that are subject to allocation of volume cap by the Division.
[19] I.R.C. § 142(a) identifies 17 types of facilities that may be financed with exempt facility bonds. Additionally, Congress has identified two other types of bonds that are to be treated as if they were exempt facility bonds, enterprise zone facility bonds and empowerment zone facility bonds. *See* I.R.C. § 1394.
[20] I.R.C. § 143(a).
[21] I.R.C. § 143(b).
[22] I.R.C. §§ 144(a) and 7871(c). Qualified small issue bonds are frequently referred to as industrial revenue bonds ("IRBs") or industrial development bonds ("IBDs") and are issued to finance manufacturing facilities and farm property.

- ***Qualified student loan bonds***[23]
- ***Qualified redevelopment bonds***[24]
- Qualified 501(c)(3) bonds[25]

PAB Volume Cap and State Ceiling

The federal government imposes an annual limit ("volume cap" or "volume limitation") on the aggregate amount of certain types of tax-exempt PABs), that may be issued in each state and U.S. territory (the "state ceiling").[26] The state ceiling is based on the state's population and may be adjusted for inflation.[27] The inflation adjustments are published in a revenue procedure issued prior to the beginning of each calendar year.[28] The formula for calculating the state ceiling for 2024 is the greater of $125 multiplied by the state population or $378.23 million.[29] The Division has calculated Florida's state ceiling for 2024 to be $2,826,340,750.[30] The following table shows the historical increase to the state ceiling as the per capita rate and state population have increased.

Florida's State Ceiling 2014-2023										
Calendar Year	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**
IRS Per Capita	$100	$100	$100	$100	$105	$105	$105	$110	$110	$120
State Pop.	19.55M	19.89M	20.27M	20.61M	20.98M	21.30M	21.48M	21.73M	21.78M	22.24M
State Ceiling	$1.96B	$1.99B	$2.03B	$2.06B	$2.15B	$2.24B	$2.26B	$2.39B	$2.40B	$2.67B

While the Code provides a default formula for the allocation of volume cap, each state may, by law, provide its own formula for allocating its state ceiling.[31] The Division is statutorily designated to allocate volume limitation to those entities authorized to issue PABs in Florida pursuant to the Florida Private Activity Bond Allocation Act[32] and the rules promulgated thereunder.[33]

Allocation of State Ceiling

For PABs subject to the state ceiling,[34] issuers must have sufficient volume cap under the Code or their state's formula for allocating its state ceiling in order in order for the interest on those bonds to be

[23] I.R.C. § 144(b). Additionally, qualified scholarship funding bonds, established in I.R.C. § 150(d)(2), are analyzed under I.R.C. § 144(b)
[24] I.R.C. § 144(c).
[25] I.R.C. § 145.
[26] I.R.C. § 146. The economic rationale for the limitation on the amount tax-exempt PABs that may be issued stems from the inefficiency of the mechanism to subsidize private activity and the lack of congressional control of the subsidy absent such a limitation. *Supra*, note 12.
[27] I.R.C. § 146(d).
[28] In 2022 the formula for the state ceiling was the greater of $110 multiplied by the state population or $335,115,000. This amount increased in calendar year 2023 to the greater of $120 multiplied by the state population or $358,845,000. *See* § 3.20, Rev. Proc. 2021-45, available at: https://www.irs.gov/pub/irs-drop/rp-21-45.pdf and § 3.20, Rev. Proc. 2022-38, available at: https://www.irs.gov/pub/irs-drop/rp-22-38.pdf (last visited Feb. 2, 2024).
[29] *See* § 3.20, Rev. Proc. 2023-34, available at: https://www.irs.gov/pub/irs-drop/rp-23-34.pdf (last visited Feb. 2, 2024).
[30] Division of Bond Finance, *Act Summary*, available at https://www.sbafla.com/bond/Other-Functions/Private-Activity-Bond-Allocation-Programs (last visited Feb. 2, 2024).
[31] I.R.C. § 146(e).
[32] Part VI of chapter 159, F.S.
[33] Chapter 19A-4, F.A.C.
[34] The amounts of tax-exempt PABs issued as exempt facility bonds to finance mass commuting facilities, facilities for the furnishing of water, sewage facilities, privately owned solid waste disposal facilities, qualified residential rental projects, facilities for the furnishing local electric energy or gas, local district heating and cooling facilities, qualified hazardous waste facilities, privately owned high-speed intercity rail facilities, privately owned qualified broadband projects, and qualified carbon capture facilities, qualified mortgage revenue bonds, qualified small issue bonds, qualified student loan bonds, and qualified redevelopment bonds are subject to an annual volume cap and cannot exceed the amount allocated. Tax-exempt PABs issued to finance privately owned high-speed intercity rail facilities, privately owned qualified broadband projects, and qualified carbon capture facilities only need an allocation for 25% of the amount of any tax-exempt exempt facility bonds issued. I.R.C. §§ 142(a), 143, 144, and 146(g)(4)-(5). Certain types of PABs are not subject to the state ceiling but are subject to other annual or lifetime caps under the Code. The amounts of tax-exempt PABs issued to finance qualified public educational facilities, qualified green building and sustainable design projects, and qualified highway or surface freight transfer facilities are separately limited in I.R.C. § 142. Qualified public educational facilities are subject to a separate annual state

excluded from gross income for federal income tax purposes.[35] States have a variety of methods for distributing their state ceiling at the beginning of each year based on the purpose or type of the proposed PABs, the location of the project, and the issuer requesting an allocation of volume cap; additionally, the timeframe within which state ceiling is available for various types of projects varies greatly from state to state. There are two predominant methods for how volume cap is allocated in each state; one in which broad discretion is given to the program administrator to determine which issuers and projects should be allowed to access the tax-exempt market, and one in which the state legislature has established a detailed framework making the administration of the program a ministerial function based on legislative priorities.[36]

Additionally, a number of state legislatures have designated percentages or set amounts of their state ceiling for affordable housing projects (multifamily and single-family housing bonds and mortgage credit certificates ("MCCs"), for low- and moderate-income families),[37] industrial development projects (manufacturing facility bonds), and public works projects (exempt facility bonds). The Division's administration of Florida's state ceiling is ministerial pursuant to a detailed legislative framework, with a first-come, first-served system with discrete pools reserved, for at least part of the year, for specific purposes and/or projects located in specified regions.

Current Allocation of Florida's State Ceiling by the Division

The Division has calculated Florida's state ceiling and allocated volume cap to issuers throughout the state pursuant to the Act since 1986. Prior to January 1 of each year, the Division calculates the state ceiling for the upcoming calendar year; then, on January 1 of each year, the Division allocates the state ceiling to the Manufacturing Facility Bond Pool ("MFBP"), among the 17 Regional Allocation Pools, to the Florida Housing Finance Corporation ("FHFC"), to the Florida First Business allocation pool ("FFBP"), and to the state allocation pool (the "State Pool"), all as described in the following table:[38]

volume cap, which is the greater of $10 per capita or $5 million, as allotted in the manner the state determines appropriate pursuant to I.R.C. § 142(k)(5). *See,* s. 159.834, F.S. Qualified green building and sustainable design projects must receive designation from the United States Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency; exempt facility bonds issued to finance such project are subject to a lifetime volume cap of $2 billion, allocated by the Secretary of the Treasury pursuant to I.R.C. §142(l)(7)(B). Exempt facility bonds for qualified transfer facilities are subject to a lifetime volume cap of $30 billion, allocated by the United States Secretary of Transportation pursuant to I.R.C. §142(m)(2)(C).

[35] The aggregate face amount of tax-exempt PABs issued by a particular issuing authority during a calendar year cannot exceed such authority's volume cap for such calendar year. I.R.C. §146(a).

[36] California's Debt Limit Allocation Committee has been delegated broad discretion to annually set priorities and method of allocation. *See e.g.,* Cal. Govt. Code § 8869.80 et seq. (2021); Cal. Code Regs. Tit. 4, §§ 5010, 5020-5022, and 5150-5155; *California Debt Limit Allocation Committee (CDLAC),* CALIFORNIA STATE TREASURER, available at https://www.treasurer.ca.gov/cdlac/index.asp (last visited Feb. 2, 2024). Some states have a hybrid approach, either setting aside only a portion of their state ceiling to be allocated at the discretion of the program administrator, or giving the program administrator discretion in the event that requests exceed the available state ceiling. *See,* Ga. Code Ann. §§ 36-82-195 – 36-82-196, Ariz. Rev. Stat. §§ 35-901 – 35-913, Va. Code Ann. § 15.2-5002, and Rule 122-4-02, Ohio Admin. Code. Comparatively, states including Texas and Washington allocate volume cap in accordance with prescriptive legislative frameworks similar to Florida.

[37] Typically, states that designate a portion of their state ceiling for affordable housing split it into two parts; either based on purpose (single-family housing bonds and MCCs vs. multifamily housing bonds) or based on the issuer (state-level housing agency vs. local HFAs). *See,* Ariz. Rev. Stat. §§ 35-901 – 35-913; Code Ann. § 15.2-5002; Me. Stat. tit. 10, § 363; Iowa Code § 7C, available at https://www.legis.iowa.gov/docs/ico/chapter/7C.pdfW; Wash. Rev. Code §39.86.120; and *Bond Cap Allocation Program*, WASHINGTON DEPARTMENT OF COMMERCE, https://www.commerce.wa.gov/about-us/research-services/bond-cap-allocation-program/ (last visited Feb. 2, 2024).

[38] Section 159.804, F.S.

Current Allocation of Florida's State Ceiling		
Pool/Entity	**Amount** [39]	**Purpose/Limitations**
MFBP	$97.5 million	• Available Jan 1 – Nov 15 to finance manufacturing facility projects ○ Amount remaining on Nov 16 is transferred to the state pool • The first $73,125,000 available to issuers on first come, first served basis, with $14,620,000 is reserve for small counties Jan 1 – June 30; and the final $24,375,000 requires Department of Commerce review and approval
Regional Allocation Pools	50% after MFBP *($1,364,420,375)*	• Available local issuers on first come, first served basis from Jan 1 – June 30 to finance projects within that region ○ Any amounts remaining on July 1 are transferred to FFBP • The amount distributed to each region is proportional to its share of the state population
FHFC	25% after MFBP *($682,210,187.50)*	• Available for FHFC to use to issue housing bonds; FHFC may assign a portion to other issuers to issue housing bonds ○ Amount remaining on July 1 is transferred to the state pool
FFBP	20% after MFBP *($545,768,150)*	• Available Jan 1 – Nov 15 to finance "Florida First Business projects"[40] ○ Amount remaining on Nov 16 is transferred to the state pool • Issuer must have project certified as a Florida first business project by Department of Commerce prior to requesting allocation
State Pool	5% after MFBP	• Available Jan 1 – May 30 to finance

[39] Amounts shown for each pool are for calendar year 2024. *See* "2024 Private Activity Bond State Volume Cap Allocation By Pool," available at https://www.sbafla.com/bond/Portals/0/Content/FinancialInformation/2024%20PAB%20State%20Volume%20Cap%20Allocation%20By%20Pool%20with%20MAP.pdf?ver=2023-12-28-090525-327 (last visited Feb. 2, 2024).

[40] "Florida First Business project" means (1) any project proposed by a business which qualifies as a target industry business or (2) any project providing a substantial economic benefit to this state. The department shall develop measurement protocols and performance measures to determine what competitive value a project by a target industry business will bring to the state which is certified by the Department of Commerce as eligible to receive an allocation from the FFBP. Section 159.803(11), F.S.

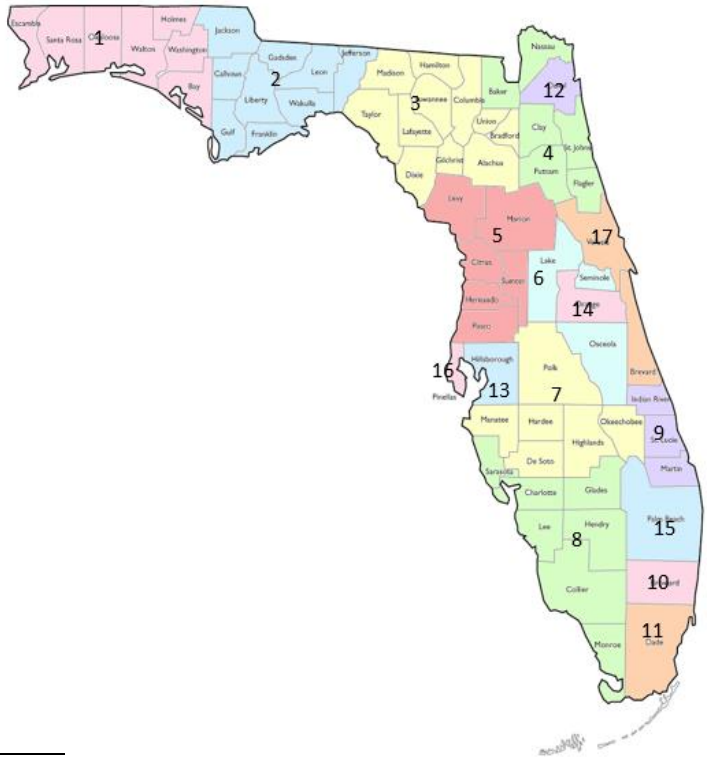
	($136,442,037.50)	"Priority Projects,"[41] which may be subject to Governor's review and approval ○ Amount remaining on June 1 is transferred to FFBP • Following inflows from FFBP available to all issuers after Nov 16 • Balance remaining on Dec 30 is available for carryforward

Manufacturing Facility Bond Pool

When first created for the 1993 calendar year,[42] $75 million of the state ceiling was distributed to the MFBP.[43] Currently, $97.5 million is distributed to the MFBP annually.[44] Following a large amount of PABs issued to finance manufacturing facilities in the late 1990s, requests for and issuances of PABs with volume cap for such projects has steadily declined over the past 20 years.[45]

Regional Allocation Pools

Prior to the establishment of the regions for the Regional Allocation Pools, each county received a *pro rata* share of 50 percent of the state ceiling.[46] The Legislature created the Regional Allocation Pools for



[41] "Priority project" means (1) a solid waste disposal facility, (2) a sewage facility, (3) a water facility, which is operated by a member-owned, not-for-profit utility, or (4) any project which is to be located in an area which is an enterprise zone. Section 159.803(5), F.S.
[42] Section 2, ch. 92-127, LAWS OF FLA.
[43] Section 159.804(1)(a), F.S.
[44] The portion of the state ceiling distributed to the MFBP increased by $7.5 million on January 1, 1997, 1998, and 1999, pursuant to s. 159.804(1)(a), F.S., because more than 75 percent of the state ceiling distributed to the MFBP was used to issue qualified small issue bonds for manufacturing facilities prior to November 15 in each of the preceding years. There hasn't been a change to the amount of the state ceiling distributed to the MFBP since 1999.
[45] Approximately 70% of the state ceiling distributed to the MFBP for manufacturing facilities was allocated and issued in 1999; thereafter, PABs issued to finance manufacturing facilities steadily declined (65% of the state ceiling distributed to the MFBP was utilized in 2000, decreasing to 55% in 2005, and further decreasing to 17% in 2010, 13% in 2015, and then 10% in 2020).
[46] Section 1, ch. 85-282, Laws of Fla.

the 1988 calendar year,[47] and last revised the regions effective in 2000.[48] Currently, there are currently 17 statutorily created single- and multi-county regions (10 multi-county and seven single county geographic regions) that receive a *pro rata* share of the state ceiling.[49]

In 2024, the three regions receiving the most volume cap were region 11 (Miami-Dade County) with over $166.91 million, region 8 (Charlotte, Collier, Glades, Hendry, Lee, Monroe, and Sarasota Counties) with over $120.97 million, and region 10 (Broward County) with over $118.97 million.[50]

The regional allocation pools are the only pools from which issuers located within a region, including housing finance authorities ("HFAs") created pursuant to s. 159.604 F.S., can be allocated volume cap, subject to availability, for a majority of the calendar year, unless the proposed PABs will be issued to finance a project that is certified by the Department of Commerce as a Florida First Business project,[51] or that meets the statutory definition of manufacturing facility[52] project or priority project.[53] The majority of requests for and issuance of PABs with volume cap by from the regional allocation pools are for the issuance of multifamily and single-family housing bonds for low- and moderate-income families.

Florida Housing Finance Corporation (FHFC)

The volume cap allocated to FHFC must be used for "housing bonds" as defined in s. 159.803, F.S., these include both multifamily and single-family housing bonds for low- and moderate-income families.[54] During the first six months of the calendar year, FHFC may, in its discretion, assign any portion of its volume cap to any HFA for the issuance of housing bonds, taking into consideration the ability of the HFA to timely issue such PABs, the need and public purpose to be served by the issue, and the ability of the HFA to comply with the requirements of federal and state law.[55] This is the only provision in the Act that allows one issuer to transfer any portion of its volume cap to another issuer. However, FHFC has never transferred a portion of their volume cap to another issuer.

Florida First Business Allocation Pool (FFBP)

Established beginning in the 1996 calendar year,[56] the FFBP is available solely for those projects certified by Department of Commerce as "Florida First Business projects;" Department of Commerce must certify that the project either meets the criteria for targeted business industries or will provide a substantial economic benefit to this state.[57] From 1996-2002, the FFBP was used for a variety of solid waste disposal facility projects and qualified student loan bonds that were certified as Florida First Business projects. Thereafter, there were no projects certified as Florida First Business projects from 2003-2008, 2010-2017, or 2020 and the pool was not used. The amount of projects certified as Florida First Business projects has substantially increased over the last few years.[58]

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[47] Section 3, ch. 87-222, Laws of Fla.
[48] Section 1, ch. 99-173, Laws of Fla. (effective Jan. 1, 2000).
[49] Section 159.804(2)(b), F.S.
[50] Annual allocation information for calendar year 2024 by pool, including each of the regions, is available on the Division's website at https://www.sbafla.com/bond/Portals/0/Content/FinancialInformation/2024%20PAB%20State%20Volume%20Cap%20Allocation%20By%20Pool%20with%20MAP.pdf and https://www.sbafla.com/bond/Other-Functions/Private-Activity-Bond-Allocation-Programs (last visited Feb. 2, 2024).
[51] Section 159.803(11), F.S. "Florida First Business project" means any project which is certified by DEO as eligible to receive an allocation from the FFBP because it either (1) meets the criteria set forth in s. 288.106(4)(b), F.S., or (2) will provide a substantial economic benefit to this state.
[52] Section 159.803(10), F.S. A "manufacturing facility" is a facility that meets the definition of "manufacturing facility" in I.R.C. § 144(a)(12)(C).
[53] Section 159.803(5), F.S. A "priority project" means (1) a solid waste disposal facility; (2) a sewage facility; (3) a facility for the furnishing of water, which is operated by a member-owned, not-for-profit utility; or (4) any project located in an enterprise zone designated pursuant to section 290.0065, F.S.
[54] Section 159.804(3)(a), F.S.
[55] Section 159.804(c)(3), F.S.
[56] Section 11, ch. 95-416, Laws of Fla.
[57] Section 159.803(11), F.S.
[58] Florida First Business projects receiving volume cap from the FFBP since 2021 include high-speed rail facility projects ($125M in 2021 and $125M in 2023), a solid waste disposal facility project ($350M in 2022), and a sewage facility project ($250M in 2022).

State Allocation Pool

The State Pool is available exclusively to finance Priority Projects from January 1 to June 1; except that it is available at all times for allocations to state agencies, and for those portions of governmental bonds requiring an allocation of volume cap under Code.[59] Priority Projects are unable to receive an allocation of volume cap prior to May 1 of any calendar year; the Division is required evaluate all requests submitted from January 1 through April 30 on May 1 to determine whether the total amount of volume requested exceeds the portion of the state ceiling allocated to the state pool.[60] If there is a sufficient amount, all requests for Priority Projects submitted before May 1 will receive an allocation of volume cap by May 15; however, if there is not a sufficient amount, the Division is required to forward all such requests to the Governor, who is required to establish an order within which such projects should receive an allocation of volume cap by June 1.[61] The Division has only had to forward requests to the Governor for consideration twice in the past 20 years, in 2004 and 2023.[62]

Annually on November 16, any state ceiling remaining in either the MFBP or FFBP is transferred to the state pool.[63] Such amount is available on first-come, first-served basis, except that those projects that weren't selected by the Governor to receive an allocation on June 1, receive priority, in the order established by the Governor, for allocation of volume cap from any portion of the state ceiling transferred to the State Pool later in the calendar year; such projects would receive priority over non-priority projects already on the pending list.[64]

Process to Obtain an Allocation of Volume Cap

After the project has obtained the public approval (by the applicable elected official or voter referendum of the appropriate governmental unit), if any, required by section 147(f) of the Code (the "TEFRA approval"), the issuer can request an allocation of volume cap by submitting an application, called a notice of intent to issue private activity bonds (a "Notice"), to the Division. Each Notice filed with the Division must include a certification that TEFRA approval has been obtained and be accompanied by an opinion or statement of bond counsel that the project to be financed with the requested allocation of volume cap may be financed with PABs and that allocation is required under the Code to issue such Bonds and a nonrefundable filing fee.[65] The fee is $100.00.The Division allocates volume cap, subject to availability, through written confirmations of allocation ("Confirmations").

The majority of notices are processed on a first-come, first-served basis based on a twenty-four-hour period from noon on one business day to noon the next business day.[66] This system applies to the Regional Allocation Pools, the first 75% of the volume cap in the MFBP,[67] and volume cap in the State after June 1. If there is insufficient volume cap available in the FFBP, the Division will forward all Notices to Department of Commerce, which will determine which one(s) will receive a Confirmation.[68] On any day when there is insufficient volume cap available in the appropriate pool(s) to issue Confirmations for all Notices, a random selection is held to determine the Notice(s) that will receive the

[59] The Division has not received any requests for volume cap from state agencies, and for those portions of governmental bonds requiring an allocation of volume cap pursuant to section 146(m) of the Code.
[60] Section 159.807(2), F.S.
[61] *Id.*
[62] From 2005 through 2022, there were 1-2 Priority Projects requesting an allocation of volume cap from the State Pool prior to June 1 in 2006–09, 2014–16, and 2019–21, all of which were for solid waste and sewage facilities; in each of these years there was sufficient volume cap to fill all requests without sending to the Governor for ranking and all such requests received allocation by June 1.
[63] Section 159.809(4), F.S.
[64] Section 159.807(2), F.S.
[65] Section 159.805(1), F.S., Except that FHFC is not required to submit a Notice to use the volume cap in its pool for PABs it issues prior to July 1 of any year and is not subject to the fee; However, FHFC most submit a Notice for volume cap it intends to use for PABs issued after July 1 no later than June 30 of such year. Section 159.804(3)(b), F.S.
[66] Section 159.805(1), F.S.
[67] All Notices that are eligible to receive Confirmation using the final 25% of volume cap in the MFBP are forwarded to the Department of Commerce to determine which ones will receive a Confirmation. Section 159.8081(2)(a), F.S.
[68] Section 159.8083, F.S.

available volume cap.[69] Any Notices for which there is insufficient volume cap following the random selection are placed on a pending list in case volume cap becomes available at a later date in the calendar year and will receive priority from the next available volume cap that may become available during the calendar year, prior to Notices received by the Division after that day's random selection, except that Notices on the pending list for Priority Projects pursuant to Section 159.807(2), F.S., will take priority from the next available volume cap available in the State Allocation Pool, regardless of when such other Notices were placed on the pending list.[70]

Deadlines for Issuing PABs Pursuant to a Confirmation

Generally, PABs must be issued within 155 days of allocation or by December 29, whichever is earlier; after such time, the Confirmation ceases to be effective and the volume cap reverts to the appropriate pool.[71] Confirmations from the FFBP expire on either October 1 or November 15, depending on the date on which they are issued,[72] and confirmations from the MFBP expire the earlier of 90 days after issued or November 15.[73] These limits are tolled during a validation proceeding, if written notice is provided to the Division prior to the expiration.[74] Confirmations for Priority Projects and those of $50 million or more are not subject to these time limitations and are valid through December 30.[75]

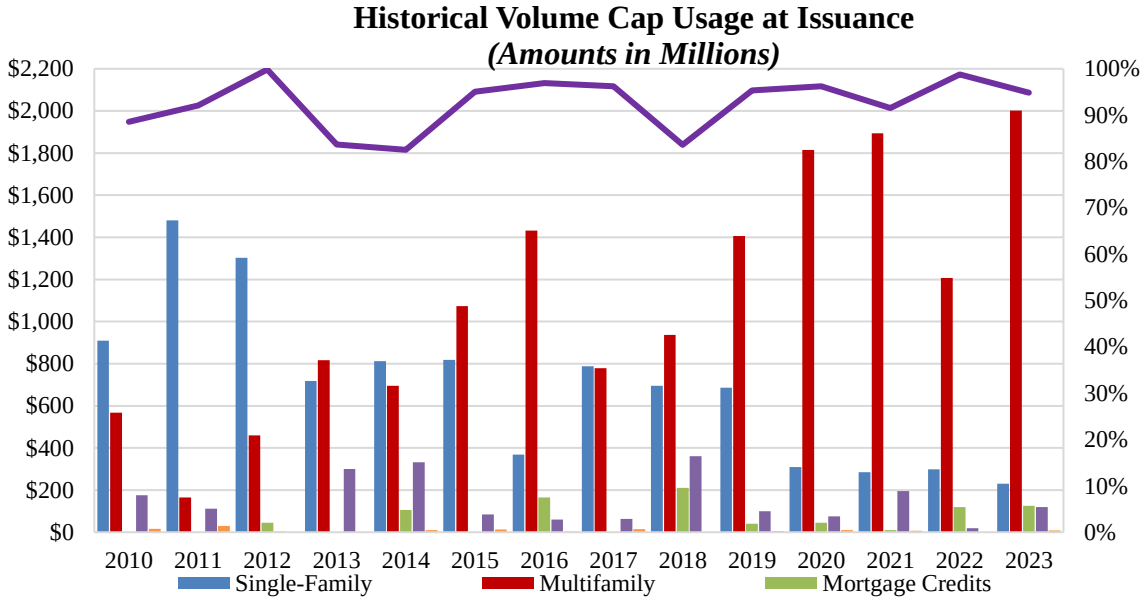
End of Year Allocation and Carryforward Lottery

Unused allocations of volume cap may be carried forward for up to three years. The Code permits carryforward for the following types of projects that require an allocation of volume cap from the Division: mass commuting facilities, facilities for the furnishing of water, sewerage facilities, solid waste disposal facilities, multi-family housing projects, local electric or gas generating facilities, local district heating or cooling facilities, hazardous waste facilities, high speed rail facilities, single family housing bonds, student loan bonds, and redevelopment bonds.[76] Volume cap that is allocated for a Florida First Business project is entitled to be carried forward at the request of the Agency, if the Department of Commerce has approved the project to receive carryforward.[77] Additionally, volume cap that is allocated for Priority Projects and those projects of $50 million or more are entitled to be carried forward at the request of the Agency.[78] All other requests for carryforward are subject to availability on December 30; such volume cap is allocated on a lottery basis to fund carryforward projects as defined by the Code.[79]

Historical Utilization of Volume Cap in Florida

The majority of volume cap is allocated and used to issue multifamily and single-family housing bonds for low- and moderate-income families. From 2010 through 2023, approximately 92.5% of all volume cap (current year and carryforward) has been used for affordable housing (multifamily and single-family housing bonds and MCCs for low- and moderate-income families).

[69] Section 159.805(6), F.S.
[70] *Id.*
[71] Section 159.805(2), F.S.
[72] Sections 159.809(2) and (3), F.S.
[73] Section 159.8081(3), F.S.
[74] Section 159.805(4), F.S. Except that pendency of a validation proceeding does not extend a Confirmation beyond December 29 of such year. Rule 19A-4.007(2), F.A.C.
[75] Section 159.805(4), F.S.
[76] I.R.C. § 146(f).
[77] Section 159.81(1), F.S.
[78] Section 159.81(2)(a)1., F.S.
[79] *Id.*



Increasing Demand

In recent years, demand for volume cap has exceeded the state ceiling. Since 2020, a growing number of regions have had requests for volume cap in excess of the portion of the state ceiling available in their Regional Allocation Pool.[80] When requests for volume cap exceed the amount available, the request is placed on a pending list to receive an allocation of volume cap if and when available; this is usually from the state pool after November 15. The number of requests and the amount on the pending list had increased dramatically over the past five years. As of January 26, 2024, there were 11 Notices, 10 of which are eligible for volume cap allocation from a Regional Allocation Pool and one of which is a Priority Project eligible for allocation from the State Pool after May 1, totaling $1,214,725,019.72 on the pending list.[81]

Effect of Proposed Changes

The bill substantially revises Part VI, Private Activity Bonds, of Chapter 159, F.S. The bill modernizes, updates, and streamlines out-of-date provisions throughout the part, and codifies certain provisions from the Division's rules related to the administration of private activity bonds. Specifically, the bill:

- Provides legislative intent to maximize the annual use of private activity bonds to finance improvements, projects, and programs serving public purposes and benefitting the social and economic well-being of Floridians;
- Refines and adds definitions used throughout;
- Revises the regions, pools, and timelines related to bond allocations to consolidate infrequently used pools and expedite usage of bonds, detailed below;
- Codifies current rules and procedures related to requests for volume limitation by notice of intent to issue, evaluating such notices, and the Division's role in final certification of bond issuance;
- Allows for all volume cap allocated in a Confirmation to be entitled to be carried forward, rather than limiting to specific types of projects or basing it on the amount of the Confirmation;
- Replaces the existing processes for requesting and granting allocation of volume cap with an electronic application wherein all Notices and Issuance Reports will be submitted on the Division's website in lieu of via certified/overnight mail;
- Repeals the Division's rulemaking authority; and

[80] Data on file with the Division.
[81] Division of Bond Finance, Act Summary, available at https://www.sbafla.com/bond/Other-Functions/Private-Activity-Bond-Allocation-Programs (last visited Feb. 2, 2024).

- Amends related statutes to correct cross references and outdated references.

The bill also combines the purposes of FFBP, MFBP, and the existing State Pool (prior to June 1, when available for Priority Projects). Into a single pool, the Economic Development Allocation Pool, which is available for all PABs other than those issued to finance affordable housing projects. The bill also consolidates a number of regions from the existing Regional Allocation Pools and specifies that the regional pools are specific to affordable housing projects. The following table describes new pools under the bill with amounts of volume cap shown as what they would be for calendar year 2024:

Pool	***Amount***	***Purpose/Availability***

Affordable Housing Allocation Pools	50% *(approx. $1.413B)*	Available 1/1 – 9/30 for affordable housing projects
		• 1/1 – 5/31: Regional Affordable Housing Allocation Pools (11 regions)
		  ○ Available on a first-come, first-served basis to issuers within each region for projects within such region
		• 6/1 – 9/30: Statewide Affordable Housing Allocation Pools (no regions)
		  ○ Available for single and multifamily housing projects statewide
		  ○ Initial priority for unfilled requests for allocation from the Regional Affordable Housing Allocation Pools (first pending multifamily, then pending single-family), available on first-come, first-served basis thereafter

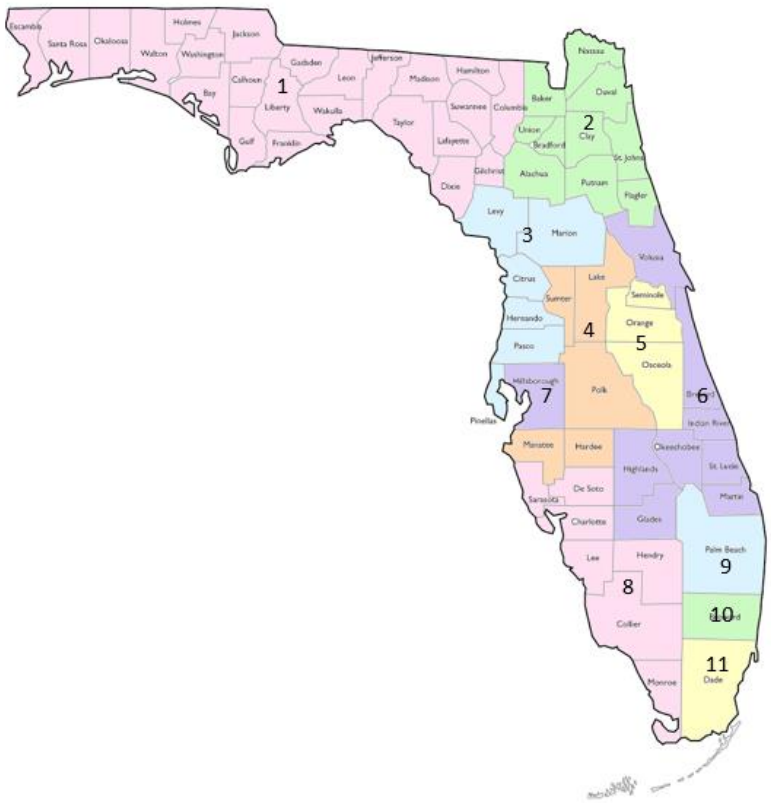
FHFC Pool	25% *(approx. $706.6M)*	Available 1/1 – 9/30 to FHFC for affordable housing projects

Economic Development Allocation Pool	25% *(approx. $706.6M)*	Available 1/1 – 9/30 for all non-affordable housing projects
		• 1/1 – 5/31: Available following ranking by Secretary of Commerce
		  ○ Applications received by 5/31 sent to the Department of Commerce
		  ○ Secretary of Commerce has 15 days to rank order applications
		• 6/1 – 9/30: Available on a first-come, first-served basis with notification to the Department of Commerce

State Allocation Pool	Rollover on 9/30	Available 10/1 – 11/30 for all PABs on a first-come, first-served basis
Carryforward Allocation Pool	Rollover on 11/30	Carryforward requests submitted Dec 1 – 15; processed on Dec 15 (lottery)

Based on the changes to the regions that increase the number of counties within seven regions, a number of counties (small, medium, and large) will have access to more volume cap.[82] The new regions for the Regional Affordable Housing Allocation Pools are shown in the following map:

[82] Under the bill the regions would have the following amounts of volume cap in 2024: Region 1: $101,359,720.58, Region 2: $127,495,261.83, Region 3: $136,178,995.75, Region 4: $101,750,476.19, Region 5: $137,986,608.48, Region 6: $117,350,855.82, Region 7: $87,775,926.25, Region 8: $115,544,051.27, Region 9: $87,638,708.62, Region 10: $113,670,629.50, and Region 11: $159,188,145.71.



B. SECTION DIRECTORY:

Section 1: Amends s. 159.608, F.S., removing a statutory reference to conform with the act.

Section 2: Amending s. 159.802, F.S., adding language clarifying the legislative intent to maximize the annual use of private activity bonds.

Section 3: Amending 159.803, F.S., revising definitions used in the act.

Section 4: Repealing s. 159.804, F.S.

Section 5: Creating s. 159. 8041, F.S., establishing the allocation of state volume limitation.

Section 6: Repealing s. 159.805, F.S.

Section 7: Creating s. 159.8051, F.S., detailing the procedures for requesting state volume limitation.

Section 8: Creating s. 159. 8052, F.S., establishing procedures for evaluating notices of intent to issue.

Section 9: Creating s. 159.8053, F.S., detailing requirements for issuance reports.

Section 10: Repealing s. 159. 806, F.S.

Section 11: Creating s. 159.8061, F.S., establishing affordable housing allocation pools.

Section 12: Creating s. 159.8062, F.S., establishing the Florida Housing Finance Corporation pool.

Section 13: Creating s. 159.8063, F.S., Establishing the economic development allocation pool.

Section 14: Repealing s. 159.07, F.S.

Section 15: Creating s. 159.8071, F.S., establishing the state allocation pool.

Section 16: Repealing s. 159.8075, F.S.

Section 17: Creating s. 159.80751, F.S., relating to qualified mortgage credit certificates.

Section 18: Repealing s. 159.8081, F.S.

Section 19: Repealing s. 159.8083, F.S.

Section 20: Repealing s. 159.809, F.S.

Section 21: Creating s. 159.8091, F.S., establishing the carryforward allocation pool.

Section 22: Repealing s. 159.81, F.S.

Section 23: Creating s. 159.8101, F.S., prescribing requirements for carryforward applications and carryforward confirmations.

Section 24: Repealing s. 159.8105, F.S.

Section 25: Amending s. 159.811, F.S. adding requirements for fees.

Section 26: Repealing s. 159.812, F.S.

Section 27: Amending s. 159.814, F.S., revising requirements for forms of applications for allocations.

Section 28: Repealing s. 159.815, F.S.

Section 29: Amending s. 159.816, F.S., prescribing process for executing certification as to state volume limitation.

Section 30: Amending s. 420.504, F.S., removing obsolete language to conform with the act.

Section 31: Amending s. 163.2520, F.S., removing obsolete language to conform with the act.

Section 32: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill repeals the Division of Bond Finance's rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to private activity bonds; amending s. 159.608, F.S.; conforming a provision to changes made by the act; amending s. 159.802, F.S.; providing legislative findings and intent; amending s. 159.803, F.S.; revising and defining terms; repealing s. 159.804, F.S., relating to allocation of state volume limitation; creating s. 159.8041, F.S.; requiring the Division of Bond Finance of the State Board of Administration to annually determine the state volume limitation and publicize such information; specifying how the division must allocate the state volume limitation; repealing s. 159.805, F.S., relating to procedures for obtaining allocations, requirements, limitations on allocations, and issuance reports; creating s. 159.8051, F.S.; establishing procedures for the issuance of private activity bonds; providing requirements for notices of intent to issue private activity bonds; requiring that a separate notice of intent to issue be filed for each proposed issuance of a private activity bond; creating s. 159.8052, F.S.; providing procedures for the evaluation, approval, and confirmation of notices of intent to issue private activity bonds; providing that certain confirmations expire on a specified date unless a certain

requirement is met; requiring that certain confirmations include specified information; providing conditions under which a confirmation of allocation is effective or not effective; providing requirements for the issuance of private activity bonds in excess of the amount set forth in the confirmation; requiring the division to cancel a confirmation of allocation and reallocate the state volume limitation under certain circumstances; creating s. 159.8053, F.S.; prohibiting the allocation of state volume limitation before an issuance report is filed; providing an exception; providing that failure to file an issuance report will result in specified action; providing requirements for issuance reports; providing for the reversion and reallocation of certain unissued state volume limitation n; requiring the director of the division to sign a final certification of allocation after timely filing of an issuance report; repealing s. 159.806, F.S., relating to regional allocation pools; creating s. 159.8061, F.S.; establishing affordable housing allocation pools for a specified purpose; requiring allocation and distribution of specified state volume limitation during specified time period annually; providing requirements for such allocations; establishing regions within the regional

affordable housing allocation pool; requiring allocations be transferred to the statewide affordable housing allocation pool in certain circumstances; providing requirements for issuance of confirmations by the division; creating s. 159.8062, F.S.; establishing the Florida Housing Finance Corporation pool for a specified timeframe each year; providing purpose of the pool; requiring the Florida Housing Finance Corporation to use a specified pool before a date certain; providing requirements for the corporation's use of such pool; authorizing the corporation to assign certain state volume limitation to specified pools; creating s. 159.8063, F.S.; establishing the economic development allocation pool; providing the availability of such pool for specified purposes; providing requirements for processing certain notices of intent; repealing s. 159.807, F.S., relating to the state allocation pool; creating s. 159.8071, F.S.; establishing the state allocation pool to issue confirmations for certain purposes during a specified timeframe each year; repealing s. 159.8075, F.S., relating to qualified mortgage credit certificates; creating s. 159.80751, F.S.; authorizing conversion of state volume limitation for certain bonds to mortgage credit certificates in certain

situations; providing requirements for the issuance such certificates; providing that certain expiration dates do not apply under certain circumstances; requiring certain unissued mortgage credit certificates to automatically receive a carryforward confirmation; requiring that certain elections and certifications be filed with the division; designating the director of the division to be the state official authorized to make a required certification; repealing s. 159.8081, F.S., relating to the Manufacturing Facility Bond Pool; repealing s. 159.8083, F.S., relating to the Florida First Business allocation pool; repealing s. 159.809, F.S., relating to recapture of unused amounts; creating s. 159.8091, F.S.; establishing the carryforward allocation pool; providing the purpose of such pool; providing requirements for carryforward confirmations; repealing s. 159.81, F.S., relating to unused allocations; creating s. 159.8101, F.S.; requiring an issuer to request and obtain carryforward confirmation from the division in certain circumstances; authorizing the division to issue a carryforward confirmation when certain conditions are met; providing requirements for requesting a carryforward confirmation; repealing s. 159.8105, F.S., relating to allocation of bonds for

water and wastewater infrastructure projects; amending s. 159.811, F.S.; conforming provisions to changes made by the act; repealing s. 159.812, F.S., relating to a grandfather clause; amending s. 159.814, F.S.; revising requirements for applications for allocations; authorizing electronic submission; providing that certain notices of intent and applications are only timely filed within specified timeframes; deleting obsolete provisions; repealing s. 159.815, F.S., relating to rules; amending s. 159.816, F.S.; revising procedures for the execution of a final certification of allocation; amending ss. 420.504 and 163.2520, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (10) of section 159.608, Florida Statutes, is amended to read:

159.608 Powers of housing finance authorities.—A housing finance authority shall constitute a public body corporate and politic, exercising the public and essential governmental functions set forth in this act, and shall exercise its power to borrow only for the purpose as provided herein:

(10)(a) To make loans or grant surplus funds to

corporations that qualify as not-for-profit corporations under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and under the laws of this state, for the development of affordable housing; and

(b) To do anything necessary or appropriate to further the purpose for which a housing finance authority is established, pursuant to s. 159.602, including, as further described in s. 159.80751 ~~s. 159.8075~~, the power to issue mortgage credit certificates to the extent allocation is available for that purpose to qualifying individuals in lieu of issuing qualified mortgage bonds pursuant to ss. 25, 143, and 146 of the Internal Revenue Code of 1986, as amended, or a combination of the two. Mortgage credit certificates may not be issued on December 30 or December 31 of any year.

Section 2. Section 159.802, Florida Statutes, is amended to read:

159.802 Purpose; legislative findings and intent.—

(1) The purpose of this part is to allocate the state volume limitation imposed on private activity bonds under s. 146 of the Code. A ~~no~~ private activity bond subject to the limitation in s. 146 of the Code may not ~~shall~~ be issued in this state unless a ~~written~~ confirmation therefor is issued pursuant to this part.

(2) The Legislature finds and declares that private activity bonds are used to finance improvements, projects, and

programs that serve important public purposes and benefit the social and economic well-being of the people of this state. The Legislature recognizes that the exemption of interest on private activity bonds from federal income taxation and the concomitant reduced interest costs have been central to the marketability of such bonds.

(3) It is the intent of the Legislature that issuers use the state volume limitation in such a manner as to maximize the amount of private activity bonds that may be issued in this state which will benefit the social and economic well-being of the people of this state by increasing the number of improvements, projects, and programs that may be financed in a given year and that, to the extent that any portion of state volume limitation allocated to an issuer is carried forward, it be used to issue private activity bonds before its expiration.

Section 3. Section 159.803, Florida Statutes, is amended to read:

159.803 Definitions.—As used in this part, the term:

(1) "Affordable housing bonds" means multifamily affordable housing bonds and single-family affordable housing bonds.

~~(1) "County" means the geographic boundaries of each county as established by law.~~

(16)~~(2)~~ "Private activity bond" or "bond" means any bond which requires an allocation pursuant to s. 146 of the Code.

~~(3) "Director" means the director of the Division of Bond Finance of the State Board of Administration or his or her designee.~~

~~(4) "Agency" means the State of Florida, any unit of local government, industrial development authority, or other entity in this state authorized to issue private activity bonds.~~

~~(5) "Priority project" means a solid waste disposal facility or a sewage facility, as such terms are defined in s. 142 of the Code, or a water facility, as defined in s. 142 of the Code, which is operated by a member-owned, not-for-profit utility, or any project which is to be located in an area which is an enterprise zone designated pursuant to s. 290.0065.~~

(6) "Division" means the Division of Bond Finance of the State Board of Administration.

(11) ~~(7)~~ "Issued" or "issuance" has the same meaning as in the Code.

(3) ~~(8)~~ "Code" means the Internal Revenue Code of 1986, as amended, and the regulations and rulings issued thereunder.

~~(9) "Housing bonds" means bonds issued pursuant to s. 142(d) of the Code to finance qualified residential units or mortgage revenue bonds issued pursuant to s. 143 of the Code which require an allocation under s. 146 of the Code.~~

~~(10) "Manufacturing facility" means a facility described in s. 144(a)(12)(C) of the Code.~~

~~(11) "Florida First Business project" means any project~~

~~which is certified by the Department of Commerce as eligible to receive an allocation from the Florida First Business allocation pool established pursuant to s. 159.8083. The Department of Commerce may certify those projects proposed by a business which qualify as a target industry business as defined in s. 288.005 or any project providing a substantial economic benefit to this state. The department shall develop measurement protocols and performance measures to determine what competitive value a project by a target industry business will bring to the state pursuant to ss. 20.60(5)(a)3. and 288.061(2).~~

(13) ~~(12)~~ "Mortgage credit certificate" means those certificates issued pursuant to s. 25 of the Code.

(2) "Carryforward confirmation" means a confirmation for a project that qualifies for a carryforward pursuant to s. 146(f)(5) of the Code which authorizes the issuer to make an election to carry forward such allocation of state volume limitation beyond the end of the current calendar year in accordance with s. 146(f) of the Code.

(4) "Confirmation" means the conditional allocation of a portion of the state volume limitation to an issuer, made pursuant to a timely filed notice of intent to issue, which is contingent upon the issuer's timely filing of an issuance report.

(5) "Corporation" means the Florida Housing Finance Corporation created by s. 420.504.

(7) "Exempt facility bonds" means any bonds, except multifamily affordable housing bonds, issued pursuant to s. 142 of the Code to finance facilities and projects that are listed in s. 142(a) of the Code which require an allocation of state volume limitation under s. 146 of the Code.

(8) "Final certification of allocation" means the certification issued by the division following the timely filing of an issuance report which establishes the final amount of state volume limitation allocated to an issuer for an issuance of private activity bonds as required in s. 149(e)(2)(F) of the Code.

(9) "Governmental unit" means the general-purpose governmental unit, as defined in the Code, which provides approval under the federal Tax Equity and Fiscal Responsibility Act (TEFRA) for proposed issuances of private activity bonds for issuers within its jurisdiction.

(10) "Issuance report" means the form containing the information described in s. 159.8053(2) by which an issuer notifies the division of its issuance of bonds pursuant to a confirmation.

(12) "Issuer" means the state, any governmental unit, a housing finance authority, an industrial development authority, or any other entity in this state authorized to issue private activity bonds.

(14) "Multifamily affordable housing bonds" means bonds

issued pursuant to s. 142 of the Code to finance qualified residential rental projects, as described in s. 142(d)(1) of the Code, which require an allocation of state volume limitation under s. 146 of the Code.

(15) "Notice of intent to issue" means the form containing the information described in s. 159.8051(2) on which an issuer requests an allocation of the state volume limitation from the division.

(17) "Redevelopment bonds" means bonds issued pursuant to s. 144(c) of the Code to be used for redevelopment purposes in any designated blighted area as such terms are described in s. 144(c)(3) and s. 144(c)(4) of the Code.

(18) "Single-family affordable housing bonds" means qualified mortgage revenue bonds issued pursuant to s. 143 of the Code which require an allocation of state volume limitation under s. 146 of the Code.

(19) "Small issue bonds" means bonds issued pursuant to s. 144(a) of the Code to finance a manufacturing facility as described in s. 144(a)(12)(C) of the Code or the acquisition of farmland or farm property, which require an allocation of state volume limitation under s. 146 of the Code.

(20) "State volume limitation" means the maximum amount of private activity bonds which may be issued in this state during each calendar year as such limit is imposed by s. 146 of the Code, and which is allocated by the division pursuant to this

part.

(21) "Student loan bonds" means bonds issued pursuant to s. 144(b) of the Code to make or finance student loans which require an allocation of state volume limitation under s. 146 of the Code.

(22) "TEFRA approval" means the approval of a proposed issuance of bonds by an elected official or body of elected officials of the applicable governmental unit after a public hearing or by a referendum of the voters within such governmental unit, as required by s. 147(f) of the Code.

Section 4. Section 159.804, Florida Statutes, is repealed.

Section 5. Section 159.8041, Florida Statutes, is created to read:

159.8041 Allocation of state volume limitation; recapture of unused amounts.—

(1) The division shall annually determine the state volume limitation. The division shall make the state volume limitation information available upon request and shall publish such information on its website.

(2) On January 1 of each year, the division shall initially allocate the state volume limitation among the following pools:

(a) Fifty percent of the state volume limitation must initially be allocated among the affordable housing allocation pools established in s. 159.8061 for use as provided therein.

(b) Twenty-five percent of the state volume limitation must initially be allocated to the corporation pool established in s. 159.8062 for use as provided therein.

(c) Twenty-five percent of the state volume limitation must initially be allocated to the economic development allocation pool established in s. 159.8063 for use as provided therein.

(3) On October 1 of each year, any portion of each allocation of state volume limitation made to the affordable housing allocation pools or the economic development allocation pool pursuant to subsection (2) for which the division has not issued a confirmation must be added to the state allocation pool.

(4) On December 1 of each year, any portion of the allocation of state volume limitation made to the corporation pool pursuant to subsection (2) or the state allocation pool pursuant to subsection (3) for which the division has not issued a confirmation must be added to the carryforward allocation pool. Additionally, on December 1 of each year, any portion of the state volume limitation used to issue a confirmation which has not been used by an issuer for the issuance of bonds, as evidenced by receipt by the division of an issuance report, or which has not received a carryforward confirmation pursuant to s. 159.8101(2) or been converted for the issuance of mortgage credit certificates must be added to the carryforward allocation

pool.

Section 6. Section 159.805, Florida Statutes, is repealed.

Section 7. Section 159.8051, Florida Statutes, is created to read:

159.8051 Procedures for requesting state volume limitation; requirements; prohibitions.—

(1) Before the issuance of any private activity bond by or on behalf of any issuer, such issuer shall request and obtain an allocation of a portion of the state volume limitation from the division through the issuance of a confirmation, except for private activity bonds issued by the corporation pursuant to s. 159.8062(2)(b) from the initial allocation of state volume limitation made by s. 159.8041(2)(b). Such request must be made through a notice of intent to issue containing the information required in this section timely filed with the division in accordance with s. 159.814 by or on behalf of the issuer requesting the confirmation. Any notice of intent to issue that does not conform to this section is not eligible to receive a confirmation and must be rejected.

(2) Each notice of intent to issue must include the following information:

(a) The name of the issuer requesting the allocation.

(b) The name and contact information of the person submitting the notice of intent to issue.

(c) The amount of state volume limitation requested.

(d) A description of the project and the type of qualified bond, as such term is defined in s. 141(e) of the Code, including the type of exempt facility, as described in s. 142(a) of the Code, if applicable, which will be issued to finance the project.

(e) The county or counties in which the project will be located.

(f) The pool from which the allocation is requested.

(g) The governmental unit that provided any required TEFRA approval, and a certification that, if required, TEFRA approval has been obtained. A notice of intent to issue may not be filed until any required TEFRA approval has been obtained.

(h) The fee required by s. 159.811.

(i) An opinion or a statement of counsel that the project to be financed may be financed with private activity bonds and that an allocation of state volume limitation is required to issue such bonds.

(3) A separate notice of intent to issue must be filed for each proposed issuance of private activity bonds. A notice of intent to issue may not request an allocation of state volume limitation for more than one project or more than one purpose. An issuer may not request an allocation of state volume limitation from multiple pools in a single notice of intent to issue.

Section 8. Section 159.8052, Florida Statutes, is created

to read:

159.8052 Procedures for evaluating notices of intent to issue; confirmations; requirements; limitations.—

(1)(a) All notices of intent to issue filed with the division must be evaluated for compliance with this part. Any notice of intent to issue that conforms to the requirements of s. 159.8051 is eligible to receive a confirmation and must be approved, subject to the availability of a sufficient amount of state volume limitation in the appropriate pool. Each business day, the division shall compute the state volume limitation in the pools for which approved notices of intent to issue were received on the previous business day. The division shall issue confirmations, subject to the availability of a sufficient amount of state volume limitation in the appropriate pool. The amount of confirmation, if there is sufficient state volume limitation available to the issuer in the appropriate pool, must be in the amount requested in the approved notice of intent to issue. If the amount of state volume limitation available to the issuer in the appropriate pool is less than the amount requested in the approved notice of intent to issue, the division must issue confirmations in the order of priority established in paragraph (b) until the available state volume limitation in each such applicable pool is exhausted. The division shall maintain continuous records of the cumulative amount of state volume limitation for which confirmations have been granted

pursuant to this section.

(b) If the division determines that the aggregate amount of state volume limitation requested in notices of intent to issue received by noon of the previous business day exceeds the state volume limitation available to such issuers in the applicable pool, the division must assign a consecutive number to the notice of intent to issue requesting allocation from such pool, draw such numbers randomly to establish the priority of each such notice of intent to issue, and issue confirmations in the order of priority until the available state volume limitation in such pool is exhausted. If the amount of state volume limitation in the appropriate pool is insufficient to issue a confirmation in the amount requested for the prioritized notice of intent to issue, the division must issue a confirmation in the amount of the state volume limitation available and place the balance of the request on a pending list for such pool. The unfilled portion of any such notice of intent to issue and any notices of intent to issue for which there was insufficient state volume limitation to issue a confirmation must be placed on the pending list for the appropriate pool in the priority order established in this paragraph.

(c) To the extent that state volume limitation subsequently becomes available for allocation in a pool, notices of intent placed on the pending list for that pool pursuant to paragraph (b) must be given priority for the next available

volume limitation for that year before any notices of intent to issue requesting allocation from that pool received by the division after that day's random selection. On September 30 of each year, any unfilled notices of intent to issue on the pending lists for the economic development allocation pool or the affordable housing allocation pools must be rejected and the issuer may file a new notice of intent to issue with the division to request a confirmation from the state allocation pool to be considered pursuant to this subsection. On November 30 of each year, any unfilled notices of intent to issue on the pending lists for the state allocation pool must be rejected and the issuer may file a new notice of intent to issue with the division to request a carryforward confirmation to be considered pursuant to s. 159.8101(3).

(2) Each confirmation issued pursuant to s. 159.8061, s. 159.8062, s. 159.8063, or s. 159.8071 expires and ceases to be effective on November 30 of the year in which it was issued, unless the issuer obtains a carryforward confirmation pursuant to s. 159.8101(2).

(3) A confirmation only assures an issuer of an allocation of state volume limitation in such amount and for such purpose as set forth therein until the expiration thereof. Each confirmation granted pursuant to subsection (1) must include the following information:

(a) The issuer to which the allocation of state volume

limitation is made.

(b) The amount of the allocation of state volume limitation granted to the issuer.

(c) The project and type of qualified bond for which bonds using such allocation of state volume limitation may be issued.

(d) The date on which the confirmation expires.

(e) A statement that the allocation of state volume limitation is conditional and may not be considered final until and unless the issuer files an issuance report pursuant to s. 159.8053.

(4)(a) A confirmation is effective as to private activity bonds issued in an amount less than the amount set forth in such confirmation only if the aggregate amount issued pursuant to such confirmation is not less than 90 percent of the amount set forth therein, together with the amounts of any carryforward confirmation an issuer has for such purpose and any supplementary confirmation, after subtracting any portion thereof which the issuer has elected to convert for the issuance of mortgage credit certificates.

(b) A confirmation is not effective as to private activity bonds issued in an amount in excess of the amount set forth in such confirmation. An issuer wishing to issue private activity bonds in an amount in excess of the amount set forth in a confirmation must obtain a supplementary confirmation before the issuance of such bonds by filing a supplementary notice of

intent to issue with the division. A supplementary notice of intent to issue must specify the prior confirmation to which it applies and must also include all items required in s. 159.8051(2). Such supplementary notice of intent to issue must be filed in accordance with s. 159.814 by or on behalf of the issuer to whom the confirmation was issued. The division shall evaluate supplementary notices of intent to issue for compliance with this part, and, to the extent sufficient state volume limitation is available, the division shall issue a supplementary confirmation pursuant to subsection (1). The amount of state volume limitation allocated in a supplementary confirmation may be added to a prior confirmation for the same project to provide an aggregate allocation of state volume limitation for the issuance of private activity bonds for that project. A supplementary confirmation does not alter the expiration date of the initial confirmation.

(c) Upon the expiration of the confirmation, or at any time before such expiration that the issuer notifies the division that the allocation of state volume limitation in such confirmation is no longer necessary, the division shall cancel such confirmation and the allocation of state volume limitation provided therein must be made available for reallocation pursuant to this part.

Section 9. Section 159.8053, Florida Statutes, is created to read:

159.8053 Issuance reports; final certification of allocation.—

(1) Except for an allocation of state volume limitation that has been converted to the issuance of mortgage credit certificates pursuant to s. 159.80751, no portion of the state volume limitation may be allocated before the filing of an issuance report with the division by or on behalf of the issuer issuing bonds no later than the date on which the confirmation for such bonds expires. An issuer's failure to file an issuance report before the expiration of a confirmation will result in the loss of such state volume limitation, regardless of whether the issuer has issued bonds pursuant to such confirmation.

(2) Each issuance report must include all of the following information:

(a) The name of the issuer issuing such bonds.

(b) The confirmation pursuant to which the bonds are being issued.

(c) The amount of state volume limitation used by such issuance.

(d) The name and series designation of the bonds.

(e) The principal amount of bonds issued.

(f) The date of issuance and the amount of proceeds distributed at issuance.

(g) The purpose for which the bonds were issued, including the private business or entity that will benefit from or use the

proceeds of the bonds; the name of the project, if known; the location of the project; whether the project is an acquisition of an existing facility or new construction; and the number products manufactured or the number of residential units, if applicable.

(h) The name, role, and contact information of the person submitting the issuance report.

(3) At issuance, any portion of the state volume limitation granted in such confirmation that is unissued, except in the case of a carryforward confirmation, immediately reverts to the pool from which the allocation was made and must be made available for reallocation.

(4) Following the timely filing of an issuance report, the director of the division shall sign the final certification of allocation. The final certification of allocation may not be issued before the timely receipt of an issuance report pursuant to subsection (1).

Section 10. Section 159.806, Florida Statutes, is repealed.

Section 11. Section 159.8061, Florida Statutes, is created to read:

159.8061 Affordable housing allocation pools.—

(1)(a) The following affordable housing allocation pools are established:

1. The regional affordable housing allocation pool.

2. The statewide affordable housing allocation pool.

(b) The affordable housing allocation pools are available solely for issuing confirmations for affordable housing bonds pursuant to the procedures specified in this section and s. 159.8052.

(2)(a) From January 1 through May 31 of each year, the allocation made pursuant to s. 159.8041(2)(a) must be allocated to the regional affordable housing allocation pool and distributed among the regions established in paragraph (b). The allocation distributed to each region must be available solely to issue confirmations for affordable housing bonds to issuers located within such region on a first-come, first-served basis for projects located within such region. The amount of volume limitation distributed to each region within the regional affordable housing allocation pool must be an amount proportional to the ratio of the population of the region to the total population of this state.

(b) The following regions are established within the regional affordable housing allocation pool for the purposes of this allocation:

1. Region 1, consisting of Bay, Calhoun, Columbia, Dixie, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Hamilton, Holmes, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Suwannee, Taylor, Wakulla, Walton, and Washington Counties.

2. Region 2, consisting of Alachua, Baker, Bradford, Clay, Duval, Flagler, Nassau, Putnam, St. Johns, and Union Counties.

3. Region 3, consisting of Citrus, Hernando, Levy, Marion, Pasco, and Pinellas Counties.

4. Region 4, consisting of Hardee, Lake, Manatee, Polk, and Sumter Counties.

5. Region 5, consisting of Orange, Osceola, and Seminole Counties.

6. Region 6, consisting of Brevard, Glades, Highlands, Indian River, Martin, Okeechobee, St. Lucie, and Volusia Counties.

7. Region 7, consisting of Hillsborough County.

8. Region 8, consisting of Charlotte, Collier, DeSoto, Hendry, Lee, Monroe, and Sarasota Counties.

9. Region 9, consisting of Palm Beach County.

10. Region 10, consisting of Broward County.

11. Region 11, consisting of Miami-Dade County.

(3) On June 1 of each year, any portion of the allocation made to the regional affordable allocation pool pursuant to subsection (2) for which the division has not issued a confirmation must be added to the statewide affordable housing allocation pool. On and after June 1 of each year, any portion of such allocation for which a confirmation is relinquished by the issuer receiving such allocation before the expiration thereof must be added to the statewide affordable housing

allocation pool.

(4) From June 1 through September 30 of each year, the statewide affordable housing allocation pool must be available for issuing confirmations for affordable housing bonds to issuers statewide as provided in this subsection.

(a) On June 1 of each year, if a sufficient amount of state volume limitation is available in the statewide affordable housing allocation pool, the division must issue confirmations for all notices of intent to issue previously placed on the pending list for the regional affordable housing pool pursuant to s. 159.8052(1)(b) during such year. After confirmations have been issued for all notices of intent to issue previously placed on the pending list for the regional affordable housing pool pursuant to s. 159.8052(1)(b), the statewide affordable housing allocation pool must be available to issue confirmations on a first-come, first-served basis. Notwithstanding s. 159.8052(1)(c), if the amount of state volume limitation available in the statewide affordable housing allocation pool is insufficient to issue a confirmation for each such notice of intent to issue, the division must issue confirmations in the priority order established in paragraph (b).

(b) If the division determines that the aggregate amount requested in the notices of intent to issue placed on the pending list for the regional affordable housing pool pursuant to s. 159.8052(1)(b) during such year exceeds the state volume

limitation available in the statewide affordable housing allocation pool on June 1, the division must issue confirmations for any such notices of intent to issue for multifamily affordable housing bonds in the priority order established in this paragraph, and then, subject to the availability of state volume limitation, must issue confirmations for any such notices of intent to issue for single-family affordable housing bonds in the priority order established in this paragraph until the available state volume limitation is exhausted. In establishing the priority of each such notice of intent, the division shall first assign a consecutive number to each such notice of intent to issue for multifamily affordable housing bonds and draw such numbers randomly to establish the priority of each such notice of intent to issue. The division shall assign a consecutive number to each such notice of intent to issue for single-family affordable housing bonds and draw such numbers randomly to establish the priority of each such notice of intent to issue.

Section 12. Section 159.8062, Florida Statutes, is created to read:

159.8062 Florida Housing Finance Corporation pool.—

(1) From January 1 through September 30 of each year, the corporation pool is established and shall be available for the sole purpose of issuing confirmations for affordable housing bonds to the corporation and its assigns pursuant to the procedures specified in s. 159.8052. Before October 1 of any

year, the corporation pool is the only pool from which the corporation may receive any allocation of state volume limitation.

(2)(a) Notwithstanding s. 159.8051(1), before October 1 of any year, the corporation need not submit a notice of intent to issue or obtain a confirmation for the issuance of affordable housing bonds using the state volume limitation allocated to this pool pursuant to s. 159.8041(2)(b).

(b) For affordable housing bonds that the corporation intends to issue on or after October 1 of any year, the corporation must submit a notice of intent to issue no later than September 30 of such year, and the division shall issue a confirmation not exceeding the amount of state volume limitation then available in the corporation pool. The corporation is not subject to the fee required under s. 159.811 for notices of intent to issue submitted pursuant to this paragraph.

(3) Prior to June 1 of each year, the corporation may, in its discretion, assign any portion of the state volume limitation in the corporation pool to the affordable housing allocation pools.

Section 13. Section 159.8063, Florida Statutes, is created to read:

159.8063 Economic development allocation pool.—

(1) The economic development allocation pool is established and is available for issuing confirmations pursuant

to the procedures specified in this section and s. 159.8052.

(2) The economic development allocation pool must, at all times, first be available to issue confirmations for those portions of a private activity bond requiring an allocation of state volume limitation under s. 146(m) of the Code and to issue confirmations to state issuers and, thereafter, be available as provided in subsection (3).

(3)(a) From January 1 through May 31 of each year, the economic development allocation pool must be available for the sole purpose of issuing confirmations for exempt facility bonds, small issue bonds, student loan bonds, and redevelopment bonds to issuers statewide in the priority order established by the Secretary of Commerce as provided in this paragraph. Notwithstanding s. 159.8052(1), any notice of intent to issue requesting a confirmation from the economic development allocation pool which conforms to the requirements of s. 159.8051 and is filed with the division before May 1 must be forwarded to the Secretary of Commerce for review. The Secretary of Commerce shall render a decision on or before May 15 as to the order in which such notices of intent to issue are to receive a confirmation. The division shall issue confirmations for such notices of intent to issue in the order of priority established by the Secretary of Commerce within 3 business days after receipt of such decision.

(b) The economic development allocation pool must be

available from June 1 through September 30 of each year for the sole purpose of issuing confirmations for exempt facility bonds, small issue bonds, student loan bonds, and redevelopment bonds to issuers statewide on a first-come, first-served basis with notification to the Department of Commerce.

Section 14. Section 159.807, Florida Statutes, is repealed.

Section 15. Section 159.8071, Florida Statutes, is created to read:

159.8071 State allocation pool.—The state allocation pool is established and must be available to issue confirmations pursuant to the procedures specified in s. 159.8052, and to issue confirmations for bonds to issuers statewide on a first-come, first-served basis for all types of private activity bonds from October 1 through November 30 of each year.

Section 16. Section 159.8075, Florida Statutes, is repealed.

Section 17. Section 159.80751, Florida Statutes, is created to read:

159.80751 Qualified mortgage credit certificates.—

(1) On or before November 30 of each year, an issuer may elect in writing to the division to convert all or a portion of its allocation of state volume limitation for single-family affordable housing bonds to mortgage credit certificates, provided such election is made before the expiration date of the

confirmation granting such allocation. Each issuer shall provide notice of any election made under this section to the governing body of the county for which the issuer was created. Such election is irrevocable.

(2) All mortgage credit certificates must be issued under a certification program that is designed to ensure that the requirements of s. 25 of the Code, specifically s. 25(f)(4), are complied with and that meets all requirements adopted by the United States Secretary of the Treasury as set out in applicable regulations. Any potential issuer of mortgage credit certificates must certify in writing to the division that the mortgage credit certification program is certified under s. 25 of the Code, specifically s. 25(f)(4).

(3) For that portion of the confirmation that an issuer has elected to use for mortgage credit certificates before the expiration thereof, the expiration dates in s. 159.8052(2) do not apply and any unissued mortgage credit certificates will automatically receive a carryforward confirmation.

(4) The election referenced in subsection (1) and the certification referenced in subsection (2) must be filed with the division in accordance with s. 159.814. The director of the division is the state official designated to make the certification required by Temporary Regulation 1.25-4T(d) under the Code.

Section 18. Section 159.8081, Florida Statutes, is

repealed.

Section 19. Section 159.8083, Florida Statutes, is repealed.

Section 20. Section 159.809, Florida Statutes, is repealed.

Section 21. Section 159.8091, Florida Statutes, is created to read:

159.8091 Carryforward allocation pool.—

(1) The carryforward allocation pool is established. The carryforward allocation pool is available for the sole purpose of issuing carryforward confirmations to issuers statewide for projects that are entitled under the Code to a carryforward of state volume limitation past the end of the calendar year pursuant to requests that meet the requirements of s. 159.8101(3).

(2) On December 15 of each year, or, if December 15 is not a business day, the first business day thereafter, the division shall issue carryforward confirmations as provided for in subsection (3) until the state volume limitation in the carryforward allocation pool is exhausted.

(3) The amount of each carryforward confirmation, if there is sufficient state volume limitation in the carryforward allocation pool, must be the amount requested. If the division determines that the aggregate amount of state volume limitation requested for carryforward confirmations pursuant to this

section exceeds the amount available in the carryforward allocation pool, the division must assign a consecutive number to each such request, shall draw such numbers randomly to establish the priority of each request, and shall issue carryforward confirmations until the total amount of state volume limitation is exhausted. Any requests in excess of the state volume limitation may not be given any priority in the following calendar year. If any state volume limitation remains in the carryforward allocation pool after issuing carryforward confirmations for all requests filed pursuant to s. 159.8101, the division must make such remaining state volume limitation available to the corporation to be carried forward for the issuance of affordable housing bonds in subsequent years as provided by the Code. Thereafter, any remaining state volume limitation not used as provided in subsection (2) must be carried forward to the next calendar year to the extent permitted by the Code.

Section 22. Section 159.81, Florida Statutes, is repealed.

Section 23. Section 159.8101, Florida Statutes, is created to read:

159.8101 Applications for a carryforward; carryforward confirmations.—

(1) Any issuer that wishes to elect to carryforward an allocation of state volume limitation under s. 146(f) of the Code must first request and obtain a carryforward confirmation

from the division.

(2) The division shall, when requested, issue a carryforward confirmation for those confirmations issued pursuant to this part for those projects that qualify for a carryforward pursuant to s. 146(f) of the Code, provided that such request includes an opinion of bond counsel that such allocation of state volume limitation will be used for a carryforward purpose pursuant to s. 146(f)(5) of the Code and is received by the division at least 3 business days before the expiration of such confirmation.

(3) A request for a carryforward confirmation must be made by filing with the division a notice of intent to issue meeting all requirements of this section and s. 159.8051(2). Such request must include an opinion of bond counsel that such allocation of state volume limitation will be used for a carryforward purpose pursuant to s. 146(f)(5) of the Code. All such requests must be timely filed with the division in accordance with s. 159.814 by or on behalf of the issuer requesting to carryforward an allocation of state volume limitation.

Section 24. Section 159.8105, Florida Statutes, is repealed.

Section 25. Subsection (1) of section 159.811, Florida Statutes, is amended to read:

159.811 Fees; trust fund.—

(1) There shall be imposed a nonrefundable fee on each notice of intent to issue a private activity bond filed with the division pursuant to s. 159.8051 ~~s. 159.805(1)~~. A ~~No~~ notice of intent to issue may not ~~a private activity bond shall~~ be accepted by the division unless and until the fee has been paid. The ~~division shall establish a~~ fee, which may be revised from time to time, must ~~shall~~ be an amount sufficient to cover all expenses of maintaining the allocation system in this part. ~~In calculating the fee, any unexpended trust fund balance remaining unexpended prior to setting the fee shall be deducted from the amount appropriated.~~ The amount of the fee may ~~shall~~ not exceed $500 and may be adjusted no more than once every 6 months. The fee must be included the division's schedule of fees and expenses in s. 215.65(3).

Section 26. Section 159.812, Florida Statutes, is repealed.

Section 27. Section 159.814, Florida Statutes, is amended to read:

159.814 Form of applications for allocations; requirements.—All notices of intent to issue, requests ~~for an allocation and applications~~ for ~~a~~ carryforward confirmations, and issuance reports must ~~shall~~ be made in such form as may be prescribed by the division. All such forms may be filed electronically through a portal on the division's website at such time as the division establishes such portal through which

such forms and the fee required by s. 159.811 may be submitted. Notices ~~No notices~~ of intent to issue ~~for allocations of the private activity bond volume limitation~~ for any calendar year may not ~~shall~~ be accepted before ~~prior to~~ January 1 of that calendar year. Notices of intent to issue requesting a confirmation from the affordable housing allocation pools, the economic development allocation pool, or the corporation pool are considered timely only if filed with the division on or before September 30 of that calendar year, or, if September 30 is not a business day, the last business day before September 30. Notices of intent to issue requesting a confirmation from the state allocation pool are considered timely only if filed with the division from October 1 through November 30 of that calendar year, or, if November 30 is not a business day, the last business day before November 30. Applications for a carryforward confirmation pursuant to s. 159.8091(1) are considered timely only if filed with the division from December 1 through December 15 of that calendar year, or, if December 15 is not a business day, the last business day before December 15 ~~All notices of intent to issue or application for a carryforward shall be mailed by certified mail return receipt requested or by overnight common carrier delivery service. No notice of intent to issue or application for carryforward shall be accepted by hand delivery from the issuing authority, attorneys, or other parties. All notices of intent to issue or applications for a~~

~~carryforward shall be received in a standard business size envelope devoid of markings, colors, or other attention gathering devices except for the return address~~.

Section 28. Section 159.815, Florida Statutes, is repealed.

Section 29. Section 159.816, Florida Statutes, is amended to read:

159.816 Certification ~~Certificate~~ as to state volume limitation.—Following the timely filing of an issuance report, the director of the division shall execute a final certification of allocation ~~sign the certificate required pursuant to s. 149(e)(2)(F) of the Code~~.

Section 30. Subsection (2) of section 420.504, Florida Statutes, is amended to read:

420.504 Public corporation; creation, membership, terms, expenses.—

(2) The corporation is constituted as a public instrumentality, and the exercise by the corporation of the power conferred by this act is considered to be the performance of an essential public function. The corporation is an agency for the purposes of s. 120.52 and is ~~a state agency for purposes of s. 159.807(4). The corporation is~~ subject to chapter 119, subject to exceptions applicable to the corporation, and to the provisions of chapter 286; however, the corporation is ~~shall be~~ entitled to provide notice of internal review committee meetings

for competitive proposals or procurement to applicants by mail, facsimile, or publication on an Internet website, rather than by means of publication. The corporation is not governed by chapter 607 or chapter 617, but by ~~the provisions of~~ this part. If for any reason the establishment of the corporation is deemed in violation of law, such provision is severable and the remainder of this act remains in full force and effect.

Section 31. Subsection (3) of section 163.2520, Florida Statutes, is amended to read:

163.2520 Economic incentives.—

(3) Prior to June 1 each year, areas designated by a local government as urban infill and redevelopment areas shall be given a priority in the allocation of private activity bonds from the state pool pursuant to s. 159.8071 ~~s. 159.807~~.

Section 32. This act shall take effect January 1, 2025.

Select Potential Tax Package Concepts

Ways & Means Committee Select Potential Tax Package Concepts

Committee Presentation
February 8, 2024

Sales Tax

Reduction in the Business Rent Tax

- Florida has imposed a sales tax on the total rent charged under a commercial lease of real property since 1969.
- The current rate is 4.5%. That is currently estimated to be reduced to 2% on June 1, 2024.
- The concept here is to potentially reduce that rate even further for a limited period of time.

Tourist Development Tax

Limitations on Tourist Development Taxes (TDTs)

- TDTs are local taxes generally levied on transient rentals.
- There are 5 types of TDTs, and counties levy between 0% and 6%.
- All TDTs are subject to approval by voters in a referendum.
- The concept here is to limit all TDTs to a specific number of years, and require renewal of all existing and future levies in similar intervals.

Local Option Sales Tax

Limitations on Local Option Sales Taxes (Discretionary Sales Surtaxes)

- These surtaxes are the additional sales taxes added to the state 6% sales tax on all taxable transactions.
- There are nine types of local surtaxes, levied by a county or school board, and current rates range from 0% to 1.5%.
- The concept here is to ensure that all nine surtaxes are subject to voter approval for the initial levy moving forward, and are limited to a maximum number of years unless reapproved by voters.

Local Option Sales Tax

Local Option Indigent Care Sales Surtax

- Counties with a population of at least 800,000 residents are generally authorized to levy a half-cent local option sales surtax for certain healthcare services.
- Duval and Miami-Dade cannot levy this surtax.
- The concept here is to remove the restriction so that Duval County could also levy the surtax, if approved by voters in the county in a referendum.

Sales Tax - Distributions

James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance (JP-PAS)

- Provides monthly stipends to adult Floridians with significant disabilities who require personal assistance services to maintain competitive and integrated employment.
- Funded through the Tax Collection Diversion Program
- The distribution is currently 75% of the recovered funds.
- The concept here is to increase that to the full amount (100%) of recovered funds.

Corporate Income Tax

Credit for Persons with Unique Abilities

- This is a proposed new credit against Corporate Income Tax for companies that employ individuals who have a disability.
- The credit would be $1 per hour, up to $1,000 per year, per employee with a disability.
- The credit would be capped at $10,000 per company, and $5 million per state fiscal year for the next three years.

Property Tax

Construction Work in Progress

- Real and tangible personal property (TPP) are subject to property tax based on the property's value on January 1.
- For TPP that is under construction, items become taxable on the January 1 following the year the project is "substantially completed."
- For certain projects, "substantially completed" under the statutory definition does not actually mean operational.
- The concept here is to clarify that for these type of projects, the TPP is not substantially complete until all permits and approvals for operation have been received.

Multiple Taxes

Strong Families Tax Credit – Increased Cap and Timing Clarification

The concept here is:

- To increase the annual cap for each state fiscal year.
- To clarify that the application window for this credit program begins at 9:00 am on the first business day of the calendar year.

Tax Administration

Automatic Delay of Return Due Dates in Certain Emergencies

- The concept here is:
  - To provide an automatic ten-day extension for sales tax returns and payments if the due date would have been within the five days after a declaration of a state of emergency, and
  - To provide an automatic extension for corporate income tax returns to align with federal extensions during a state of emergency.

Questions?

Where To Go For Help

Ways & Means Committee

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