



Government Efficiency & Accountability Council

**Wednesday, March 14, 2007
8:30 AM
Morris Hall (17 HOB)**

**Marco Rubio
Speaker**

**Andy Gardiner
Chair**

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Government Efficiency & Accountability Council

Start Date and Time: Wednesday, March 14, 2007 08:30 am

End Date and Time: Wednesday, March 14, 2007 12:00 pm

Location: Morris Hall (17 HOB)

Duration: 3.50 hrs

Consideration of the following bill(s):

HB 3 Firefighter and Municipal Police Pensions by Davis, D.
HB 37 Periods of Wartime Service for Veterans by Meadows
HB 135 Local Business Taxes by Kiar
HB 199 Nassau County by Bean
HB 271 Contracting for Efficiency or Conservation Measures by State Agencies by McKeel
HB 425 Municipal Annexation by Long
HB 475 Local Business Taxes by Gonzalez
HB 547 Employment Requirements for Law Enforcement Personnel by Patterson
HB 627 Three Kings Day by Bullard
HB 699 Preference in Public Employment for Veterans by Sachs
HB 755 Firefighting by Reagan
HB 775 Town of Loxahatchee Groves, Palm Beach County by Vana
HB 779 Town of Belleair Shore, Pinellas County by Frishe
HB 781 Licensing and Regulating of Children's Centers and Family Day Care Homes in Pinellas County by Anderson
HB 783 Broward County by Seiler
HB 797 Firefighters by Brandenburg
HB 993 Escambia County by Evers
HB 1051 Property Tax Exemptions for Totally and Permanently Disabled Persons by Mealor

Workshop on the following:

Budget for the Department of the Lottery
Budget for the Department of Revenue

Consideration of the following proposed council bill(s):

PCB GEAC 07-17 -- Trust Fund/DOR/DMA
PCB GEAC 07-18 -- Emergency Response Trust Fund
PCB GEAC 07-19 -- Operations TF/DOR
PCB GEAC 07-20 -- Federal Grants TF/DOR
PCB GEAC 07-21 -- Audit & Warrant Clearing TF/DOR

NOTICE FINALIZED on 03/12/2007 16:20 by MXE

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

The bill permits increased terms of office, increases authorized investments in foreign securities, and authorizes additional signatories for drafts issued upon pension trust funds.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapters 175 and 185, F.S., establish a "uniform retirement system" providing defined benefit retirement plans for firefighters¹ and police officers² employed by Florida municipalities and special fire control districts, and standards for the operation and funding of these pension systems. Pension plan funding comes from a number of sources: net proceeds from an excise tax levied by upon property and casualty insurance companies (known as the "premium tax"); employee contributions; fines and forfeitures; mandatory payments of any extra amount needed to keep a plan solvent; gifts and bequests; and other revenues.³ To qualify for premium tax dollars, plans must meet requirements found in chs. 175 and 185, F.S.

There are two types of plans that operate under these statutes: Chapter Plans (plans that adopt the chapter by reference) and Local Law Plans (plans that are created by a special act, local ordinance or resolution that meet minimum standards set forth in ss. 175.351 and 185.35, F.S.). Responsibility for overseeing and monitoring these plans is assigned to the Department of Management Services' Division of Retirement, but day-to-day operational control rests with local boards of trustees.

The local boards consist of five members: two members who are legal residents of the municipality or special fire control district and are appointed by its legislative body; two members who are full-time firefighters or police officers elected by a majority of the active firefighters or police officers who are members of such plan; and a fifth member who is chosen by a majority of the other four members. Each member serves a two-year term, and may succeed himself or herself.⁴ The boards must meet at least quarterly.⁵

These boards of trustees have the power to: invest and reinvest the assets of pension funds in certain authorized investments,⁶ issue drafts, keep required records, retain a qualified independent consultant

¹ Pursuant to ss. 175.041(1) and (2), F.S., such firefighters must work for municipalities or special fire control districts that have a constituted fire department or authorized volunteer fire department which owns and uses equipment for fighting fires that was in compliance with National Fire Protection Association Standards for Automotive Fire Apparatus at the time of purchase.

² Pursuant to s. 185.03(1), F.S., such police officers must work for a regularly organized municipal police department which uses equipment in serviceable condition with a value exceeding \$500 for the prevention of crime and for the preservation of life and property.

³ Sections 175.091 and 185.07, F.S.

⁴ Sections 175.061(1), and 185.05(1), F.S.

⁵ Sections 175.061(3) and 185.05(3), F.S.

⁶ Sections 175.071(1) and 185.06(1), F.S., authorize the following investments and reinvestments: (1) time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings, building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund; (2) obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States; (3) bonds issued by the State of Israel; and

at least once every three years, and employ legal counsel, independent actuaries and other advisors. Sections 175.071 and 185.06, F.S., provide investment standards for the boards to follow; however, those sections also allow a municipality or fire control district to vary from these constraints by means of a local ordinance, legislative act or resolution—except for a 10 percent restriction on investment in foreign securities.

Under ss. 175.071(1)(c) and 185.06(1)(c), F.S., pension fund drafts must be consecutively numbered and signed by the board chair and secretary, and state the purpose of the draft. This provision requires a board to maintain strict control and direction of all pension fund disbursements.

Effect of Proposed Changes

Section 1: Amends the s. 175.032(8)(a), F.S., definition of “firefighter” to include a specific reference to certified supervisory and command personnel. This new language is similar to that contained in the s. 185.02(11), F.S., definition of “police officer,” and serves to clarify that supervisory and command employees are covered by the firefighter pension plans. The current definition simply states that fire chiefs have the “option to participate... [in a] plan.”

This section also emulates language found in s. 185.02(11), F.S., to clarify that part-time and auxiliary employees are not included in these pension plans. Currently, there are several references to “full-time” firefighters in ch. 175, F.S., which contemplate full-time employment within the definition of “average final compensation”⁷ and with regard to “requirements for retirement.”⁸

Section 2: Amends s. 175.061(1)(a), F.S., to allow for the extension (by municipal ordinance, special act of the legislature, or resolution of the governing body of a special fire control district) of the terms of office for firefighters’ pension board members from the current two years to four years, and specifies that the terms of office shall be the same for all board members. This language will enable board members with conceivably long learning curves and complex duties to continue serving in their positions without seeking election, selection or appointment every two years.

Section 3: Amends s. 175.071(1) F.S., pertaining to the general powers and duties of firefighters’ pension board members, to add specific references to certain sections of the statutes with regard to fiduciary standards and the Code of Ethics for Public Officers and Employees. Board members currently are subject to these standards under Florida law, so this language merely serves to reiterate that fact.

Additionally, this section amends s. 175.071(1)(b), F.S., to expand a board’s authority to invest a plan’s assets in foreign securities from 10 to 20 percent. Ostensibly, the current limitation was set by the Legislature in order to establish parameters for local boards with potentially minimal investment expertise with regard to higher risk foreign ventures.

This section also amends s. 175.071(1)(c), F.S., to allow a board the ability to designate two individuals (other than the currently-required chair and secretary) who are subject to the same fiduciary standards as board members to sign trust fund drafts. The sole and exclusive administration of, and the responsibility for, the proper operation of the pension trust funds are vested in the board. This language will allow a board flexibility with regard to signatures on drafts while providing a protective fiduciary requirement.

Section 4: Amends s. 185.05(1)(a), F.S., to allow for the extension (by municipal ordinance or special act off the Legislature) of the terms of office for police officers’ pension board members from the current

(4) bonds, stocks or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia.

⁷ Section 175.032(1)(a), F.S.

⁸ Section 175.162(2)(a), F.S.

two years to four years, and specifies that the terms of office shall be the same for all board members. As in Section 3 of the bill, this language will enable board members with conceivably long learning curves and complex duties to continue serving in their positions without seeking election, selection or appointment every two years.

Section 5: Amends s. 185.06(1), F.S., pertaining to the general powers and duties of police officers' pension board members to add specific references to certain sections of the statutes with regard to fiduciary standards and the Code of Ethics for Public Officers and Employees. Board members currently are subject to these standards under Florida law, so this language merely serves to reiterate that fact.

Additionally, this section amends s. 185.061(1)(b), F.S., to expand a board's authority to invest a plan's assets in foreign securities from 10 to 20 percent. As was noted in Section 3, above, this limitation ostensibly was set by the Legislature in order to establish parameters for local boards with potentially minimal investment expertise with regard to higher risk foreign ventures.

It also amends s. 185.06(1)(c), F.S., to allow a board the ability to designate two individuals (other than the currently-required chair and secretary), who are subject to the same fiduciary standards as board members, to sign trust fund drafts. The sole and exclusive administration of, and the responsibility for, the proper operation of the pension trust funds are vested in the board. This language will allow a board flexibility with regard to signatures on drafts while providing a protective fiduciary requirement.

Section 6: Provides that if any provision of the act or its application is held invalid, such invalidity does not affect other provisions or applications.

Section 7: Provides that the act shall take effect upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends the s. 175.032(8)(a), F.S., definition of "firefighter."

Section 2: Amends s. 175.061(1)(a) F.S., to allow for extending board member terms of office.

Section 3: Amends s. 175.071(1), F.S., to add references to statutory fiduciary standards and the Code of Ethics, expand a board's authority to invest in foreign securities, and allow for the designation of additional signatories.

Section 4: Amends s. 185.05(1)(a), F.S., to allow for extending board member terms of office.

Section 5: Amends s. 185.06(1), F.S., to add references to statutory fiduciary standards and the Code of Ethics, expand a board's authority to invest in foreign securities, and allow for the designation of additional signatories.

Section 6: Provides a severability clause.

Section 7: 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:

The expanded investment authority of the pension boards may positively impact the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

While Section 1 of the bill amends s. 175.032(8)(a), F.S., to refer to the supervision, training, guidance and management of auxiliary firefighters and specifically excludes "auxiliary" firefighters from the definition of firefighter, this term is not defined or otherwise used in that chapter. The s. 185.02(11), F.S., definition of "police officer" makes reference to a definition of "auxiliary police officer" which is contained in s. 943.10(8), F.S.

Sections 3 and 5 allow for a board to designate two additional individuals who are subject to the same fiduciary standards as board members to sign trust fund drafts, but do not provide additional criteria for the selection of these individuals.

Other Comments

Actuarial Statement of Fiscal Soundness:

The Actuarial Statement of Fiscal Soundness for HB 3 provided by the Division of Retirement⁹ provides the following:

- a. This bill affects neither the Florida Retirement System nor the System's Trust Fund.
- b. This bill is neither affected by the requirements of s. 14, art. X, of the State Constitution nor by the provisions of part VII of ch. 112, F.S.
- c. Explanation: N/A.
- d. Fiscal Note: None. There are no actuarial or benefit issues associated with this bill.

D. STATEMENT OF THE SPONSOR:

This bill will put the police and fire pension funds across the State of Florida on an equal footing with the members of the Florida Retirement System.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

⁹ Charles Slavin, Enrolled Actuary, #05-1591, January 3, 2007.

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1 A bill to be entitled
 2 An act relating to firefighter and municipal police
 3 pensions; amending s. 175.032, F.S.; revising the
 4 definition of "firefighter"; amending s. 175.061, F.S.;
 5 authorizing the terms of office for the board of trustees
 6 of the firefighters' pension trust fund to be revised
 7 under certain circumstances; amending s. 175.071, F.S.;
 8 requiring the board of trustees to perform its powers
 9 subject to certain fiduciary standards and ethics
 10 provisions; increasing the percentage of assets of the
 11 firefighters' pension trust fund that the board of
 12 trustees may invest in foreign securities; authorizing
 13 certain individuals to sign drafts issued upon the
 14 firefighters' pension trust fund; amending s. 185.05,
 15 F.S.; authorizing the terms of office for the board of
 16 trustees of the municipal police officers' retirement
 17 trust fund to be revised under certain circumstances;
 18 amending s. 185.06, F.S.; requiring the board of trustees
 19 to perform its powers subject to certain fiduciary
 20 standards and ethics provisions; increasing the percentage
 21 of assets of the municipal police officers' retirement
 22 trust fund that the board of trustees may invest in
 23 foreign securities; authorizing certain individuals to
 24 sign drafts issued upon the municipal police officers'
 25 retirement trust fund; providing for severability;
 26 providing an effective date.

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

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Section 1. Paragraph (a) of subsection (8) of section 175.032, Florida Statutes, is amended to read:

175.032 Definitions.--For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the following words and phrases have the following meanings:

(8) (a) "Firefighter" means any person employed solely by a constituted fire department of any municipality or special fire control district who is certified as a firefighter as a condition of employment in accordance with the provisions of s. 633.35 and whose duty it is to extinguish fires, to protect life, or to protect property. "Firefighter" includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters. However, for purposes of this chapter only, "firefighter" also includes public safety officers who are responsible for performing both police and fire services, who are certified as police officers or firefighters, and who are certified by their employers to the Chief Financial Officer as participating in this chapter prior to October 1, 1979. Effective October 1, 1979, public safety officers who have not been certified as participating in this chapter shall be considered police officers for retirement purposes and shall be

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57 | eligible to participate in chapter 185. Any plan may provide
 58 | that the fire chief shall have an option to participate, or not,
 59 | in that plan.

60 | Section 2. Paragraph (a) of subsection (1) of section
 61 | 175.061, Florida Statutes, is amended to read:

62 | 175.061 Board of trustees; members; terms of office;
 63 | meetings; legal entity; costs; attorney's fees.--For any
 64 | municipality, special fire control district, chapter plan, local
 65 | law municipality, local law special fire control district, or
 66 | local law plan under this chapter:

67 | (1) In each municipality and in each special fire control
 68 | district there is hereby created a board of trustees of the
 69 | firefighters' pension trust fund, which shall be solely
 70 | responsible for administering the trust fund. Effective October
 71 | 1, 1986, and thereafter:

72 | (a) The membership of the board of trustees for a chapter
 73 | plan shall consist of five members, two of whom, unless
 74 | otherwise prohibited by law, shall be legal residents of the
 75 | municipality or special fire control district, who shall be
 76 | appointed by the governing body of the municipality or special
 77 | fire control district, and two of whom shall be full-time
 78 | firefighters as defined in s. 175.032 who shall be elected by a
 79 | majority of the active firefighters who are members of such
 80 | plan. With respect to any chapter plan or local law plan that,
 81 | on January 1, 1997, allowed retired firefighters to vote in such
 82 | elections, retirees may continue to vote in such elections. The
 83 | fifth member shall be chosen by a majority of the previous four
 84 | members as provided for herein, and such person's name shall be

85 submitted to the governing body of the municipality or special
 86 fire control district. Upon receipt of the fifth person's name,
 87 the governing body of the municipality or special fire control
 88 district shall, as a ministerial duty, appoint such person to
 89 the board of trustees as its fifth member. The fifth member
 90 shall have the same rights as each of the other four members
 91 appointed or elected as herein provided, shall serve as trustee
 92 for a period of 2 years, and may succeed himself or herself in
 93 office. Each resident member shall serve as trustee for a period
 94 of 2 years, unless sooner replaced by the governing body at
 95 whose pleasure he or she shall serve, and may succeed himself or
 96 herself as a trustee. Each firefighter member shall serve as
 97 trustee for a period of 2 years, unless he or she sooner leaves
 98 the employment of the municipality or special fire control
 99 district as a firefighter, whereupon a successor shall be chosen
 100 in the same manner as an original appointment. Each firefighter
 101 may succeed himself or herself in office. The terms of office of
 102 the appointed and elected members of the board may be amended by
 103 municipal ordinance, special act of the Legislature, or
 104 resolution adopted by the governing body of the special fire
 105 control district to extend the terms of office from 2 years to 4
 106 years. The length of the terms of office shall be the same for
 107 all board members.

108 Section 3. Subsection (1) of section 175.071, Florida
 109 Statutes, is amended to read:

110 175.071 General powers and duties of board of
 111 trustees.--For any municipality, special fire control district,

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112 chapter plan, local law municipality, local law special fire
 113 control district, or local law plan under this chapter:

114 (1) The board of trustees, subject to the fiduciary
 115 standards in ss. 112.656, 112.661, and 518.11 and the Code of
 116 Ethics in ss. 112.311-112.3187, may:

117 (a) Invest and reinvest the assets of the firefighters'
 118 pension trust fund in annuity and life insurance contracts of
 119 life insurance companies in amounts sufficient to provide, in
 120 whole or in part, the benefits to which all of the participants
 121 in the firefighters' pension trust fund shall be entitled under
 122 the provisions of this chapter and pay the initial and
 123 subsequent premiums thereon.

124 (b) Invest and reinvest the assets of the firefighters'
 125 pension trust fund in:

126 1. Time or savings accounts of a national bank, a state
 127 bank insured by the Bank Insurance Fund, or a savings, building,
 128 and loan association insured by the Savings Association
 129 Insurance Fund which is administered by the Federal Deposit
 130 Insurance Corporation or a state or federal chartered credit
 131 union whose share accounts are insured by the National Credit
 132 Union Share Insurance Fund.

133 2. Obligations of the United States or obligations
 134 guaranteed as to principal and interest by the government of the
 135 United States.

136 3. Bonds issued by the State of Israel.

137 4. Bonds, stocks, or other evidences of indebtedness
 138 issued or guaranteed by a corporation organized under the laws

139 of the United States, any state or organized territory of the
 140 United States, or the District of Columbia, provided:

141 a. The corporation is listed on any one or more of the
 142 recognized national stock exchanges or on the National Market
 143 System of the NASDAQ Stock Market and, in the case of bonds
 144 only, holds a rating in one of the three highest classifications
 145 by a major rating service; and

146 b. The board of trustees shall not invest more than 5
 147 percent of its assets in the common stock or capital stock of
 148 any one issuing company, nor shall the aggregate investment in
 149 any one issuing company exceed 5 percent of the outstanding
 150 capital stock of that company or the aggregate of its
 151 investments under this subparagraph at cost exceed 50 percent of
 152 the assets of the fund.

153
 154 This paragraph shall apply to all boards of trustees and
 155 participants. However, in the event that a municipality or
 156 special fire control district has a duly enacted pension plan
 157 pursuant to, and in compliance with, s. 175.351, and the
 158 trustees thereof desire to vary the investment procedures
 159 herein, the trustees of such plan shall request a variance of
 160 the investment procedures as outlined herein only through a
 161 municipal ordinance, special act of the Legislature, or
 162 resolution by the governing body of the special fire control
 163 district; where a special act, or a municipality by ordinance
 164 adopted prior to July 1, 1998, permits a greater than 50-percent
 165 equity investment, such municipality shall not be required to
 166 comply with the aggregate equity investment provisions of this

167 paragraph. Notwithstanding any other provision of law to the
 168 contrary, nothing in this section may be construed to take away
 169 any preexisting legal authority to make equity investments that
 170 exceed the requirements of this paragraph. The board of trustees
 171 may invest up to 20 ~~10~~ percent of plan assets in foreign
 172 securities.

173 (c) Issue drafts upon the firefighters' pension trust fund
 174 pursuant to this act and rules and regulations prescribed by the
 175 board of trustees. All such drafts shall be consecutively
 176 numbered, be signed by the chair and secretary or two
 177 individuals designated by the board who are subject to the same
 178 fiduciary standards as required for the board of trustees under
 179 this subsection, and state upon their faces the purpose for
 180 which the drafts are drawn. The treasurer or depository of each
 181 municipality or special fire control district shall retain such
 182 drafts when paid, as permanent vouchers for disbursements made,
 183 and no money shall be otherwise drawn from the fund.

184 (d) Convert into cash any securities of the fund.

185 (e) Keep a complete record of all receipts and
 186 disbursements and of the board's acts and proceedings.

187 Section 4. Paragraph (a) of subsection (1) of section
 188 185.05, Florida Statutes, is amended to read:

189 185.05 Board of trustees; members; terms of office;
 190 meetings; legal entity; costs; attorney's fees.--For any
 191 municipality, chapter plan, local law municipality, or local law
 192 plan under this chapter:

193 (1) In each municipality described in s. 185.03 there is
 194 hereby created a board of trustees of the municipal police

195 officers' retirement trust fund, which shall be solely
 196 responsible for administering the trust fund. Effective October
 197 1, 1986, and thereafter:

198 (a) The membership of the board of trustees for chapter
 199 plans shall consist of five members, two of whom, unless
 200 otherwise prohibited by law, shall be legal residents of the
 201 municipality, who shall be appointed by the legislative body of
 202 the municipality, and two of whom shall be police officers as
 203 defined in s. 185.02 who shall be elected by a majority of the
 204 active police officers who are members of such plan. With
 205 respect to any chapter plan or local law plan that, on January
 206 1, 1997, allowed retired police officers to vote in such
 207 elections, retirees may continue to vote in such elections. The
 208 fifth member shall be chosen by a majority of the previous four
 209 members, and such person's name shall be submitted to the
 210 legislative body of the municipality. Upon receipt of the fifth
 211 person's name, the legislative body of the municipality shall,
 212 as a ministerial duty, appoint such person to the board of
 213 trustees as its fifth member. The fifth member shall have the
 214 same rights as each of the other four members appointed or
 215 elected as herein provided, shall serve as trustee for a period
 216 of 2 years, and may succeed himself or herself in office. Each
 217 resident member shall serve as trustee for a period of 2 years,
 218 unless sooner replaced by the legislative body at whose pleasure
 219 the member shall serve, and may succeed himself or herself as a
 220 trustee. Each police officer member shall serve as trustee for a
 221 period of 2 years, unless he or she sooner leaves the employment
 222 of the municipality as a police officer, whereupon the

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223 legislative body of the municipality shall choose a successor in
 224 the same manner as an original appointment. Each police officer
 225 may succeed himself or herself in office. The terms of office of
 226 the appointed and elected members of the board may be amended by
 227 municipal ordinance or special act of the Legislature to extend
 228 the terms of office from 2 years to 4 years. The length of the
 229 terms of office shall be the same for all board members.

230 Section 5. Subsection (1) of section 185.06, Florida
 231 Statutes, is amended to read:

232 185.06 General powers and duties of board of
 233 trustees.--For any municipality, chapter plan, local law
 234 municipality, or local law plan under this chapter:

235 (1) The board of trustees, subject to the fiduciary
 236 standards in ss. 112.656, 112.661, and 518.11 and the Code of
 237 Ethics in ss. 112.311-112.3187, may:

238 (a) Invest and reinvest the assets of the retirement trust
 239 fund in annuity and life insurance contracts of life insurance
 240 companies in amounts sufficient to provide, in whole or in part,
 241 the benefits to which all of the participants in the municipal
 242 police officers' retirement trust fund shall be entitled under
 243 the provisions of this chapter, and pay the initial and
 244 subsequent premiums thereon.

245 (b) Invest and reinvest the assets of the retirement trust
 246 fund in:

247 1. Time or savings accounts of a national bank, a state
 248 bank insured by the Bank Insurance Fund, or a savings and loan
 249 association insured by the Savings Association Insurance Fund
 250 which is administered by the Federal Deposit Insurance

251 Corporation or a state or federal chartered credit union whose
 252 share accounts are insured by the National Credit Union Share
 253 Insurance Fund.

254 2. Obligations of the United States or obligations
 255 guaranteed as to principal and interest by the United States.

256 3. Bonds issued by the State of Israel.

257 4. Bonds, stocks, or other evidences of indebtedness
 258 issued or guaranteed by a corporation organized under the laws
 259 of the United States, any state or organized territory of the
 260 United States, or the District of Columbia, provided:

261 a. The corporation is listed on any one or more of the
 262 recognized national stock exchanges or on the National Market
 263 System of the NASDAQ Stock Market and, in the case of bonds
 264 only, holds a rating in one of the three highest classifications
 265 by a major rating service; and

266 b. The board of trustees shall not invest more than 5
 267 percent of its assets in the common stock or capital stock of
 268 any one issuing company, nor shall the aggregate investment in
 269 any one issuing company exceed 5 percent of the outstanding
 270 capital stock of the company or the aggregate of its investments
 271 under this subparagraph at cost exceed 50 percent of the fund's
 272 assets.

273

274 This paragraph shall apply to all boards of trustees and
 275 participants. However, in the event that a municipality has a
 276 duly enacted pension plan pursuant to, and in compliance with,
 277 s. 185.35 and the trustees thereof desire to vary the investment
 278 procedures herein, the trustees of such plan shall request a

279 variance of the investment procedures as outlined herein only
 280 through a municipal ordinance or special act of the Legislature;
 281 where a special act, or a municipality by ordinance adopted
 282 prior to July 1, 1998, permits a greater than 50-percent equity
 283 investment, such municipality shall not be required to comply
 284 with the aggregate equity investment provisions of this
 285 paragraph. Notwithstanding any other provision of law to the
 286 contrary, nothing in this section may be construed to take away
 287 any preexisting legal authority to make equity investments that
 288 exceed the requirements of this paragraph. The board of trustees
 289 may invest up to 20 ~~10~~ percent of plan assets in foreign
 290 securities.

291 (c) Issue drafts upon the municipal police officers'
 292 retirement trust fund pursuant to this act and rules and
 293 regulations prescribed by the board of trustees. All such drafts
 294 shall be consecutively numbered, be signed by the chair and
 295 secretary or two individuals designated by the board who are
 296 subject to the same fiduciary standards as required for the
 297 board of trustees under this subsection, and state upon their
 298 faces the purposes for which the drafts are drawn. The city
 299 treasurer or other depository shall retain such drafts when
 300 paid, as permanent vouchers for disbursements made, and no money
 301 shall otherwise be drawn from the fund.

302 (d) Finally decide all claims to relief under the board's
 303 rules and regulations and pursuant to the provisions of this
 304 act.

305 (e) Convert into cash any securities of the fund.

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306 (f) Keep a complete record of all receipts and
307 disbursements and of the board's acts and proceedings.

308 Section 6. If any provision of this act or its application
309 to any person or circumstance is held invalid, the invalidity
310 does not affect other provisions or applications of the act
311 which can be given effect without the invalid provision or
312 application, and to this end the provisions of this act are
313 severable.

314 Section 7. This act shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – This bill expands the number of veterans who are eligible for certain wartime service benefits; however, the bill appears to have an insignificant fiscal impact on state and local governments.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Operation Enduring Freedom

Operation Enduring Freedom (OEF) is the official name of the American military response to the September 11, 2001, terrorist attacks on the United States. On October 7, 2001, President Bush addressed the nation, announcing that “strikes against al Qaeda terrorist training camps and military installations of the Taliban regime in Afghanistan” had begun.¹ Today, OEF comprises several subordinate operations: Operation Enduring Freedom – Afghanistan; Operation Enduring Freedom - Philippines; and Operation Enduring Freedom - Horn of Africa. The term “OEF” typically refers to the war in Afghanistan. The U. S. Department of Defense (DOD) has authorized award of a campaign medal for members serving in direct support of OEF beginning on or after October 24, 2001, and ending on an undetermined future date.²

Operation Iraqi Freedom

On March 19, 2003, President Bush announced the commencement of Operation Iraqi Freedom (OIF), indicating that “American and coalition forces are in the early stages of military operations to disarm Iraq, to free its people and to defend the world from grave danger...On my orders, coalition forces have begun striking selected targets of military importance to undermine Saddam Hussein's ability to wage war. These are opening stages of what will be a broad and concerted campaign.”³ The DOD has also authorized a campaign medal for members serving in direct support of OIF beginning on or after March 19, 2003, and ending on an undetermined future date.⁴ Section 295.0185, F.S., as well as several Federal laws, refers to March 19, 2003 as the beginning date of OIF.

PRESENT SITUATION

Definition of “Veteran”

Section 1.01(14), F.S., defines the term “veteran” for purposes of determining eligibility of veterans for certain benefits provided by the state. A person who has served in the active military, naval, or air service and who has been discharged or released from active duty under honorable conditions is considered a “veteran” eligible for standard veterans’ benefits. A veteran is eligible for enhanced benefits for wartime service if the veteran served in a campaign or expedition for which a campaign badge has been authorized OR the veteran served during one of the following periods of wartime service:

¹ Presidential address to the Nation. <http://www.whitehouse.gov/news/releases/2001/10/20011007-8.html>.

² Department of Army. Afghanistan Campaign Medal Page. Office of the Administrative Assistant to the Secretary of the Army, Institute of Heraldry. Available at: <http://www.tioh.hqda.pentagon.mil/Awards/AfghanistanCampaignMedal.htm>. Accessed January 16, 2007.

³ Presidential address to the Nation. <http://www.whitehouse.gov/news/releases/2003/03/20030319-17.html>

⁴ Department of Army. Iraq Campaign Medal Page. Office of the Administrative Assistant to the Secretary of the Army, Institute of Heraldry. Available at: <http://www.tioh.hqda.pentagon.mil/Awards/IraqCampaignMedal.htm>. Accessed January 16, 2007.

- (a) Spanish-American War: April 21, 1898, to July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion.
- (b) Mexican Border Period: May 9, 1916, to April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto.
- (c) World War I: April 6, 1917, to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided such veterans had at least 1 day of service between April 5, 1917, and November 12, 1918.
- (d) World War II: December 7, 1941, to December 31, 1946.
- (e) Korean Conflict: June 27, 1950, to January 31, 1955.
- (f) Vietnam Era: February 28, 1961, to May 7, 1975.
- (g) Persian Gulf War: August 2, 1990, to January 2, 1992.

As of November 30, 2006, 122,977 veterans who were deployed abroad in OEF or OIF lived in Florida; however, it is unknown how many other veterans in Florida served on active duty during these conflicts but were not deployed abroad in either campaign.⁵ Veterans who were deployed abroad in OEF or OIF in an area of operation receive campaign badges and are, therefore, eligible for wartime service benefits under the current definition. However, veterans who served on active duty during OEF or OIF, but are not deployed abroad in an area of operation, are not currently eligible for wartime service benefits.⁶

Standard Veterans' Benefits

All veterans, including veterans who served abroad in OEF or OIF and those who served during OEF or OIF but were not deployed abroad, who meet the eligibility criteria set forth in the definition qualify for the following standard benefits:

- Homestead property tax exemption for certain disabled veterans [ss. 196.081; 196.101; 196.24, F.S.];
- Homestead property tax exemptions for spouses of deceased veterans [s. 196.081, F.S.];
- Disabled Veteran Identification Card [s. 295.17, F.S.];
- Educational benefits for select veterans, spouses, and the children of deceased or disabled Florida veterans [ss. 295.01-295.0185, F.S.];
- Waiver of fee for commission as a notary public [s. 113.01, F.S.];
- Disabled veterans' preference in employment and retention [ss. 295.07 & 295.101, F.S.];
- Disabled veterans exemption from certain building license or permit fees [s. 295.16, F.S.];
- One tuition deferment per academic year [s. 1009.27, F.S.];
- Admission to the Florida State Veterans' home program administered by the Florida Department of Veterans Affairs;
- Fee waiver for filing certification of discharge or separation [s. 28.222, F.S.];
- Fee waiver for hunting and fishing licenses [s. 372.562, F.S.];
- Free disabled veteran motor vehicle license plate [s. 320.084, F.S.];
- Free parking permit for disabled veterans [s. 320.0848, F.S.];
- Military motor vehicle license plates for ex-POWs, Florida National Guard or Reserve members, survivors of Pearl Harbor, recipients of the Purple Heart Medal, and recipients of the Medal of Honor;
- Driver's license fee waiver for disabled veterans [s. 322.21, F.S.]; and
- Waiver of toll road fees for certain disabled veterans [s. 338.155, F.S.].

⁵ Florida Department of Veteran Affairs, Legislative Analysis (undated).

⁶ Florida Department of Veteran Affairs, Legislative Analysis (undated).

Wartime Service Benefits

Currently, veterans of OEF and OIF who were deployed abroad in an area of operation and who received a campaign badge are eligible for wartime service benefits; however, veterans who served during either operation, but were not deployed abroad, are not eligible for wartime service benefits. These benefits include:

- Government employment hiring and retention preference for certain wartime veterans [s. 295.07, F.S.];
- Priority admittance to State Veteran Nursing Homes [s. 296.08, F.S.];
- Waiver of occupational license taxes for disabled wartime veterans [s. 205.171, F.S.];
- Certain Florida Retirement System (FRS) benefits [s. 121.021, F.S.]; and
- A \$5,000 additional homestead property tax exemption for certain wartime veterans [s. 196.24, F.S.].

Effects of Proposed Changes

This bill revises s. 1.01(14), F.S., as follows, to add Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF) to the list of campaigns or expeditions that qualify a veteran for wartime service benefits provided under state law:

(14) The term "veteran" means a person who served in the active military, naval, or air service and who was discharged or released there from under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or a veteran must have served during one of the following periods of wartime service:

(a) Spanish-American War: April 21, 1898, to July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion.

(b) Mexican Border Period: May 9, 1916, to April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto.

(c) World War I: April 6, 1917, to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided such veterans had at least 1 day of service between April 5, 1917, and November 12, 1918.

(d) World War II: December 7, 1941, to December 31, 1946.

(e) Korean Conflict: June 27, 1950, to January 31, 1955.

(f) Vietnam Era: February 28, 1961, to May 7, 1975.

(g) Persian Gulf War: August 2, 1990, to January 2, 1992.

(h) Operation Enduring Freedom: Beginning October 7, 2001, and ending on the date thereafter prescribed by presidential proclamation or by law.

(i) Operation Iraqi Freedom: Beginning March 19, 2003, and ending on the date thereafter prescribed by presidential proclamation or by law.

As a result of this revision, veterans who served during OIF or OEF, but were not deployed into an area of operation, will be eligible for wartime service benefits. Veterans who were deployed abroad into an area of operation in either OEF or OIF are eligible for all veteran benefits, including wartime service benefits, under current law.

As of November 30, 2006, 122,977 Florida veterans had been deployed in OEF or OIF; however, the number of veterans in Florida who served on active duty during the campaigns, but were not deployed,

is unknown.⁷ Therefore, the number of veterans who will receive wartime service benefits as a result of this bill is unknown.

C. SECTION DIRECTORY:

- Section 1. Amends s. 1.01(14), F.S., redefining the term "veteran".
- Section 2. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues: None.
- 2. Expenditures: This bill appears to have an insignificant fiscal impact on state government.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues: This bill appears to have an insignificant fiscal impact on local governments.
- 2. Expenditures: This bill appears to have an insignificant fiscal impact on local governments.

- C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:** As a result of this bill, veterans who served during OEF or OIF, but were not deployed abroad, are eligible for certain wartime service benefits, including: government employment hiring and retention preference for certain wartime veterans; priority admittance to State Veteran Nursing Homes; waiver of occupational license taxes for disabled wartime veterans; certain Florida Retirement System benefits; and a \$5,000 additional homestead property tax exemption for certain wartime veterans.

The bill does not appear to have a fiscal impact on private businesses in Florida.

- D. FISCAL COMMENTS:** None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision may apply because the bill may reduce revenues of certain cities and counties by increasing the number of veterans eligible for an additional \$5,000 property tax homestead exemption pursuant to s. 196.24, F.S.; however, the bill appears to be exempt from the mandates provision because the fiscal impact of the bill on cities and counties appears to be insignificant.

- 2. Other:** None

B. RULE-MAKING AUTHORITY:

This bill does not grant any agency a specific power, impose a duty to be implemented by an agency, or require an agency to adopt rules to facilitate implementation.⁸

DRAFTING ISSUES OR OTHER COMMENTS: None.

C. STATEMENT OF THE SPONSOR: The bill sponsor did not submit a statement.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 7, 2007, Representative Meadows offered an amendment in the Committee on Military & Veterans' Affairs to clarify the ending dates of the operations and conform this bill to its Senate companion. The Committee adopted the amendment without objection.

⁸ See Florida Department of Veteran Affairs, Legislative Analysis (undated).

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1 A bill to be entitled
 2 An act relating to periods of wartime service for
 3 veterans; amending s. 1.01, F.S.; redefining the term
 4 "veteran" for purposes of construction of the Florida
 5 Statutes to include a person who served in the active
 6 military, naval, or air service in Operation Enduring
 7 Freedom or Operation Iraqi Freedom; providing an effective
 8 date.

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

11
 12 Section 1. Paragraphs (h) and (i) are added to subsection
 13 (14) of section 1.01, Florida Statutes, to read:

14 1.01 Definitions.--In construing these statutes and each
 15 and every word, phrase, or part hereof, where the context will
 16 permit:

17 (14) The term "veteran" means a person who served in the
 18 active military, naval, or air service and who was discharged or
 19 released therefrom under honorable conditions only or who later
 20 received an upgraded discharge under honorable conditions,
 21 notwithstanding any action by the United States Department of
 22 Veterans Affairs on individuals discharged or released with
 23 other than honorable discharges. To receive benefits as a
 24 wartime veteran, a veteran must have served in a campaign or
 25 expedition for which a campaign badge has been authorized or a
 26 veteran must have served during one of the following periods of
 27 wartime service:

28 (h) Operation Enduring Freedom: October 7, 2001, to the

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29 | conclusion of the operation.

30 | (i) Operation Iraqi Freedom: March 19, 2003, to the

31 | conclusion of the operation.

32 | Section 2. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 37**

COUNCIL/COMMITTEE ACTION

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

**THIS AMENDMENT IS
TRAVELING WITH THE
BILL. NO ACTION
REQUIRED**

1 Council/Committee hearing bill: Government Efficiency &
2 Accountability Council
3 Committee on Military & Veterans' Affairs offered the following:
4

Amendment

6 Remove line(s) 28-31 and insert:

7 (h) Operation Enduring Freedom: Beginning October 7, 2001,
8 and ending on the date thereafter prescribed by presidential
9 proclamation or by law.

10 (i) Operation Iraqi Freedom: Beginning March 19, 2003, and
11 ending on the date thereafter prescribed by presidential
12 proclamation or by law.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes – This bill provides authority for municipalities to revise current occupational license tax ordinances that were adopted after October 1, 1995. The bill also permits municipalities and counties to lower or eliminate local occupational license taxes. Therefore, this bill may result in lower or higher occupational license taxes for some taxpayers, depending on the actions of the local governments.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 205.0535, F.S., authorized municipalities and counties to revise occupational license tax ordinances prior to October 1, 1995. In order for a municipality or county to reclassify businesses, professions, or occupations and establish new rate structures under this section, the municipality or county had to first establish an equity study commission composed of representatives of the business community within the local government's jurisdiction. The equity study commission was required to recommend a classification system and rate structure for local occupational license taxes. The local government was authorized to adopt by majority vote a new occupational license tax ordinance after considering the equity study commission recommendation. A reclassification could not increase the occupational license tax by more than the following:

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

However, in no case could a license tax be increased by more than \$5,000 nor could the revenues generated by the new tax rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. The revenue base is the sum of the occupational license tax revenue generated by licenses issued for the most recently completed local fiscal year or the amount of revenue that would have been generated from the authorized increases under s. 205.043(1)(b), F.S., whichever is greater, plus any revenue received from the county under s. 205.033(4), F.S.

If a municipality or county revised its occupational license tax ordinance prior to October 1, 1995, license taxes may be increased each subsequent year by up to 5 percent if approved by a majority plus one of the municipal governing body.

Unless a municipality revised its rate or classification structure in accordance with s. 205.0535, F.S., prior to October 1, 1995, or adopted a new occupational license tax ordinance under s. 205.0315, F.S., an occupational license tax levied under s. 205.043, F.S., may not exceed the rate in effect for the year beginning October 1, 1971. Section 205.043, F.S., requires revisions to existing classifications to be "reasonable" and "uniform throughout any class". In addition, the amount of the increase about the license tax rate levied on October 1, 1971, is limited as follows:

- For taxes under \$100, a 100 percent increase is permitted;
- For taxes between \$101 and \$300, a 50 percent increase is permitted;
- For taxes over \$300, a 25 percent increase is permitted; and
- For taxes levied at a graduated per unit rate, a 25 percent increase is permitted.

Beginning October 1, 1995, a municipality or county that has not adopted an occupational license tax ordinance or resolution may do so under s. 205.0315, F.S. The occupational license tax rate structure and classifications in the adopted ordinance must be reasonable and based upon the rate structure and classifications prescribed in ordinances adopted by adjacent local governments that adopted an ordinance prior to October 1, 1995 under s. 205.0535, F.S. If no adjacent local government has done so, or if the governing body of the municipality or county finds that the rate structure or classifications of adjacent governments are unreasonable, the rate structure or classifications prescribed in its ordinance may be based upon those prescribed in ordinances adopted by local governments that adopted an ordinance prior to October 1, 1995 under s. 205.0535, F.S., in counties or municipalities that have a comparable population.

Effect of Proposed Changes

This bill amends s. 205.0535, F.S., to allow a municipality that adopted a local occupational license tax ordinance after October 1, 1995 to revise its current tax rate or classification structure before October 1, 2007 under an alternative revision method. If a municipality must follow the same procedures that applied to revisions of rate and classification structures made prior to October 1, 1995 under s. 295.0535, F.S. Under those procedures, a municipality must first appoint an equity study commission to make recommendations to the municipality's governing body regarding rate and classification structure revisions. Members of the study commission must be representatives of the business community within the local government's jurisdiction. A reclassification adopted by a municipality pursuant to this bill may not increase an occupational license tax by more than the following:

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

However, a municipal occupational license tax may not increase by more than \$5,000, nor may revenues generated by the new rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. If a municipality revises its occupational license tax ordinance prior to October 1, 2007, license taxes may be increased by up to 5 percent each subsequent year if approved by a majority plus one of the municipal governing body.

The bill also grants counties and municipalities authority to decrease taxes. Currently the statute does not explicitly grant such authority.

Lastly, the bill specifies that nothing in ch. 205, F.S., may be construed to prohibit a municipality or county from decreasing or repealing any license tax authorized under that chapter.

C. SECTION DIRECTORY:

Section 1. Amends s. 205.0535, F.S., to allow municipalities that adopted an occupational license tax ordinance after October 1, 1995 to reclassify businesses, professions and occupations and establish a new rate structure prior to October 1, 2007; allows counties and municipalities to decrease or repeal occupational license tax rates.

Section 2. Provides that this bill shall take effect upon becoming law.

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:

This bill will give municipalities more flexibility to revise local occupational license taxes, including the ability to increase, reduce or eliminate those taxes.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill grants municipalities and counties the authority to reduce or eliminate local occupational license taxes. As such, some taxpayers may see a reduction in or elimination of these taxes. The bill also allows some municipalities to revise their current license tax or classification structure in a manner that may result in an increase of license taxes for some taxpayers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not amend or grant rule making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

At the present time there are around 30 municipalities in the State of Florida that are unable to revise their occupational license tax rate or the classification structure due to the year of the city being incorporated. Florida Statute Section 205.0535 authorized counties and municipalities to revise their occupational license tax rate or classification structure by ordinance or resolution, if such revision was done prior to October 1, 1995. If a county or city had not adopted an ordinance or resolution by said date the tax structure and classifications must be based on an adjacent municipality that had done so prior to 10/1/95. House Bill 135 remedies this injustice by allowing these municipalities to revise their current tax rate or classification structure if they choose to do so by October 1, 2007. Besides curing this injustice that these municipalities and their businesses faced the bill will provide the municipalities with the ability to lower or eliminate local occupational license taxes. The end result very possibly could and should be lower taxes for the businesses within that municipality. The staff analysis states that the bill does not appear to have a fiscal impact on state government, and will have a fiscal impact on those cities or counties that choose to revise their occupational license tax rates or classifications.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to local business taxes; amending s.
 205.0535, F.S.; updating provisions authorizing
 reclassification and new rate structure revisions to local
 business taxes by ordinance; deleting counties from such
 authorization provisions; authorizing decreasing local
 business tax rates; providing construction with respect to
 decreasing or repealing such taxes; providing an effective
 date.

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

Section 1. Subsections (1) and (4) of section 205.0535,
 Florida Statutes, are amended to read:

205.0535 Reclassification and rate structure revisions.--

(1) By October 1, 2007 ~~1995~~, any municipality that has
~~adopted by ordinance a local business tax after October 1, 1995,~~
~~or county~~ may, by ordinance, reclassify businesses, professions,
 and occupations and may establish new rate structures, if the
 conditions specified in subsections (2) and (3) are met. A
 person who is engaged in the business of providing local
 exchange telephone service or a pay telephone service in a
 municipality or in the unincorporated area of a county and who
 pays the business tax under the category designated for
 telephone companies or a pay telephone service provider
 certified pursuant to s. 364.3375 is deemed to have but one
 place of business or business location in each municipality or

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28 unincorporated area of a county. Pay telephone service providers
29 may not be assessed a business tax on a per-instrument basis.

30 (4) After the conditions specified in subsections (2) and
31 (3) are met, municipalities and counties may, every other year
32 thereafter, increase or decrease by ordinance the rates of
33 business taxes by up to 5 percent. An ~~The~~ increase, however, may
34 not be enacted by less than a majority plus one vote of the
35 governing body. Nothing in this chapter shall be construed to
36 prohibit a municipality or county from decreasing or repealing
37 any business tax authorized under this chapter.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The regulation of alcoholic beverages within the State of Florida is governed by federal, state and local laws. Florida's "Beverage Law" consists of chs. 561-565, 567 and 568, F.S., and requires a person to be licensed prior to engaging in the sale of alcoholic beverages. The Florida Department of Business and Professional Regulation's Division of Alcoholic Beverages and Tobacco is responsible for licensing the alcoholic beverage industry, for collecting and auditing taxes and fees paid by licensees, and for enforcing alcoholic beverage laws and regulations.

Although there is no limit on the number of licenses that may be issued to sell beer or wine, s. 561.20(1), F.S., restricts the number of liquor licenses issued in any county to one for each 7,500 residents based on the last regular population estimate prepared pursuant to s. 186.901, F.S., for each county. Licenses issued pursuant to this subsection are referred to as "quota" licenses.¹

Quota license taxes are based on a county's population and whether alcoholic beverages are consumed on the vendor's licensed premises or sold for consumption off-premises. The yearly cost ranges from \$624 in smaller counties to \$1,820 in counties with populations over 100,000.² These fees are deposited into the Alcoholic Beverages and Tobacco Trust Fund,³ with 24 percent of the amounts collected within a county returned to the appropriate tax collector, and 38 percent of the amounts collected within an incorporated municipality returned to the appropriate municipal officer.⁴

In addition to the annual license tax, there is an initial license fee of \$10,750. The revenues collected from this fee are deposited in the Department of Children and Family Services' Operations and Maintenance Trust Fund to be used for alcohol and drug abuse education, treatment and prevention programs.⁵

A quota license also may be purchased on the open market from a current owner. In addition to the purchase price, which usually is dictated by supply and demand and not prescribed by the state, a license transfer fee (not to exceed \$5000),⁶ must be paid.

¹ Quota limitations initially were enacted in the interest of promoting temperance by limiting the number of outlets and, therefore, the availability of alcoholic beverages. By restricting competition, quota limitations also enhance the value of existing liquor licenses. Florida's retail alcoholic beverage licensing system generally is built around the quota license structure with all other retail licenses which allow the sale of liquor enacted as exceptions to the quota limitation. Section 561.20, F.S., provides numerous exceptions.

² Section 565.02(1), F.S.

³ Section 561.025, F.S.

⁴ Section 561.342, F.S.

⁵ Section 561.19(5), F.S.

⁶ Section 561.32(3)(a), F.S.

Effect of Proposed Changes

HB 199 amends ch. 81-440, L.O.F., which limited the number of alcoholic beverage licenses that could be issued in Nassau County to one for every 4,000 residents. When this special act was passed in 1981, the general law allowed one alcoholic beverage license for every 2,500 residents. However, the general law has been amended over the years, and now allows one license per 7,500 residents. Thus, while the Nassau County law originally was more restrictive, it currently allows for the issuance of more licenses than the general law.

The bill provides a new limit of one such license for every 7,500 Nassau County residents, which is consistent with general law. (See, s. 561.20, F.S.)

C. SECTION DIRECTORY:

Section 1: Amends s. 1 of ch. 81-440, L.O.F.

Section 2: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 6, 2006

WHERE? The *Fernandina Beach News Leader*, a newspaper of general circulation published in Nassau County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

The Economic Impact Statement indicates that no significant change in revenues is anticipated. As the bill will act to limit the future issuance of quota liquor licenses to one per 7,500 residents (rather than one per 4,000), it will decrease the number of quota licenses that may be issued in Nassau County.

The April 1, 2006, population estimate for Nassau County provided by the Bureau of Economic and Business Research at the University of Florida is 68,188. While the number of quota liquor licenses issued for the county was not available from the Department of Business and Professional Regulation, the population figure indicates that there are no more than 17 such licensees. With the current general law standard in effect, there will be no additional quota licenses issued until the county population reaches 127,500. Thus, the competition for existing licenses may be extremely high. Other costs associated with the bill, however, should be minimal based on the numbers involved.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Because the intent of the bill appears to be to tie the Nassau County issuance of quota licenses to the general law standard, the Sponsor of the bill may want to amend the bill to provide that these licenses are issued in accordance with such in order to eliminate the need for future amendments to the special act.

Other Comments

On August 23, 2006, the Board of County Commissioners of Nassau County passed Resolution No. 2006-123, thereby requesting the Nassau County Legislative Delegation to pass legislation which would make the county's local liquor license quota consistent with state law.

D. STATEMENT OF THE SPONSOR

On February 14, 2007, the Sponsor advised staff of the Committee on Urban and Local Affairs that no statement would be submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

FLORIDA'S OLDEST WEEKLY NEWSPAPER

NEWS LEADER

Published Weekly
511 Ash Street/P.O. Box 766 (904) 261-3696
Fernandina Beach, Nassau County, Florida 32034

STATE OF FLORIDA
COUNTY OF NASSAU:

Before the undersigned authority personally appeared
Michael B. Hankins

Who on oath says that he is the Advertising Director of the Fernandina Beach News-Leader, a weekly newspaper published at Fernandina Beach in Nassau County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter of

NASSAU CTY BOARD OF COUNTY COMMISSIONERS
Notice of Intent to Apply for Local Legislation

Was published in said newspaper in the issues of

10/06/06
Legal Display

Affiant further says that the said Fernandina Beach News-Leader is a newspaper published at Fernandina Beach, in said Nassau County, Florida and that the said newspaper has heretofore been continuously published in said Nassau County, Florida, each week and has been entered as second class mail matter at the post office in Fernandina Beach in said Nassau County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and Affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

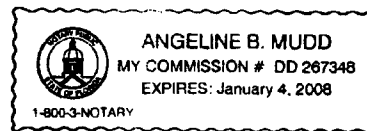
Michael B. Hankins

Sworn to and subscribed before me
This **9th** day of **October** A.D. 2006.

Angeline B. Mudd

Angeline B. Mudd, Notary Public

WJM Personally Known



NOTICE OF INTENTION TO APPLY FOR LOCAL LEGISLATION

NOTICE IS HEREBY GIVEN that the undersigned will apply to the next Session of the Legislature of the State of Florida for the introduction of a local bill affecting Nassau County, the substance of said bill being substantially as follows:

Revising the formula used to determine the number of beverage licenses in Nassau County and in the Municipalities in Nassau County.

A bill to be entitled

An act relating to Nassau County; amending Chapter 81-440, Laws of Florida, relating to the issuance of beverage licenses in Nassau County; providing an effective date.

Board of County Commissioners
Nassau County, Florida

Thomas D. Branan, Jr.
Its: Chairman

HOUSE OF REPRESENTATIVES
2007 LOCAL BILL CERTIFICATION

BILL #: 199
SPONSOR(S): Bean
RELATING TO: NASSAU County
(Indicate Area Affected (City, County, Special District) and Subject)
NAME OF DELEGATION: Nassau County
CONTACT PERSON: Sandy Matthews
PHONE # and E-Mail: 488-6920 or (904) 491-3664 sandy.matthews@my.floridahouse.gov

I. House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES NO

(2) Has a public hearing been held? YES NO

Date hearing held: October 10, 2007

Location: Nassau County Administration Building, Nassau

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

YES NO UNIT RULE UNANIMOUS

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES NO DATE 10/6/2006

Where? Fernandina Beach County NASSAU

Referendum in lieu of publication: YES NO

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?

YES NO NOT APPLICABLE

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.


Delegation Chair (Original Signature) Date

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: 199
SPONSOR(S): Bean
RELATING TO: Amending chapter 81-440, Laws of Florida, relating to the issuance of
[Indicate Area Affected (City, County, Special District) and Subject]

beverage licenses in Nassau County and Municipalities in Nassau County

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures: Minimal cost to Nassau County
Board of County Commissioners and
Clerk Financial Services. No actual
data available.

FY 06-07 FY 07-08

II. ANTICIPATED SOURCE(S) OF FUNDING:

Federal: N/A

State: Per Florida Statute 561

Local: N/A

<u>FY 05-06</u>	<u>FY 06-07</u>	<u>FY 07-08</u>
Actual	Budget	Estimated Budget
\$18,663.34	\$17,500	\$18,400

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues: No significant change anticipated

FY 06-07 FY 07-08

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: No data available

Disadvantages:

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR
EMPLOYMENT:

No data available

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF
DATA]:

N/A

PREPARED BY:


[Must be signed by Preparer]

10/06/06

Date

TITLE: Administrative Services Director

REPRESENTING: Nassau County Board of County Commissioners

PHONE: (904) 491-7370)

E-Mail Address: tselby@nassaucountyfl.com

1 A bill to be entitled

2 An act relating to Nassau County; amending chapter 81-440,
3 Laws of Florida; revising the limit on the number of
4 beverage licenses that may be issued in Nassau County and
5 in municipalities in Nassau County; providing an effective
6 date.

7
8 Be It Enacted by the Legislature of the State of Florida:

9
10 Section 1. Section 1 of chapter 81-440, Laws of Florida,
11 is amended to read:

12 Section 1. No license under s. 565.02(1)(a)-(f), Florida
13 Statutes, shall be issued in Nassau County, so that the number
14 of such licenses within the limits of the territory of Nassau
15 County, exceeds one such license to each 7,500 ~~4,000~~ residents
16 within Nassau County, as shown by the last regular state or
17 federal census.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Guaranteed Energy Performance Savings Contracting Act

In 1994, the Legislature enacted the Guaranteed Energy Savings Program,¹ later amended to become the Guaranteed Energy Performance Savings Contracting Act.² The program permits agencies, defined as "the state, a municipality, or a political subdivision,"³ to enter into a guaranteed energy performance savings contract, under specified circumstances.⁴

The purpose of a guaranteed energy savings contract is to allow a properly-licensed contractor to create or install energy conservation measures that will reduce the energy or operating costs of an agency facility. The Act contains a number of contract requirements to ensure that the measures will result in a savings to the agency over time, and to ensure that the contractor is financially liable for any failure to achieve such savings.

An "energy conservation measure" is a training program, facility alteration, or equipment purchase to be used in new construction, including an addition to an existing facility, which reduces energy or operating costs.⁵ Examples of such measures include insulation, storm windows and doors, automatic energy control systems, and cogeneration systems.

Current law requires that, before the installation of conservation measures, agencies obtain from a qualified provider a report that summarizes the costs of the conservation measures and provides the amount of cost savings.⁶ The qualified provider must be selected in compliance with s. 287.055, F.S., which provides for competitive bidding requirements for state agencies wanting to procure professional architectural, engineering, or surveying and mapping services.

A guaranteed energy performance contract must contain the following provisions:

- A written energy guarantee by the qualified provider that the energy or operating cost savings will meet or exceed the cost of energy conservation measures.
- A provision that all payments may be made over time, but may not exceed 20 years from the date of installation and acceptance by the agency.
- A requirement that the qualified provider provide a 100 percent project value bond to the state for its faithful performance, as required by s. 255.05, F.S.
- Provisions for an allocation of any excess savings among the parties.
- The qualified provider must provide an annual reconciliation of the cost savings and if there is a shortfall, the provider must be liable.
- A statement that the contract does not constitute a debt, liability, or obligation of the state.

¹ Ch. 94-112, L.O.F., codified at s. 489.145, F.S.

² Ch. 2001-81, L.O.F.

³ Section 489.145(3)(a), F.S.

⁴ See Section 489.145(4), F.S.

⁵ Section 489.145(3)(b), F.S.

⁶ Section 489.145(4), F.S.

The Department of Management Services and The Office of the Chief Financial Officer have developed model contracts and related documents for use by state agencies and require the agencies to submit them to the Office of the Chief Financial Officer for its approval under the authority granted under s.489.145, F.S. These model documents are the audit agreement between the agency and the qualified provider, the financing agreement, and the performance contract.⁷

Water and Wastewater Conservation and Efficiency

The Florida Department of Environmental Protection (DEP), each of the state's water management districts, and the federal Environmental Protection Agency (EPA) has each established programs for the efficient use of and conservation of water and wastewater. According to the EPA, water efficiency continues to play an important role not only in protecting water sources and improving water quality, but also in reducing the amount of energy used to treat, pump and heat water – which currently accounts for approximately eight percent of U.S. energy demand.⁸ Further, the EPA reports that water use can have major environmental, public health, and economic benefits by helping to improve water quality, maintain aquatic ecosystems, and protecting drinking water sources.⁹ According to the EPA, the efficient use of water, through behavioral, operational, or equipment changes, if practiced broadly, can help mitigate the effects of drought.¹⁰

According to the DEP, protecting the amount and quality of our water resources and implementing efficient wastewater management practices is critical to maintaining sufficient and potable water for domestic, industrial, agricultural, and governmental use. Improperly disposing of wastewater can damage drinking water supply, wildlife, and other important environmental resources.¹¹

Effect of Proposed Changes

The bill expands the scope of the Act beyond energy conservation to include water and wastewater conservation and efficiency.

The bill adds the following measures to the list of measures within the current definition of an “energy conservation measure:”

- Equipment upgrades that improve the accuracy of billable revenue generating systems.
- Automated electronic or remotely controlled systems or measures that reduce direct personnel costs.
- Such other energy, water, or wastewater efficiency or conservation measures as may provide measurable, long-term operating cost reductions or billable revenue increases.
- Cool roof coating.¹²

The bill provides that the report that is currently required to be submitted to the agency from the performance savings contractor prior to the design and installation of conservation measures, must include a summary of the costs associated with “operational improvements” if such improvements are the basis for the proposed cost savings.

The bill removes the word “energy” from the section heading of s. 489.145, F.S., and changes the short title to the “Guaranteed Performance Savings Contracting Act,” in order to better reflect the additional scope of the act. Similar conforming changes are made throughout the bill. “Water and wastewater” are

⁷ Interview of Clint Sibille of Department of Management Services, February 23, 2007

⁸ EPA Promotes Water Efficiency in the Home (http://www.epa.gov/water/water_efficiency.html)

⁹ Frequently Asked Questions About Wastewater Management (<http://www.epa.gov/owm/faqall.htm>)

¹⁰ Using Water Efficiently: Ideas for Communities (<http://www.epa.gov/watersense/pubs/comm.htm>)

¹¹ Domestic Wastewater (<http://www.dep.state.fl.us/water/wastewater/dom/index.htm>)

¹² According to the EPA a "cool roof" is a roofing material that has high solar reflectance, typically resulting in a release of a large percentage of absorbed heat. This keeps the material cooler and helps to reduce the heat island effect. Heat Island Effect (<http://www.epa.gov/heatisland/strategies/index.html>)

added to "energy" as the objects of the contracting process, and "efficiency" is added to "conservation" for the types of measures contemplated.

The bill revises definitions to include the qualifying activity and tasks of "retrofitting or adding to existing facilities or infrastructure," which was previously identified to include only "new construction" or "additions" to existing facilities. This would extend the range of impact of s. 489.145, F.S. from only new construction or additions, to all existing facilities owned by the state.

The bill amends s. 287.064, F.S. (addressing the consolidated financing of deferred payment purchases) to conform with the changes proposed by this bill by adding "water and wastewater efficiency" to the section within a reference to s. 489.145, F.S. Currently, s. 287.064, F.S. includes the cost of energy conservation measures, and not that of water or wastewater efficiency, as a cost that may be financed pursuant to a master equipment financing agreement.

C. SECTION DIRECTORY:

Section 1. Amends s. 489.145, F.S., adding "water and wastewater efficiency" to the scope of the re-titled "Guaranteed Performance Savings Contracting Act;" and adding additional measures to those permitted to achieve conservation and efficiency in energy, water, and wastewater use.

Section 2. Amends s. 287.064, F.S., adding "water and wastewater efficiency" to the statute addressing consolidated financing of deferred payment purchases.

Section 3. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Companies that provide energy, water, or wastewater conservation consulting or equipment may have increased business opportunities.

D. FISCAL COMMENTS:

The bill provides an opportunity for agencies to reduce energy, water, and wastewater costs by increasing conservation and efficiency. If the contractor's initial analysis is favorable and conservation measures are installed, the resulting savings are guaranteed by the contractor, pursuant to statute. The bill should have the effect of creating an incentive for agencies to procure guaranteed performance savings contracts and for contractors to maximize the potential savings.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

A concern has been raised relating to the numerous deletions of the word "energy" in s. 489.145, F.S., making the statute's title a nonspecific reference as to the type of contract the statute addresses.

The Department of Management Services (DMS) has voiced concern that the proposed changes in HB 271 would cause their Purchasing Program to amend, bid, or re-bid existing contracts to secure the services of guaranteed performance savings contractors for the additional water or wastewater efficiency and conservation services. A re-procurement process may affect agencies if there is disruption to services that are currently offered under existing contracts.

In response to the concerns raised above by DMS, absent an express provision stating that the law would be applied retroactively, the law would be applied prospectively.

D. STATEMENT OF THE SPONSOR

This bill expands an already existing energy efficiency program to include water and wastewater. The existing Guaranteed Energy Performance Savings Contracting Act has been extremely successful in improving the efficiency of state, local and other governmental buildings. Rather than taxpayer dollars, retrofit and other conservation and efficiency measures are financed by a private sector contractor who performs the work, assumes all of the risk and who is compensated with a maximum twenty year payout only when actual efficiency savings result from the project.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

A bill to be entitled

An act relating to contracting for efficiency or conservation measures by state agencies; amending s. 489.145, F.S.; including water and wastewater efficiency and conservation in the measures encouraged by the Legislature; revising definitions; providing for inclusion of water and wastewater efficiency and conservation measures in guaranteed performance savings contracts entered into by state agencies, municipalities, or political subdivisions; amending s. 287.064, F.S., relating to consolidated financing of deferred-payment purchases, to conform; providing an effective date.

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

Section 1. Section 489.145, Florida Statutes, is amended to read:

489.145 Guaranteed ~~energy~~ performance savings contracting.--

(1) SHORT TITLE.--This section may be cited as the "Guaranteed ~~Energy~~ Performance Savings Contracting Act."

(2) LEGISLATIVE FINDINGS.--The Legislature finds that investment in energy, water, and wastewater efficiency or conservation measures in agency facilities can reduce the amount of energy and water consumed and wastewater to be treated and produce immediate and long-term savings. It is the policy of this state to encourage each agency ~~ageneies~~ to invest in energy, water, and wastewater efficiency or conservation

29 | measures that provide such reductions ~~reduce energy consumption,~~
 30 | produce a cost savings for the agency, and, for energy measures,
 31 | improve the quality of indoor air in public facilities and to
 32 | operate, maintain, and, when economically feasible, build or
 33 | renovate existing agency facilities in such a manner as to
 34 | minimize energy and water consumption and wastewater production
 35 | and maximize energy, water, and wastewater savings. It is
 36 | further the policy of this state to encourage each agency
 37 | ~~agencies~~ to reinvest any ~~energy~~ savings resulting from energy,
 38 | water, and wastewater efficiency or conservation measures in
 39 | additional energy, water, and wastewater efficiency or
 40 | conservation measures ~~efforts~~.

41 | (3) DEFINITIONS.--As used in this section, the term:

42 | (a) "Agency" means the state, a municipality, or a
 43 | political subdivision.

44 | (b) "Energy, water, or wastewater efficiency or
 45 | conservation measure" means a training program, facility
 46 | alteration, or equipment purchase to be used in new facilities
 47 | or in retrofitting or adding to existing facilities or
 48 | infrastructure that ~~new construction, including an addition to~~
 49 | ~~an existing facility, which~~ reduces energy, water, wastewater,
 50 | or operating costs and includes, but is not limited to:

51 | 1. Insulation of the facility structure and systems within
 52 | the facility.

53 | 2. Storm windows and doors, caulking or weatherstripping,
 54 | multiglazed windows and doors, heat-absorbing, or heat-
 55 | reflective, glazed and coated window and door systems,
 56 | additional glazing, reductions in glass area, and other window

57 and door system modifications that reduce energy consumption.

58 3. Automatic energy control systems.

59 4. Heating, ventilating, or air-conditioning system
60 modifications or replacements.

61 5. Replacement or modifications of lighting fixtures to
62 increase the energy efficiency of the lighting system, which, at
63 a minimum, must conform to the applicable state or local
64 building code.

65 6. Energy recovery systems.

66 7. Cogeneration systems that produce steam or forms of
67 energy such as heat, as well as electricity, for use primarily
68 within a facility or complex of facilities.

69 8. Energy conservation measures that provide long-term
70 operating cost reductions or significantly reduce Btu consumed.

71 9. Renewable energy systems, such as solar, biomass, or
72 wind systems.

73 10. Devices that reduce water consumption or wastewater
74 ~~sewer~~ charges.

75 11. Equipment upgrades that improve the accuracy of
76 billable revenue-generating systems.

77 12. Automated electronic or remotely controlled systems or
78 measures that reduce direct personnel costs.

79 13. Such other energy, water, or wastewater efficiency or
80 conservation measures as may provide measurable operating cost
81 reductions or billable revenue increases.

82 14.11. Energy storage systems, such as fuel cells and
83 thermal storage.

84 15.12. Energy-generating ~~generating~~ technologies, such as

85 microturbines.

86 16. Cool roof coating.

87 ~~17.13-~~ Any other repair, replacement, or upgrade of
 88 existing equipment.

89 (c) "Energy, water, or wastewater cost savings" means a
 90 measured reduction in the cost of fuel, energy or water
 91 consumption, or wastewater production and stipulated improvement
 92 in the operation and maintenance created from the implementation
 93 of one or more energy, water, or wastewater efficiency or
 94 conservation measures when compared with an established baseline
 95 for the previous cost of fuel, energy or water consumption, or
 96 wastewater production and stipulated operation and maintenance.

97 (d) "Guaranteed energy performance savings contract" means
 98 a contract for the evaluation, recommendation, and
 99 implementation of energy, water, or wastewater efficiency or
 100 conservation measures, which, at a minimum, shall include:

101 1. The design and installation of equipment to implement
 102 one or more of such measures and, if applicable, operation and
 103 maintenance of such measures.

104 2. The amount of any actual annual savings that meet or
 105 exceed total annual contract payments made by the agency for the
 106 contract.

107 3. The finance charges incurred by the agency over the
 108 life of the contract.

109 (e) "Guaranteed energy performance savings contractor"
 110 means a person or business that is licensed under chapter 471,
 111 chapter 481, or this chapter~~7~~ and is experienced in the
 112 analysis, design, implementation, or installation of energy,

113 water, or wastewater efficiency or conservation measures through
 114 ~~energy~~ performance contracts.

115 (4) PROCEDURES.--

116 (a) An agency may enter into a guaranteed ~~energy~~
 117 performance savings contract with a guaranteed ~~energy~~
 118 performance savings contractor to significantly reduce energy,
 119 water, or wastewater or operating costs of an agency facility
 120 through one or more energy, water, or wastewater efficiency or
 121 conservation measures.

122 (b) Before design and installation of energy, water, or
 123 wastewater efficiency and conservation measures, the agency must
 124 obtain from a guaranteed ~~energy~~ performance savings contractor a
 125 report that summarizes the costs associated with the ~~energy~~
 126 ~~conservation~~ measures and provides an estimate of the amount of
 127 the associated energy cost savings or operational improvements.
 128 The agency and the guaranteed ~~energy~~ performance savings
 129 contractor may enter into a separate agreement to pay for costs
 130 associated with the preparation and delivery of the report;
 131 however, payment to the contractor shall be contingent upon the
 132 report's projection of ~~energy~~ cost savings being equal to or
 133 greater than the total projected costs of the design and
 134 installation of the report's ~~energy~~ conservation or efficiency
 135 measures.

136 (c) The agency may enter into a guaranteed ~~energy~~
 137 performance savings contract with a guaranteed ~~energy~~
 138 performance savings contractor if the agency finds that the
 139 amount the agency would spend on the ~~energy~~ conservation or
 140 efficiency measures will not likely exceed the amount of the

141 associated energy cost savings for up to 20 years from the date
 142 of installation, based on the life cycle cost calculations
 143 provided in s. 255.255, if the recommendations in the report
 144 were followed and if the qualified provider or providers give a
 145 written guarantee that such ~~the energy~~ cost savings will meet or
 146 exceed the costs of the system. The contract may provide for
 147 installment payments for a period not to exceed 20 years.

148 (d) A guaranteed ~~energy~~ performance savings contractor
 149 must be selected in compliance with s. 287.055; except that if
 150 fewer than three firms are qualified to perform the required
 151 services, the requirement for agency selection of three firms,
 152 as provided in s. 287.055(4)(b), and the bid requirements of s.
 153 287.057 do not apply.

154 (e) Before entering into a guaranteed ~~energy~~ performance
 155 savings contract, an agency must provide published notice of the
 156 meeting in which it proposes to award the contract, the names of
 157 the parties to the proposed contract, and the contract's
 158 purpose.

159 (f) A guaranteed ~~energy~~ performance savings contract may
 160 provide for financing, including tax-exempt ~~tax-exempt~~
 161 financing, by a third party. The contract for third-party ~~third~~
 162 ~~party~~ financing may be separate from the ~~energy~~ performance
 163 savings contract. A separate contract for third-party ~~third~~
 164 ~~party~~ financing must include a provision that the third-party
 165 ~~third-party~~ financier must not be granted rights or privileges
 166 that exceed the rights and privileges available to the
 167 guaranteed ~~energy~~ performance savings contractor.

168 (g) In determining the amount the agency will finance to

169 acquire the efficiency or ~~energy~~ conservation measures, the
 170 agency may reduce such amount by the application of any grant
 171 moneys, rebates, or capital funding available to the agency for
 172 the purpose of buying down the cost of the guaranteed ~~energy~~
 173 performance savings contract. However, in calculating the life
 174 cycle cost as required in paragraph (c), the agency shall not
 175 apply any grants, rebates, or capital funding.

176 (5) CONTRACT PROVISIONS.--

177 (a) A guaranteed ~~energy~~ performance savings contract must
 178 include a written guarantee that may include, but is not limited
 179 to the form of, a letter of credit, insurance policy, or
 180 corporate guarantee by the guaranteed ~~energy~~ performance savings
 181 contractor that annual associated ~~energy~~ cost savings will meet
 182 or exceed the amortized cost of the efficiency or ~~energy~~
 183 conservation measures.

184 (b) The guaranteed ~~energy~~ performance savings contract
 185 must provide that all payments, except obligations on
 186 termination of the contract before its expiration, may be made
 187 over time, but not to exceed 20 years from the date of complete
 188 installation and acceptance by the agency, and that the annual
 189 savings are guaranteed to the extent necessary to make annual
 190 payments to satisfy the guaranteed ~~energy~~ performance savings
 191 contract.

192 (c) The guaranteed ~~energy~~ performance savings contract
 193 must require that the guaranteed ~~energy~~ performance savings
 194 contractor to whom the contract is awarded provide a 100-percent
 195 public construction bond to the agency for its faithful
 196 performance, as required by s. 255.05.

197 (d) The guaranteed ~~energy~~ performance savings contract may
 198 contain a provision allocating to the parties to the contract
 199 any annual associated ~~energy~~ cost savings that exceed the amount
 200 of the associated ~~energy~~ cost savings guaranteed in the
 201 contract.

202 (e) The guaranteed ~~energy~~ performance savings contract
 203 shall require the guaranteed ~~energy~~ performance savings
 204 contractor to provide to the agency an annual reconciliation of
 205 the guaranteed associated ~~energy~~ cost savings. If the
 206 reconciliation reveals a shortfall in such annual ~~energy~~ cost
 207 savings, the guaranteed ~~energy~~ performance savings contractor is
 208 liable for such shortfall. If the reconciliation reveals an
 209 excess in such annual ~~energy~~ cost savings, the excess savings
 210 may be allocated under paragraph (d) but may not be used to
 211 cover potential ~~energy~~ cost savings shortages in subsequent
 212 contract years.

213 (f) The guaranteed ~~energy~~ performance savings contract
 214 must provide for payments of not less than one-twentieth of the
 215 price to be paid within 2 years from the date of the complete
 216 installation and acceptance by the agency, and the remaining
 217 costs to be paid at least quarterly, not to exceed a 20-year
 218 term, based on life cycle cost calculations.

219 (g) The guaranteed ~~energy~~ performance savings contract may
 220 extend beyond the fiscal year in which it becomes effective;
 221 however, the term of any contract expires at the end of each
 222 fiscal year and may be automatically renewed annually for up to
 223 20 years, subject to the agency making sufficient annual
 224 appropriations based upon continued realized energy, water, or

225 wastewater savings.

226 (h) The guaranteed ~~energy~~ performance savings contract
 227 must stipulate that it does not constitute a debt, liability, or
 228 obligation of the state.

229 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The
 230 Department of Management Services, with the assistance of the
 231 Office of the Chief Financial Officer, may, within available
 232 resources, provide technical assistance to state agencies
 233 contracting for energy, water, or wastewater efficiency or
 234 conservation measures and engage in other activities considered
 235 appropriate by the department for promoting and facilitating
 236 guaranteed ~~energy~~ performance contracting by state agencies. The
 237 Office of the Chief Financial Officer, with the assistance of
 238 the Department of Management Services, may, within available
 239 resources, develop model contractual and related documents for
 240 use by state agencies. Prior to entering into a guaranteed
 241 ~~energy~~ performance savings contract, any contract or lease for
 242 third-party financing, or any combination of such contracts, a
 243 state agency shall submit such proposed contract or lease to the
 244 Office of the Chief Financial Officer for review and approval.

245 Section 2. Subsection (10) of section 287.064, Florida
 246 Statutes, is amended to read:

247 287.064 Consolidated financing of deferred-payment
 248 purchases.--

249 (10) Costs incurred pursuant to a guaranteed ~~energy~~
 250 performance savings contract, including the cost of energy,
 251 water, or wastewater efficiency and conservation measures, each
 252 as defined in s. 489.145, may be financed pursuant to a master

253 | equipment financing agreement; however, the costs of training,
254 | operation, and maintenance may not be financed. The period of
255 | time for repayment of the funds drawn pursuant to the master
256 | equipment financing agreement under this subsection may exceed 5
257 | years but may not exceed 10 years.

258 | Section 3. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 425

Municipal Annexation

SPONSOR(S): Long

TIED BILLS:

IDEN./SIM. BILLS: SB 572

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>7 Y, 0 N</u>	<u>Nelson LPN</u>	<u>Kearney due</u>
2) <u>Government Efficiency & Accountability Council</u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill amends the statutory involuntary annexation procedure by excluding state-owned land from provisions which requires the consent of the owners of more than 50 percent of the land where more than 70 percent of the property in an area proposed for annexation is owned by individuals, corporations or legal entities which are not registered electors. Thus, the consent of the Board of Trustees of the Internal Improvement Trust (the Governor and Cabinet) would not be required with regard to the annexation of any state-owned land.

The fiscal impact of the bill is indeterminate. While the State is immune from taxation, it could experience higher costs associated with certain services (e.g., utilities) depending on whether its property remains unincorporated territory or is included within a municipality.

The bill has an effective date of July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty

If the State is not considered in the consent process for involuntary annexations, private owners of the unincorporated areas under consideration will have more control over the annexation of their property.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Constitutional/Statutory Provisions Relating to Annexation¹

Section 2 (c), Art. VIII of the State Constitution provides that “[m]unicipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.” This provision authorizes the Legislature to annex unincorporated property into a municipality by special act. It also authorizes the Legislature to establish procedures in general law for the annexation of property.

The Legislature established local annexation procedures by general law in 1974, with the enactment of ch. 171, F. S., the “Municipal Annexation or Contraction Act.” This act describes the way in which property may be annexed or de-annexed by cities without legislative action. The purpose of the act is to set forth procedures for adjusting the boundaries of municipalities through annexations or contractions of corporate limits, and criteria for determining when annexations or contractions may take place so as to:

- ensure sound urban development and accommodation to growth;
- establish uniform legislative standards throughout the state for the adjustment of municipal boundaries;
- ensure the efficient provision of urban services to areas that become urban in character; and
- ensure that areas are not annexed unless municipal services can be provided to those areas.

Statutory Requirements for Annexation

Before local annexation procedures may begin, pursuant to s. 171.042, F.S., the governing body of the municipality must prepare a report containing plans for providing urban services to any area to be annexed. A copy of the report must be filed with the board of county commissioners where the municipality is located. This report must include appropriate maps, plans for extending municipal services, timetables and financing methodologies. It must certify that the area proposed to be annexed is appropriate for annexation because it meets the following standards and requirements described by s. 171.043, F.S.:

¹ The term “annexation” is defined in the Florida Statutes to mean “the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality.” See, s. 171.031(1), F.S. For an annexation to be valid under ch. 171, F. S., the annexation must take place within the boundaries of a single county. See, s. 171.045, F.S.

- The area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality.²
- The area to be annexed must be reasonably compact.³
- No part of the area to be annexed may fall within the boundary of another incorporated municipality.
- Part or all of the land to be annexed must be developed for urban purposes.⁴
- Alternatively, if the proposed area is not developed for urban purposes, it can either border at least 60 percent of a developed area, or provide a necessary bridge between two urban areas for the extension of municipal services.

Annexed areas are declared to be subject to taxation (and existing indebtedness) for the current year on the effective date of the annexation, unless the annexation takes place after the municipal governing body levies such tax for that year. In the case of municipal contractions, the city and county must reach agreement on the transfer of indebtedness or property—the amount to be assumed, its fair value and the manner of transfer and financing.⁵

Types of Annexations

Voluntary Annexation

If the property owners of a reasonably compact, unincorporated area desire annexation into a contiguous municipality, they can initiate voluntary annexation proceedings. Section 171.044 (4), F. S., provides that the procedures for voluntary annexation are “supplemental to any other procedure provided by general law or special law.” The following process governs voluntary annexations in every county, except for those counties with charters providing an exclusive method for municipal annexation:

- submission of a petition—signed by all property owners in the area proposed to be annexed—to the municipal governing body; and
- adoption of an ordinance by the governing body of the municipality to annex the property after publication of a notice—which sets forth the proposed ordinance in full—at least once a week for two consecutive weeks.

The governing body of the municipality also must provide a copy of the notice to the board of county commissioners of the county where the municipality is located.

In addition, the annexation must not create enclaves. An enclave is: (a) any unincorporated, improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) any unincorporated, improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality.⁶

²This means that a substantial part of the boundary of the area to be annexed has a common boundary with the municipality. There are specified exceptions for cases in which an area is separated from the city's boundary by a publicly owned county park, right-of-way or body of water.

³ Section 171.031(12), F.S., defines “compactness” as concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Any annexation proceeding in any county in the state is required to be designed in such a manner as to ensure that the area will be reasonably compact.

⁴ An area developed for urban purposes is defined as an area which meets any one of the following standards: (a) a total resident population equal to at least two persons per acre; (b) a total resident population equal to at least one person per acre, with at least 60 percent of subdivided lots one acre or less; or (c) at least 60 percent of the total lots used for urban purposes, with at least 60 percent of the total urban residential acreage divided into lots of five acres or less.

⁵ See, s. 171.061, F.S.

⁶ Section 171.031(13), F.S.

Involuntary Annexation

A municipality may annex property where the property owners have not petitioned for annexation pursuant to s. 171.0413, F. S. This process is referred to as "involuntary" annexation. In general, the requirements for an involuntary annexation are:

- the adoption of an annexation ordinance by the annexing municipality's governing body;
- at least two advertised public hearings held by the governing body of the municipality prior to the adoption of the ordinance, with the first hearing on a weekday at least seven days after the first advertisement and the second hearing held on a weekday at least five days after the first advertisement;⁷ and
- submission of the ordinance to a vote of the registered electors of the area proposed for annexation once the governing body has adopted the ordinance.⁸

Any parcel of land which is owned by one individual, corporation or legal entity, or owned collectively by one or more individuals, corporations or legal entities, proposed to be annexed can not be severed, separated, divided or partitioned by the provisions of the ordinance, unless the owner of such property waives this requirement.

If there is a majority vote in favor of annexation in the area proposed to be annexed, the area becomes part of the city. If there is no majority vote, the area cannot be made the subject of another annexation proposal for two years from the date of the referendum.

If more than 70 percent of the land in an area proposed to be annexed is owned by individuals, corporations or legal entities which are not registered electors of such area, the area can not be annexed unless the owners of more than 50 percent of the land in such area consent to the annexation. This consent must be obtained by the parties proposing the annexation prior to the referendum.

If the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. The area may not be annexed unless the owners of more than 50 percent of the parcels of land in the area proposed to be annexed consent to the annexation. If the governing body does not choose to hold a referendum of the annexing municipality, then the property owner consents must be obtained by the parties proposing the annexation prior to the final adoption of the ordinance.

Effect of Annexation on an Area

Upon the effective date of an annexation, the area becomes subject to all laws, ordinances and regulations in force in the annexing municipality. An exception occurs pursuant to s. 171.062(2), F.S., in that if the area annexed was subject to a county land use plan and county zoning or subdivision regulations, these regulations remain in effect until the municipality adopts a comprehensive plan amendment that includes the annexed area. In contractions, excluded territory is immediately subject to county laws, ordinances and regulations.

Any changes in municipal boundaries require revision of the boundary section of the municipality's charter. Such changes must be filed as a charter revision with the Department of State within 30 days of the annexation or contraction.⁹

⁷ This new requirement was passed by the 1999 Legislature.

⁸ In 1999, the Florida Legislature removed the requirement of a dual referendum in specific circumstances. Previously, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was submitted to a separate vote of the registered electors of the annexing municipality if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality or cumulatively exceeded more than five percent of the municipal population. The holding of a dual referendum is now at the discretion of the governing body of the annexing municipality.

⁹ Section 171.091, F.S.

Appeal of Annexation or Contraction

Affected persons who believe they will suffer material injury because of the failure of a city to comply with annexation or contraction laws as applied to their property can appeal the annexation ordinance. They may file a petition within 30 days following the passage of the ordinance with the circuit court for the county in which the municipality is located seeking the court's review by certiorari. If an appeal is won, the petitioner is entitled to reasonable costs and attorney's fees.¹⁰

State-Owned Land

Chapter 253, F.S., is entitled "State Lands." Section 253.001, F.S., establishes that pursuant to the provisions of s. 7, Art. II, and s. 11, Art. X of the State Constitution, all lands held in the name of the Board of Trustees of the Internal Improvement Trust Fund are held in trust for the use and benefit of the people of the State of Florida.

The Governor and the Cabinet sit as the Board of Trustees of the Internal Improvement Trust Fund. Pursuant to s. 253.03, F.S., the Board is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection and disposition of all lands owned by, or which may hereafter inure to, the State or any of its agencies, departments, boards or commissions, excluding certain properties. The Division of State Lands of the Department of Environmental Protection performs staff duties and functions related to the acquisition, administration and disposition of those lands in which title is vested in the Board. See, s. 253.002(1), F.S.

EFFECT OF PROPOSED CHANGES

This bill amends the involuntary annexation procedure contained in s. 171.0413, F.S., by excluding state-owned land from the consent processes provided in that section. Thus, it prevents the Board of Trustees of the Internal Improvement Trust Fund from participating in these annexation decisions.

In some instances, the Board currently does not have the ability to participate in annexation decisions regarding land that it owns as it is not a registered elector who can vote on a proposed ordinance. However, pursuant to s. 171.0413(5), F.S., if more than 70 percent of an area proposed to be annexed is owned by entities which are not registered electors of the area, a requirement is triggered which calls for the consent of the owners of more than 50 percent of the land in such area prior to the referendum. This provision allows the Board to participate in the decision making process in instances where it is a land owner in an area proposed for annexation. Section 171.0413(6), F.S., also allows the Board to take part in the decision-making process if the area proposed for annexation has no registered electors by requiring consent from the owners of more than 50 percent of the parcels of land in the area.

The Department of Environmental Protection has indicated that generally the Board is in favor of annexation of state land. However, in instances where the State owns over 50 percent of the land in an area proposed for involuntary annexation under s. 171.0413, F.S., the State's consent assures annexation without regard to the wishes of other landowners. The bill addresses this potential outcome by removing the Board from the consent equation. Under the bill's provisions, these types of annexations would be decided by landowners other than the State.

The bill has an effective date of July 1, 2007.

C. SECTION DIRECTORY:

Section 1: Amends s. 171.0413, F.S., to exclude state-owned land from an annexation procedure.

Section 2: Provides an effective date.

¹⁰ Section 171.081, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

While the State is immune from taxation, it could experience higher costs associated with certain services (e.g., utilities) depending on whether its property remains unincorporated territory or is included within a municipality.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unknown.

2. Expenditures:

Unknown.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments

A representative of The Florida Department of Environmental Protection has indicated that, as a matter of policy, the agency opposes this bill. The Board of Trustees represents the citizens of the State of Florida, and this bill would essentially eliminate their right to weight in on these issues.¹¹

D. STATEMENT OF THE SPONSOR

This bill is necessary so that the "tax-paying" and "voting" property owners in unincorporated areas will have more input as to whether or not they want to be a part of a municipality.

Currently, municipalities annex lands by drawing the areas to be annexed to include state-owned land. In instances where the state owns over 50 percent of the land in the area to be annexed, the State's consent assures annexation without regard to what the "voting" property-owners wish. The problem resides in counties like Pinellas where annexation wars between the cities and unincorporated areas are prevalent. By removing the state-owned lands from the equation, "tax-paying" private property-owners in the unincorporated areas will have more control in involuntary annexations, and can decide whether or not they want to be annexed.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

At its meeting on February 21, 2007, the Committee on Urban & Local Affairs adopted an amendment which limits the application of the bill to counties with populations greater than 500,000. This will remove the consent requirement with respect to state-owned land in Florida's most urbanized counties, some of which currently are involved in annexation disputes. The amendment language also removes state-owned lands from the calculation to determine whether more than 70 percent of the property to be annexed is not owned by registered electors.

¹¹ Telephone conversation with Ryder Rudd, Legislative Affairs, February 15, 2007.

1 A bill to be entitled
2 An act relating to municipal annexation; amending s.
3 171.0413, F.S.; excluding state-owned land from certain
4 municipal annexation procedures; providing an effective
5 date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Subsection (5) of section 171.0413, Florida
10 Statutes, is amended to read:

11 171.0413 Annexation procedures.--Any municipality may
12 annex contiguous, compact, unincorporated territory in the
13 following manner:

14 (5) If more than 70 percent of the land in an area
15 proposed to be annexed is owned by individuals, corporations, or
16 legal entities which are not registered electors of such area,
17 such area shall not be annexed unless the owners of more than 50
18 percent of the land in such area, excluding state-owned land,
19 consent to such annexation. Such consent shall be obtained by
20 the parties proposing the annexation prior to the referendum to
21 be held on the annexation.

22 Section 2. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

22 the governing body does not choose to hold a referendum of the
23 annexing municipality pursuant to subsection (2), then the
24 property owner consents required pursuant to subsection (5)
25 shall be obtained by the parties proposing the annexation prior
26 to the final adoption of the ordinance, and the annexation
27 ordinance shall be effective upon becoming a law or as otherwise
28 provided in the ordinance. The consent requirements in this
29 subsection and subsection (5) do not include consent with
30 respect to state-owned land in a county that has a population
31 greater than 500,000.

32
33 ===== D I R E C T O R Y A M E N D M E N T =====

34 Remove lines 9 and 10 and insert:
35 Section 1. Subsections (5) and (6) of section 171.0413,
36 Florida Statutes, are amended to read:

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes

The bill provides a business an additional month to pay a local business tax levied either by a county or municipality.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The governing body of a county or a municipality may levy, by resolution or ordinance, a business tax for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction.¹

For a municipality, s. 205.042, F.S., establishes the conditions for when the tax applies to a business as the following:

- (1) Any person who maintains a permanent business location or branch office within the municipality, for the privilege of engaging in or managing any business within its jurisdiction.
- (2) Any person who maintains a permanent business location or branch office within the municipality, for the privilege of engaging in or managing any profession or occupation within its jurisdiction.
- (3) Any person who does not qualify under subsection (1) or subsection (2) and who transacts any business or engages in any occupation or profession in interstate commerce, if the business tax is not prohibited by s. 8, Art. I of the United States Constitution.

A county or municipality must base the tax upon reasonable classifications which must be uniform throughout any class.² A receipt of a local business tax is valid for 1 year in a county or municipality, and all receipts expire on September 30 of each year, unless otherwise provided by law.³

Section 205.053, F.S. establishes the due date for a local business tax as due and payable on or before September 30 of each year. A county or municipality may make provisions for partial receipts in a resolution or ordinance authorizing such receipts. A receipt received late is subject to a delinquency penalty of 10 percent for the month of October, plus an additional 5 percent penalty for each subsequent month of delinquency until paid. However, the total delinquency penalty may not exceed 25 percent of the business tax for the delinquent business.

Any person who engages in or manages any business, occupation, or profession without first obtaining a local business tax receipt, if required, is subject to a penalty of 25 percent of the tax due, in addition to any other penalty provided by law or ordinance. Additionally, any person who engages in any business, occupation, or profession who does not pay the required business tax within 150 days after the initial notice of tax due, and who does not obtain the required receipt is subject to civil actions and penalties, including court costs, reasonable attorneys' fees, additional administrative costs incurred as a result of collection efforts, and a penalty of up to \$250.⁴

¹ ss. 205.032 & 205.042, F.S.

² ss. 205.033(1)(a) & 205.043(1)(a), F.S.

³ ss. 205.033(1)(c) & 205.043(1)(c), F.S.

⁴ Section 205.053(2) &(3), F.S.

Effect of Proposed Changes

This bill amends the due date of a local business tax levied by a county or municipality from September 30 to October 31. A local business tax received by a county or municipality from a business is valid for one year, so the bill adjusts the corresponding date of the expiration of that receipt from September 30 to October 31. The bill then adjusts the dates for calculating a delinquency penalty to match. The effect of the bill is to provide a business with an additional month to pay a local business tax. The change in date may have the unintended effect of causing accounting difficulties for local governments because the fiscal year for most local governments begins on October 1.

The bill has an effective date of July 1, 2007.

C. SECTION DIRECTORY:

Section 1: Amends paragraph (c) of subsection (1) of section 205.033, F.S., to change the date for the expiration of a local business tax receipt in a county.

Section 2: Amends paragraph (c) of subsection (1) of section 205.043, F.S., to change the date for the expiration of a local business tax receipt in a municipality.

Section 3: Amends subsection (1) of section 205.053, F.S., to change the due date for a local business tax levied by a county or municipality and revises the date for the calculation of a delinquency penalty.

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:

This bill may delay receipt of some local business taxes in a municipality or county, depending upon whether a business decides to send in the tax in the month of October.

2. Expenditures:

A county or municipality may have some administrative costs associated with changing the forms for submission of a local business tax.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A business subject to a local business tax will have an additional month to submit the tax to a county or municipality.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

On March 1, 2007, the Sponsor advised staff that no statement would be submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

At its meeting on March 7, 2007, the Committee on Urban & Local Affairs adopted an amendment which replaced the substance of the bill. The bill, as amended, now allows a local government to start collecting a local business tax one month earlier, on July 1.

1 A bill to be entitled
2 An act relating to local business taxes; amending ss.
3 205.033, 205.043, and 205.053, F.S.; revising the date for
4 validity and payment of local business taxes; providing an
5 effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Paragraph (c) of subsection (1) of section
10 205.033, Florida Statutes, is amended to read:

11 205.033 Conditions for levy; counties.--

12 (1) The following conditions are imposed on the authority
13 of a county governing body to levy a business tax:

14 (c) A receipt is not valid for more than 1 year, and all
15 receipts expire on October 31 ~~September 30~~ of each year, except
16 as otherwise provided by law.

17 Section 2. Paragraph (c) of subsection (1) of section
18 205.043, Florida Statutes, is amended to read:

19 205.043 Conditions for levy; municipalities.--

20 (1) The following conditions are imposed on the authority
21 of a municipal governing body to levy a business tax:

22 (c) A receipt is not valid for more than 1 year and all
23 receipts expire on October 31 ~~September 30~~ of each year, except
24 as otherwise provided by law.

25 Section 3. Subsection (1) of section 205.053, Florida
26 Statutes, is amended to read:

27 205.053 Business tax receipts; dates due and delinquent;
28 penalties.--

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29 (1) All business tax receipts shall be sold by the
30 appropriate tax collector beginning August 1 of each year, are
31 due and payable on or before October 31 ~~September 30~~ of each
32 year, and expire on October 31 ~~September 30~~ of the succeeding
33 year. If October 31 ~~September 30~~ falls on a weekend or holiday,
34 the tax is due and payable on or before the first working day
35 following October 31 ~~September 30~~. Provisions for partial
36 receipts may be made in the resolution or ordinance authorizing
37 such receipts. Receipts that are not renewed when due and
38 payable are delinquent and subject to a delinquency penalty of
39 10 percent for the month of November ~~October~~, plus an additional
40 5 percent penalty for each subsequent month of delinquency until
41 paid. However, the total delinquency penalty may not exceed 25
42 percent of the business tax for the delinquent establishment.

43 Section 4. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0475

COUNCIL/COMMITTEE ACTION

**THIS AMENDMENT IS
TRAVELING WITH THE
BILL. NO ACTION
REQUIRED**

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

1 Council/Committee hearing bill: Government Efficiency &
2 Accountability Council
3 Committee on Urban & Local Affairs offered the following:

Amendment (with title amendment)

Remove lines 9-39 and insert:

7 Section 1. Subsection (1) of section 205.053, Florida
8 Statutes, is amended to read:

9 205.053 Business tax receipts; dates due and delinquent;
10 penalties.--

11 (1) All business tax receipts shall be sold by the
12 appropriate tax collector beginning July ~~August~~ 1 of each year,
13 are due and payable on or before September 30 of each year, and
14 expire on September 30 of the succeeding year. If September 30
15 falls on a weekend or holiday, the tax is due and payable on or
16 before the first working day following September 30. Provisions
17 for partial receipts may be made in the resolution or ordinance
18 authorizing such receipts. Receipts that are not renewed when
19 due and payable are delinquent and subject to a delinquency
20 penalty of 10 percent for the month of October, plus an
21 additional

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

22
23
24
25
26
27

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

Remove lines 2-4 and insert:

An act relating to local business taxes; amending s. 205.053,
F.S.; revising the threshold date for beginning sales of local
business tax receipts; providing an

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility – This bill changes the entitlement that law enforcement officers, correctional officers, and correctional probation officers have to the statutory presumption that total or partial disability or death, which is caused by tuberculosis, heart disease, or hypertension, is accidental and suffered in the line of duty.

B. EFFECT OF PROPOSED CHANGES:

Disability Presumptions

Section 112.18, F.S., provides that “any condition or impairment of health” caused by tuberculosis, heart disease, or hypertension that results in total or partial disability or death is presumed to be accidental and to have been suffered in the line of duty for firefighters,¹ law enforcement officers,² correctional officers,³ or correctional probation officers.⁴ This presumption may be rebutted by “competent evidence.”⁵

Correctional officers and correctional probation officers are entitled to this presumption without a physical examination.⁶ Firefighters and law enforcement officers, however, must successfully pass a physical examination “upon entering into such service” as a firefighter or law enforcement officer.⁷

The timing of the “upon entering into such service” examination requirement generally is interpreted in one of two ways: (1) the *first* point in time when a person first begins to work as a firefighter or law enforcement officer; or (2) the point in time when a person begins to work for a particular agency or employer as a firefighter or law enforcement officer.⁸

The potential conflict between the two interpretations becomes particularly evident in light of s. 943.13(6), F.S., which requires officers to pass a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner. Although this section is silent as to the timing of the examination, the Criminal Justice Standards and Training Commission is authorized to establish the “specifications” for the examination, which it has done through rule 11B-27.002(1)(d), *Florida Administrative Code*, requiring the completion of a physician’s assessment with each new employment or appointment of an officer. This rule also prohibits an employing agency from using a physician’s assessment that was prepared for another employing agency.

The bill resolves the potential conflict in the timing of the examination for purposes of the presumption in s. 112.18, F.S., by adding an eligibility requirement to the examination required by s. 943.13(6), F.S. To be eligible for the presumption, the bill requires law enforcement officers, correctional officers, and

¹ The firefighter must be a state, municipal, county, port authority, special tax district, or fire control district firefighter.

² Fla. Stat. § 943.10(1) (2006).

³ Fla. Stat. § 943.10(2) (2006).

⁴ Fla. Stat. § 943.10(3) (2006).

⁵ Fla. Stat. § 112.18(1) (2006).

⁶ *State v. Reese*, 911 So.2d 1291 (Fla. 1st DCA 2005) (holding that the plain language of the statutes does not require completion of a pre-employment physical as a condition precedent to the entitlement to the statutory presumption as is the case with firefighters and law enforcement officers).

⁷ Fla. Stat. § 112.18(1) (2006).

⁸ There appears to be only one case which has interpreted this examination requirement, *Cumbe v. City of Milton*, 496 So.2d 923 (1st DCA 1986). In *Cumbe*, a firefighter who did not undergo a physical examination “upon entering his employment” was not entitled to the statutory presumption in s. 112.18, F.S. Yet, interpreting the phrase “upon entering into such service” as “upon entering his employment” does not resolve the two conflicting timing interpretations since both points of time were the same in *Cumbe*.

correctional probation officers⁹ to successfully pass this required employment/appointment examination with no evidence of tuberculosis, heart disease, or hypertension upon entering into service with the employing agency.¹⁰ This change is particularly significant for correctional officers and correctional probation officers, who currently are not required to have physical examinations in order to receive the presumption in s. 112.18, F.S. The bill also prohibits the use of a physical examination from a former employing agency for purposes of claiming the presumption.

Application of the Revised Eligibility Requirements

Although the bill is silent as to whether the changes that effect the operation of s. 112.18, F.S., apply retroactively or prospectively, these changes are classified as either "procedural" or "substantive." Procedural amendments apply retroactively since there is no vested right in any given procedure.¹¹ For example, adding officers to the list of employees entitled to the statutory presumption was a procedural enactment.¹² Thus, to the extent that this change can be characterized as a "burden of proof enactment," it is a procedural change and will apply retroactively unless otherwise limited. Yet, to the extent this change affects duties and rights or impacts benefits that may be received or the entitlement to services, it may be substantive and only apply prospectively.

Tobacco Use Standards

Section 943.137, F.S., allows employing agencies to establish qualifications and standards for employment, appointment, training, or promotion of officers that exceed the minimum requirements set by law. The qualifications of an employing agency that exceed the minimum employment or basic recruit training course established by the Criminal Justice Standards and Training Commission are binding on individuals affected and must be recognized by the commission. This bill, however, specifically provides the authority to set tobacco-use standards under this section.

C. SECTION DIRECTORY:

Section 1 amends s. 943.13, F.S., to revise the operation of the presumption in s. 112.18, F.S.

Section 2 amends s. 943.137, F.S., to authorize the establishment of tobacco-use standards.

Section 3 provides an effective date of October 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

This bill could have a positive fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁹ Fla. Stat. § 943.10(1), (2), & (3) (2006).

¹⁰ Fla. Stat. § 943.10(4) (2006).

¹¹ *Litvin v. St. Lucie County Sheriff's Dep't*, 599 So.2d 1353 (Fla. 1st DCA), rev. denied, 613 So.2d 6 (Fla. 1992), cert. denied, 508 U.S. 913, 113 S.Ct. 2350, 124 L.Ed.2d 258 (1993).

¹² *State v. Reese*, 911 So.2d 1292 (1st DCA 2005).

This bill does not appear to create, modify, amend, or eliminate a revenue source for local governments.

2. Expenditures:

This bill does not appear to create, modify, amend, or eliminate local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

According to the Department of Financial Services (DFS), 184 claims have been filed since January 1, 2006, under the presumption given law enforcement and correctional officers under s. 112.81, F.S. Of the reported claims, 142 are from employees of the Department of Corrections (DOC) and 56 are litigated. As of December 31, 2006, the DOC claims have an incurred value of \$3,892,239. The total amount of the incurred value of the presumption claims filed during the same period is \$4,512,288.¹³

Correctional officers are the only employment class who are not required to have a pre-employment physical exam to meet the presumption. The requirement of a pre-employment physical exam for correctional officers should have a positive fiscal impact on the Risk Management Fund and should reduce the filing of claims. The amount of this fiscal impact is unknown because correctional officers currently are not required to have a pre-employment examination to qualify for the "presumption". Therefore, DFS is unable to determine how many officers would not, as a result of the physical examination, qualify for the "presumption" due to a pre-existing condition.¹⁴

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue: Changing Section 112.18, Florida Statutes, Instead

The potential effect of subsection 943.13(6), F.S., is to change the operation of the presumption provided in section 112.18, F.S. As such, the sponsor may wish to consider making these changes directly in section 112.18, F.S.

Other Comments: Department of Management Services

The Department of Management Services states:

¹³ Dept. of Financial Services SB 472 (2007) Agency Bill Analysis (on file with department and the Committee on State Affairs).

¹⁴ *Id.*

The inclusion of tobacco-use standards in the minimum qualifications for appointment, training, and promotion of currently employed bargaining unit members of the Security Services, Special Agent and Law Enforcement collective bargaining units have an impact on the terms and conditions of employment for the subject employees. Although agencies have the management right to establish minimum tobacco-use standards, the impact of such change will need to be collectively bargained.¹⁵

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None.

¹⁵ Dept. of Management Services HB 547 (2007) Agency Bill Analysis (on file with department and the committee).

1 A bill to be entitled
 2 An act relating to employment requirements for law
 3 enforcement personnel; amending s. 943.13, F.S.; revising
 4 the presumption of disability for certain law enforcement,
 5 correctional, and correctional probation officers;
 6 amending s. 943.137, F.S.; authorizing an agency that
 7 employs law enforcement personnel to establish tobacco-use
 8 standards; providing an effective date.

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

11
 12 Section 1. Subsection (6) of section 943.13, Florida
 13 Statutes, is amended to read:

14 943.13 Officers' minimum qualifications for employment or
 15 appointment.--On or after October 1, 1984, any person employed
 16 or appointed as a full-time, part-time, or auxiliary law
 17 enforcement officer or correctional officer; on or after October
 18 1, 1986, any person employed as a full-time, part-time, or
 19 auxiliary correctional probation officer; and on or after
 20 October 1, 1986, any person employed as a full-time, part-time,
 21 or auxiliary correctional officer by a private entity under
 22 contract to the Department of Corrections, to a county
 23 commission, or to the Department of Management Services shall:

24 (6) Have passed a physical examination by a licensed
 25 physician, physician assistant, or certified advanced registered
 26 nurse practitioner, based on specifications established by the
 27 commission. In order to be eligible for the presumption set
 28 forth in s. 112.18 while employed with an employing agency, a

29 | law enforcement officer, correctional officer, or correctional
30 | probation officer must have successfully passed the physical
31 | examination required by this subsection upon entering into
32 | service as a law enforcement officer, correctional officer, or
33 | correctional probation officer with the employing agency, which
34 | examination must have failed to reveal any evidence of
35 | tuberculosis, heart disease, or hypertension. A law enforcement
36 | officer, correctional officer, or correctional probation officer
37 | may not use a physical examination from a former employing
38 | agency for purposes of claiming the presumption set forth in s.
39 | 112.18 against the current employing agency.

40 | Section 2. Subsection (1) of section 943.137, Florida
41 | Statutes, is amended to read:

42 | 943.137 Establishment of qualifications and standards
43 | above the minimum.--

44 | (1) Nothing herein may be construed to preclude an
45 | employing agency from establishing qualifications and standards
46 | for employment, appointment, training, or promotion of officers
47 | that exceed the minimum requirements set by ss. 943.13 and
48 | 943.17, including establishing tobacco-use standards.

49 | Section 3. This act shall take effect October 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 627

Three Kings Day

SPONSOR(S): Bullard

TIED BILLS:

IDEN./SIM. BILLS: SB 464

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>7 Y, 0 N</u>	<u>Ligas</u> <i>AAL</i>	<u>Kruse</u> <i>MIC</i>
2) <u>Government Efficiency & Accountability Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill designates January 6 as "Three Kings Day" and authorizes local governments to annually issue a proclamation commemorating the occasion, and calls upon the residents of the State of Florida to observe the occasion.

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

The bill has an effective date of July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Three Kings Day (Día de los Reyes) is celebrated 12 days after Christmas on January 6. Also known as the Epiphany, Three Kings Day commemorates the Biblical story of the three kings (or wise men) that followed the star of Bethlehem to bring gifts to the Christ child.

Chapter 683, F.S., relates to state legal holidays and special observances. Section 683.01, F.S., designates 21 legal holidays which includes Good Friday and Christmas. Other provisions in ss. 683.04 – 683.25, F.S., designate special observances or explain the significance of certain legal holidays.

Section 683.19, F.S., authorizes chief circuit judges to designate Rosh Hashanah, Yom Kippur, and Good Friday as legal holidays for the courts within their respective judicial circuits.

Effect of Proposed Changes

This bill designates January 6 of each year as “Three Kings Day” and provides that local governments may annually issue a proclamation commemorating January 6 as “Three Kings Day” and calling upon the residents of the state to observe the occasion.

C. SECTION DIRECTORY:

Section 1: creates s. 683.33, F.S., which designates January 6 of each year as “Three Kings Day” and provides that local government may annually proclaim it and call upon residents of the state to observe the holiday.

Section 2: provides an effective date of July 1, 2007.

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:

None.

2. Other:

Establishment Clause

The 1st Amendment to the U.S. Constitution provides, in part, that “congress shall make no law respecting an establishment of religion...” This provision, made applicable to the states by the Fourteenth Amendment, has generally been interpreted to restrict a unit of federal, state and local governments from promoting or affiliating itself with any particular religious doctrine or organization, discriminating among persons on the basis of their religious beliefs and practices, delegating a governmental power to a religious institution, or involving itself too deeply in such an institution’s affairs.

Article 1, Section 3 of the Florida Constitution provides that “[t]here shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof,” and that “[n]o revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.”

To evaluate whether laws or policies violate these restrictions, courts have applied an analysis from *Lemon v. Kurtzman*, 403 U.S. 602 (1971), which requires that the challenged practice:

- Have a valid secular purpose.
- Not have the effect of advancing or inhibiting religion, and
- Not foster excessive government entanglement with religion.

The relevant case law does not reveal any instances where a state observance was found unconstitutional based solely on its designation. However, there have been cases where the court found that a legal holiday for state employees without several secular justifications would be a violation of the Establishment Clause.¹

This bill does not appear to implicate the same Establishment Clause issues found in previous case law, but to the extent that this bill promotes a non-secular purpose, it may be subject to challenge.

¹ *Bridenbaugh v. O’Bannon*, 185 F.3d 796 (7th Cir. 1999).

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to Three Kings Day; creating s. 683.33,
3 F.S.; designating January 6 as "Three Kings Day" and
4 authorizing local governments to issue proclamations
5 commemorating the occasion; providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 683.33, Florida Statutes, is created to
10 read:

11 683.33 Three Kings Day.--



12 (1) January 6 of each year is designated as "Three Kings
13 Day."

14 (2) Local governments may annually issue a proclamation
15 commemorating January 6 as "Three Kings Day" and calling upon
16 the residents of this state to observe the occasion.

17 Section 2. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 699 Preference in Public Employment for Veterans
SPONSOR(S): Sachs and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 728

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Military & Veterans' Affairs</u>	<u>6 Y, 0 N</u>	<u>Camechis</u> 	<u>Camechis</u> 
2) <u>Government Efficiency & Accountability Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Currently, s. 295.07, F.S., requires state government entities, counties, cities, towns, villages, special tax school districts, and special districts to grant employment preferences in hiring and retention to certain veterans and spouses of veterans who are Florida residents. The preference applies to all vacant positions within those government entities except positions that are specifically exempt. Under s. 295.101, F.S., a veteran's employment preference expires after an eligible person has applied and been employed by state government, a county, city, town, village, special tax school district, or special district.

This bill repeals s. 295.101, F.S. As a result, if a person claims a veterans' preference, and is employed by a government entity, that person may claim a veterans' preference when applying for non-exempt government positions in the future.

The bill does not require government employers to create new positions for eligible persons, or affect the veterans' preferences for promotions or reinstatements. Further, the bill does not affect private employers in any way because private employers are not subject to veterans' preference hiring requirements.

This bill may have an indeterminate negative fiscal impact on state and local governments due to a potential increase in the number of complaints filed and litigation initiated by eligible persons alleging violation of veterans' preference requirements.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families – By authorizing an eligible person to claim a veterans' preference after employment with a government employer, this bill may provide greater flexibility and mobility to those persons who find it necessary to relocate in order to accommodate the needs of family members, such as moving from one city to another in the state to care for elderly family members or to live in closer proximity to other family members.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Employment Preference Generally

The Florida Statutes have included some form of veterans' employment preference since 1947.¹ Currently, s. 295.07, F.S., requires all state government entities, counties, cities, towns, villages, special tax school districts, and special districts ("government employers") to grant employment preferences in hiring and retention to certain veterans and spouses of veterans who are Florida residents.² All advertisements and written job announcements issued by those entities must include notice that veterans and spouses of veterans receive preference in employment and are encouraged to apply for the position.³

Unlike government employers, private employers in Florida are not required to comply with veterans' preference requirements.

Government employers are not required to track the number of persons who claim veterans' preference; therefore, statistics indicating the number of eligible persons who have claimed a veterans' preference, or the number of persons who have been hired as a result of the preference requirements, are unavailable.

Persons Eligible for Employment Preference and Exceptions

Pursuant to s. 295.07(1), F.S., the following persons are eligible to claim the veterans' employment preference:

- Disabled veterans who served on active duty in any branch of the Armed Forces, were honorably discharged, and who have a service-connected disability which is compensable under laws administered by the U.S. Department of Veterans' Affairs (USDVA);
- Disabled veterans who are receiving compensation, disability retirement benefits, or pension under laws administered by the USDVA and the Department of Defense;
- The spouse of any person who has a total disability, permanent in nature, resulting from a service-connected disability and who, because of this disability, cannot qualify for employment;

¹ ch. 24201, L.O.F. (1947).

² § 295.07, F.S., requires the state and political subdivisions of the state to comply with veterans preference requirements. Section 1.01, F.S., defines "political subdivision" as "counties, cities, towns, villages, special tax school districts, special road and bridge districts, and all other districts in the state. Rule 55A-7.004, F.A.C., contains a definition applicable specifically to veterans' preference statutes, and includes all the entities listed above, but also includes all Career Service System positions under the Florida Community College System and the School for the Deaf and the Blind among those required to give employment preference to veterans and spouses of veterans.

³ § 295.065, F.S.

- The spouse of any person missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in the line of duty by a foreign government or power;
- A veteran who served at least 1 day during a specified wartime period; and
- The unremarried widow or widower of a veteran who died of a service-connected disability.

The statute also exempts the following government positions from the veterans' preference requirements⁴:

- Positions that are exempt from the state Career Service System, including certain legislative branch personnel, judicial branch personnel, and personnel of the Office of the Governor; however, all positions under the University Support Personnel System of the State University System as well as all Career Service System positions under the Florida Community College System and the School for the Deaf and the Blind are included;
- Positions in political subdivisions of the state which are filled by officers elected by popular vote or persons appointed to fill vacancies in such offices and the personal secretary of each officer;
- Members of boards and commissions;
- Persons employed on a temporary basis without benefits;
- Heads of departments;
- Positions that require licensure as a physician, licensure as an osteopathic physician, or licensure as a chiropractic physician; and
- Positions that require membership in The Florida Bar.

Veterans' Preference Expiration After Government Employment

Pursuant to s. 295.101, F.S., a veteran's employment preference expires after an eligible person has applied and been employed by a state government entity, county, city, town, village, special tax school district, or special district. This statute was interpreted in 1991 by the First District Court of Appeal, which determined that the veterans' employment preference expires after an eligible person is employed by a government employer; therefore, the veteran did not have a valid claim for violation of veteran's preference in employment when he was not subsequently hired by a city.⁵

Federal law provides a similar veterans' employment preference with respect to certain positions within the federal government, but the preference does not expire after an eligible person obtains employment with the federal government.⁶

If an Examination Determines Qualification for Employment

If an examination is used to determine qualification for employment, points are added to the final examination score as follows⁷:

- 10 points for certain veterans with a service connected disability; for the spouse of a veteran with a total, permanent, service connected disability; and for the spouse of any person missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power;
- 5 points for a veteran who served during wartime and for an unremarried widow or widower of any veteran who died from a service-connected disability.⁸

⁴ § 295.07(4), F.S.

⁵ Drayovitch v. City of Jacksonville, 587 So.2d 588 (Fla. 1st DCA 1991).

⁶ Veterans' preference rights are defined by the Veterans' Preference Act of 1944 ("VPA"), Pub.L. No. 78-359, 58 Stat. 387 (codified at 5 U.S.C. §§ 2108, 3309- 3320), and its attendant regulations, see 5 C.F.R. §§ 302.101- 302.403 (2005); see also Veterans Employment Opportunities Act of 1998 ("VEOA"), Pub.L. No. 105-339, 112 Stat. 3182 (codified at 5 U.S.C. § 3330a et seq.).

⁷ § 295.08, F.S.

⁸ Rule 55A-7.010, F.S.C., provides further procedures for calculating points if the highest possible exam score is other than 100.

In order for points to be awarded, the applicant must first obtain a qualifying score on the examination.⁹ Section 295.08, F.S., requires each government employer to enter the names of persons eligible for preference on an appropriate register or list in accordance with their respective ratings. However, for most positions, the names of all persons qualified to receive a 10-point preference whose service-connected disabilities have been rated to be 30 percent or more must be placed at the top of the appropriate register or employment list, in accordance with their respective ratings.¹⁰

A Florida court determined that s. 295.08, F.S., gives an absolute preference for veterans to be placed at the top of the employment list only if the candidate has a 30 percent or more disability rating.¹¹ The court further declared that there are no statutory provisions suggesting that veterans receiving a 5 or 10 point exam score augmentation must be hired over more qualified non-veterans.¹²

If an Examination Does Not Determine Qualification for Employment

If an examination is not used to determine qualifications for a position, first preference is given to disabled veterans with a service connected disability; the spouse of a veteran with any total, permanent, service-connected disability; and the spouse of any person missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power. Second preference is given to veterans who served during wartime and the unremarried widow or widower of a veteran who died of a service-connected disability who possesses the minimum qualifications necessary to discharge the duties of the position involved.¹³

In 1988, the Florida Attorney General opined that:

While mandating veterans' preference during the employment selection process, Ch. 295, F.S., by providing a means for reviewing the employment of a nonveteran over a preferred veteran, contemplates that nonveterans may be hired. Based upon this statutory scheme, I am unable to conclude that veterans' preference mandates that eligible veterans be hired over nonveterans. I have found no evidence of legislative intent to require the employment of veterans in all instances.¹⁴

In 1990, the First District Court of Appeal followed the opinion of the Attorney General concluding that there is not a mandatory hiring preference for minimally qualified veterans over more qualified non-veterans.¹⁵ In addition, the court concluded that a potential employer is not required to pass a person who is eligible for a veterans' preference through the screening process if he or she does not meet the minimum qualifications for the position.¹⁶

The Florida Department of Veterans' Affairs (FDVA) is responsible for promulgating rules or procedures to ensure that eligible persons are given special consideration in the selection and retention processes of government employers. These procedures must ensure that, for positions that do not require an examination, eligible persons are given special consideration at each step of the employment selection process and are given special consideration in the retention of employees where layoffs are necessitated.¹⁷

In 1988, the Florida Attorney General opined that "veterans' preference provides special consideration for eligible veterans at each step of the employment selection process, but does not require the

⁹ Rule 55A-7.010(1), F.A.C.

¹⁰ 295.08, F.S.

¹¹ Harris v. State, Public Employees Relations Com'n, 568 So.2d 475 (Fla. 1st DCA 1990).

¹² Id.

¹³ § 295.085, F.S.

¹⁴ AGO 88-24

¹⁵ Harris v. State, Public Employees Relations Com'n, 568 So.2d 475 (Fla. 1st DCA 1990).

¹⁶ Id.

¹⁷ § 295.07(2), F.S.

employment of a preferred veteran over a nonveteran who is the 'most qualified' applicant for the position. The employing agency, however, is required to document and justify the decision to hire a nonveteran over the preferred veteran...."¹⁸

Complaint and Appeal Process

When a government employer selects a non-veteran over a person who is eligible for a veteran's preference, the eligible person may file a written complaint with the FDVA. The FDVA must investigate complaints and may file an opinion with the Public Employees Relations Commission (Commission) as to the merit or lack of merit in each case. The statute requires the FDVA to conduct all investigations within existing amounts appropriated by the Legislature to the FDVA.¹⁹

Jurisdiction to effectuate the purposes of the veterans' preference requirements rests with the Commission for appropriate administrative determination. If, upon preliminary review, the Commission agrees with the FDVA's determination that a case lacks merit and finds a complete absence of justiciable issues of either law or fact raised by the veterans' preference complaint, the Commission must dismiss the complaint "without the necessity of holding a hearing."²⁰

When a government employer selects a non-veteran over a person who is eligible for a veteran's preference, the initial burden is on the veteran to show minimal qualifications; a timely and proper application for a covered position; and that the employer selected a non-veteran or a veteran with a lesser preference. The burden then shifts to the employer to show that the non-veteran applicant was more qualified.²¹

If the Commission determines that a violation of the veterans' preference requirements has occurred, it must order the offending agency, employee, or officer to comply with the provisions and may issue an order to compensate the veteran for the loss of any wages and reasonable attorney's fees for actual hours worked, and costs of all work, including litigation, incurred as a result of the violation. However, attorney's fees and costs may not exceed \$10,000.²²

If reparation is sought through civil action in court, any agency, employee, or officer of a government employer found in violation of the veterans' preference requirements must also pay the costs of suit and reasonable attorney's fees incurred in the action and pay damages as the court may award, any law to the contrary notwithstanding.²³

State Government Veterans' Preference Provision

With respect to non-exempt positions in the state's career service system, s. 110.2135, F.S., requires the state to grant a preference in hiring and retention to an eligible person if the eligible person meets the minimum eligibility requirements for the position and has the knowledge, skills, and abilities required for the position. A disabled veteran employed as the result of being placed at the top of the appropriate employment list must be appointed for a probationary period of 1 year. At the end of 1 year, if the work of the disabled veteran has been satisfactorily performed, the veteran will acquire permanent employment status and will be subject to the employment rules of the Department of Management Services and the veteran's employing agency.

¹⁸ AGO 88-24

¹⁹ § 295.11, F.S.

²⁰ § 295.11, F.S.

²¹ West Coast Regional Water Supply Authority v. Harris, 604 So.2d 892 (Fla. 1st DCA 1992); See Cox v. Pasco County, 16 FPER Para. 21517 (1990); Rosete v. Department of Professional Regulation, 15 FPER Para. 20518 (1989); Varela v. Department of Health and Rehabilitative Services, 15 FPER Para. 20517 (1989).

²² § 295.14(1), F.S.

²³ § 295.14(2), F.S.

The veterans' preference provided under this section is subject to expiration as provided in s. 295.101, F.S., as previously discussed.

EFFECT OF PROPOSED CHANGES

Pursuant to s. 295.101, F.S., a veteran's employment preference expires after an eligible person has applied and been employed by a state government entity, county, city, town, village, special tax school district, or special district. This bill repeals s. 295.101, F.S., thereby requiring government employers to grant the veterans' employment preference to eligible individuals each time an employment application is submitted for a non-exempt government position, even if the eligible person was previously employed by a government entity in Florida after claiming the veterans' preference. In other words, if a person claims a veterans' preference under s. 295.07, F.S., and is employed by a government employer, that person may claim the preference each time he or she applies for a non-exempt government position in the future.

According to the FDVA, if s. 295.101, F.S., is repealed, "[p]ersons eligible under s. 295.07, F.S., would be able to retain their veterans' preference in situations such as, but not limited to, relocation to another area of the state due to spousal transfer or to move from one state entity to another (e.g. from a state agency to a local government)."²⁴

The bill does not require government employers to create new positions for eligible persons, or apply to promotions or reinstatements to employment after a servicemember returns from active duty. Further, the bill does not affect private employers in Florida because private employers are not required to comply with veterans' hiring preference requirements.

This bill also amends s. 110.2135(1), F.S., to delete a cross-reference to the repealed section.

C. SECTION DIRECTORY:

- Section 1. Repeals s. 295.101, F.S., regarding expiration of veterans' employment preference.
- Section 2. Amends s. 110.2135 (1), F.S., to delete a cross-reference to the repealed section.
- Section 3. Provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: This bill may have an indeterminate negative fiscal impact on state government due to a potential increase in the number of complaints filed and litigation initiated by eligible persons alleging violation of veterans' preference requirements. Please see Fiscal Comments for further detail.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: This bill may have an indeterminate negative fiscal impact on local governments due to a potential increase in the number of complaints filed and litigation initiated by eligible persons alleging violation of veterans' preference requirements. Due to the ability of eligible persons to

²⁴ Florida Department of Veterans' Affairs, Legislative Analysis (February 23, 2007)

claim a veterans' employment preference after initial government employment, local government entities, including school districts and special districts, may experience an increase in litigation alleging violations of the veterans' employment preference requirements; however, the frequency and cost of potential litigation is indeterminate. Please see Fiscal Comments for further detail.

- C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:** This bill will benefit persons eligible to claim a veterans' preference by allowing those persons to claim a veterans' preference after initial employment with a government employer. As a result, eligible persons may have greater flexibility and mobility in seeking government employment.

Private employers are not required to grant veterans' employment preferences and are not affected by this bill.

FISCAL COMMENTS: Between 1999 and 2006, the FDVA received an average of approximately 90 complaints per year from veterans alleging that a government employer violated the veterans' employment preference requirements.²⁵ Allowing veterans to claim a veterans' preference after initial employment by a government employer may result in an increase in the number of complaints filed by veterans alleging violation of the veterans' preference requirements; however, the frequency and cost of potential future complaints is indeterminate. According to the FDVA, any additional complaints will be processed by the full-time employee currently assigned to the program. It should also be noted that s. 295.11, F.S., requires the FDVA to conduct all investigations within existing amounts appropriated to the FDVA.

If the number of complaints increases as a result of the repeal of s. 295.101, F.S., the Public Employees Relation Commission (Commission) may also experience an increase in the number of complaints it must investigate and adjudicate. Again, the frequency and cost of potential future complaints is indeterminate.

If the Commission determines that a violation of the veterans' preference requirements has occurred, it may issue an order to compensate the veteran for the loss of any wages and reasonable attorney's fees for actual hours worked, and costs of all work, including litigation, incurred as a result of the violation. However, attorney's fees and costs may not exceed \$10,000.²⁶

If reparation is sought through civil action in a court of competent jurisdiction, any agency, employee, or officer of the state found in violation of veterans' preference requirements must also pay the costs of suit and reasonable attorney's fees incurred in the action and pay damages as the court may award, any law to the contrary notwithstanding.²⁷

This bill does not require government employers to create new positions for eligible persons; however, these government employers are required to grant an employment preference to any eligible person who claimed a veterans' preference when obtaining previous government employment.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. **Applicability of Municipality/County Mandates Provision:** Not applicable because this bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

²⁵ *Id.*

²⁶ § 295.14(1), F.S.

²⁷ § 295.14(2), F.S.

2. Other: None.

B. **RULE-MAKING AUTHORITY:** This bill does not grant any agency a specific power, impose a duty that must be implemented by an agency, or require an agency to adopt rules to facilitate implementation.

C. **DRAFTING ISSUES OR OTHER COMMENTS:** None.

D. **STATEMENT OF THE SPONSOR:** The bill sponsor did not submit a statement.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

None

1 A bill to be entitled
 2 An act relating to preference in public employment for
 3 veterans; repealing s. 295.101, F.S., relating to the
 4 expiration of preference in public employment and
 5 retention in public employment given to specified veterans
 6 and spouses thereof after an application of such
 7 preference; amending s. 110.2135, F.S.; correcting a
 8 cross-reference, to conform; providing an effective date.

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

11
 12 Section 1. Section 295.101, Florida Statutes, is repealed.

13 Section 2. Subsection (1) of section 110.2135, Florida
 14 Statutes, is amended to read:

15 110.2135 Preference in employment, reemployment,
 16 promotion, and retention.--

17 (1) Preference in employment, reemployment, promotion, and
 18 retention shall be given to an eligible veteran pursuant to ss.
 19 295.07, 295.08, 295.085, and 295.09, ~~and 295.101~~ as long as the
 20 veteran meets the minimum eligibility requirements and has the
 21 knowledge, skills, and abilities required for the particular
 22 position.

23 Section 3. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 755
SPONSOR(S): Reagan
TIED BILLS:

Firefighting

IDEN./SIM. BILLS: SB 2020

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>7 Y, 0 N</u>	Nelson <i>JPN</i>	Kruse <i>MK</i>
2) <u>Government Efficiency & Accountability Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill excuses full-time firefighters from jury duty, thus expanding current statutory exemptions extended to certain Florida citizens. It also authorizes the governing board of an independent special fire control district to recover court costs and attorney's fees from nonprevailing parties in civil actions brought to enforce fire suppression and prevention provisions, and the firesafety code. Finally, the bill exempts property owned or operated by religious institutions and used primarily as a place of worship from non-ad valorem assessments if the governing board of an independent special fire control district decides to exempt all religious institutions in the district from such assessments.

The bill is effective upon becoming law.

This bill will have an indeterminate fiscal impact on independent special fire control districts.

Section 6 of Art. III of the State Constitution imposes a single subject restriction on laws enacted by the Legislature. This bill could be subject to a court challenge under this provision.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Jury Service Exemptions

The American justice system is premised on the notion of a lay person jury that is representative of the community and capable of reaching fair, unbiased decisions regarding the fate of their peers. Jury service is a civic responsibility. Traditionally, exceptions from jury duty have been made for persons who have hardships or those that, because of the nature of their official positions, may find their impartiality compromised.

Under s. 40.01, F.S., jurors are chosen from “the male and female persons at least 18 years of age who are citizens of the United States and legal residents of this state and their respective counties and who possess a driver’s license or identification card issued by the Department of Highway Safety and Motor Vehicles....” The Florida Legislature has disqualified certain persons from jury service pursuant to s. 40.013, F.S. These exemptions include:

- (1) persons who are under prosecution for any crime, or who have been convicted of bribery, forgery, perjury, larceny, or any other offense that is a felony (unless such persons have had their civil rights restored);
- (2) the Governor, Lieutenant Governor, Cabinet officers, clerk of courts, and judges, and full-time federal, state or local law enforcement officers or such entities' investigative personnel (unless such persons choose to serve);
- (3) persons interested in the issue being tried;
- (4) expectant mothers and any parent who is not employed full-time and who has custody of a child less than six years of age (upon such person’s request);
- (5) in the discretion of the presiding judge, a practicing attorney, a practicing physician, or a person who is physically infirm;
- (6) persons upon a showing of hardship, extreme inconvenience, or public necessity;
- (7) persons who were summoned and reported as a prospective juror in any court in that person's county of residence within the past year;
- (8) persons 70 years of age or older (upon such person’s request); and
- (9) persons who are responsible for the care of a person who, because of mental illness, mental retardation, senility, or other physical or mental incapacity, is incapable of caring for himself or herself.

Section 251.13, F.S., also exempts officers and enlisted individuals of the Florida State Defense Force from jury duty during such person's service.

Independent Special Fire Control Districts

Pursuant to s. 191.003, F.S., an independent special fire control district is defined as a special district, created by special law or general law of local application, providing fire suppression and related activities within the jurisdictional boundaries of the district. This section specifies that the term does not include a municipality, a county, a dependent special district as defined in s. 189.403, F.S., a district providing primarily emergency medical services, a community development district established under ch.190, F.S., or any other multiple-power district performing fire suppression and related services in addition to other services.

Chapter 191, F.S., is entitled the "Independent Special Fire Control District Act." The Act's purpose is to establish standards and procedures concerning the operations and governance of Florida's 57¹ independent special fire control districts, and to provide greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of such districts to ensure greater accountability to the public. The Act requires each district, whether created by special act, general law of local application, or county ordinance, to comply, and provides that it is the intent of the Legislature that the Act supersedes all special acts or general laws of local application provisions that contain the charter of an independent special fire control district, with specified exceptions. The general provisions of the Act include those relating to district boards of commissioners, general and special powers, taxes and assessments, and district issuance of bonds.

Building and Firesafety Standards/Enforcement

Chapter 553, F.S., establishes minimum safety standards for the design and construction of buildings by addressing such issues as structural integrity, mechanical, plumbing, electrical, lighting, heating, air conditioning, ventilation, fireproofing, exit systems, safe materials, energy efficiency, and accessibility by persons with physical disabilities. Chapter 633, F.S., establishes fire prevention and control standards applicable to buildings and structures in the state. All buildings in the state are required to meet these standards as a minimum. Each local jurisdiction may add more restrictive requirements.²

Fire inspection personnel are authorized to enforce these statutory provisions. For example, fire inspection personnel conduct annual, specialized fire protection system inspections, such as standpipe and automatic fire sprinkler protection system testing, smoke evacuation systems testing, and general fire alarm system testing. Section 633.052, F.S., provides that firesafety inspectors, who have probable cause to believe that a person has committed a civil infraction in violation of a duly enacted firesafety ordinance, may issue a citation to appear before the county court. If the applicable county or municipality has created a code enforcement board or special magistrate system pursuant to ch.162, F.S., the citation may be referred to that body for hearing. Section 633.052, F.S., stipulates that an ordinance implementing firesafety codes must provide:

- that a violation of such an ordinance is a civil infraction;
- a maximum civil penalty not to exceed \$500;

¹ [Http://floridaspecialdistricts.org/OfficialList/report.asp](http://floridaspecialdistricts.org/OfficialList/report.asp).

² Section 633.025, F.S., provides that "[t]he Florida Fire Prevention Code and the Life Safety Code adopted by the State Fire Marshal, which shall operate in conjunction with the Florida Building Code, shall be deemed adopted by each municipality, county and special district with firesafety responsibilities. The minimum firesafety codes shall not apply to buildings and structures subject to the uniform firesafety standards under s. 633.022, F.S., and buildings and structures subject to the minimum firesafety standards adopted pursuant to s. 394.879, F.S. Each municipality, county, and special district with firesafety responsibilities shall enforce the Florida Fire Prevention Code and the Life Safety Code as the minimum firesafety code required by this section."

- a civil penalty of less than the maximum civil penalty if the person who has committed the civil infraction does not contest the citation;
- for the issuance of a citation by an officer who has probable cause to believe that a person has committed a violation of an ordinance relating to firesafety;
- for the contesting of a citation in the county court; and
- such procedures and provisions necessary to implement any ordinances enacted under the authority of this section.

Section 162.30, F.S., provides that in addition to other provisions of law authorizing the enforcement of county and municipal codes and ordinances, a county or municipality may enforce any violation of a county or municipal code or ordinance by filing a civil action in the same manner as instituting a civil action. The action may be brought in county or circuit court, depending on the relief sought. The county or municipality shall bear all court fees and costs of any such action, and may, if it prevails, recover the court fees and costs and expense of the court-appointed counsel as part of its judgment.

Non-Ad Valorem Special Assessments

Special assessments are a revenue source that may be used to fund local improvements or essential services. As established by case law, two requirements exist for the imposition of a valid special assessment. First, the property assessed must derive a special benefit from the improvement or service provided. Second, the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.³ The test to be applied in evaluating whether a special benefit is conferred on property by the provision of a service is “whether there is a ‘logical relationship’ between the services provided and the benefit to real property.”⁴ If a local government’s special assessment ordinance withstands these two legal requirements, the assessment is not considered a tax.⁵

Pursuant to s. 191.009(2), F.S., an independent special fire control district may levy non-ad valorem assessments to construct, operate, and maintain district facilities and services. The rate of such assessments must be fixed by resolution of the board. Section 191.011, F.S. provides that an independent special fire control district may provide for the levy of non-ad valorem assessments on the lands and real estate benefited by their exercise of powers. Non-ad valorem assessments may be levied only on benefited real property at a rate of assessment based on the special benefit accruing to such property from such services or improvements.

Religious institutions generally are exempt from taxation, but subject to payment of special assessments.⁶ Florida courts have upheld the use of special assessments imposed upon churches to fund fire services.⁷ Previously, the Florida Legislature has exempted property owned or occupied by a religious institution and used as a place of worship or education from municipal special assessments if the municipality so desires.⁸

³ City of Boca Raton v. State, 595 So.2d 25 (Fla. 1992).

⁴ Lake County v. Water Oak Management Corp., 695 So.2d 667 (Fla. 1997).

⁵ The Local Government Formation Manual, Committee on Urban & Local Affairs, Florida House of Representatives, January 2007.

⁶ Section 3(a) of Art. VII of the State Constitution, and ss. 196.012(1) and 196.192(1), F.S.

⁷ Sarasota County v. Sarasota Church of Christ, 641 So.2d 900 (Fla. 2d DCA 1994).

⁸ Section 170.201, F.S.

Effect of Proposed Changes

This bill excuses full-time firefighters, as defined in s. 112.81, F.S.,⁹ from jury duty, unless such persons choose to serve. This will expand exemptions currently extended to certain Florida citizens pursuant to s. 40.013, F.S. The bill also authorizes the governing board of an independent special fire control district to recover court costs and attorney's fees from the nonprevailing party in any civil action brought to enforce the provisions of ch. 553, F.S., ch. 633, F.S., or s. 191.008, F.S., concerning fire suppression and prevention and the enforcement of the firesafety code. Florida law currently provides for the recovery of court costs and attorney's fees in numerous instances by prevailing parties in civil actions.¹⁰

Finally, the bill will exempt property owned or operated by religious institutions and used primarily as a place of worship from non-ad valorem assessments levied by independent special fire control districts pursuant to ch. 191, F.S., if the governing board decides to exempt all religious institutions in the district from such assessments. The term "religious institution" means any church, synagogue, or other established physical place for worship at which nonprofit religious services and activities are regularly conducted and carried on.

The bill provides an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends s. 40.013(2)(b), F.S., to excuse full-time firefighters from jury service.

Section 2: Renumbers ss. (5), (6), and (7) of s. 191.008, F.S., and creates a new s. (5) to provide for the recovery of court costs and attorney's fees by the governing board of an independent special fire control district in certain civil actions.

Section 3: Amends s. 191.011, F.S., to authorize an independent special fire control district to exempt property owned by religious institutions from non-ad valorem assessments.

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:

⁹ Section 112.81, F.S., defines "firefighter" as any person who is certified in compliance with s. 633.35, F.S., and who is employed solely within the fire department or public safety department of an employing agency as a full-time firefighter whose primary responsibility is the prevention and extinguishment of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires. This section defines "employing agency" as any municipality or the state or any political subdivision thereof, including authorities and special districts, which employs firefighters. Thus, this provision would apply to a wide range of firefighters, including those not employed by independent special fire control districts.

¹⁰ See, e.g., s. 218.76, F.S.

Independent special fire control districts could recover court costs and attorney's fees when prevailing in code enforcement proceedings. Such a district may experience decreased revenues if it decides to exempt religious institutions from non-ad valorem assessments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private entities that challenge an enforcement action undertaken by an independent special fire district could be subject to the payment of court costs, including attorney's fees.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

This bill could be subject to a court challenge pursuant to the constitutional single subject rule. Section 6 of Art. III of the State Constitution imposes a single subject restriction on laws enacted by the Legislature: "Every law shall embrace but one subject and matter properly connected therewith...." The Florida Supreme Court has described the purpose of the single subject rule as twofold. First, it attempts to avoid surprise or fraud by ensuring that both the public and the legislators involved receive fair and reasonable notice of the contents of a proposed act. Secondly, the limitation prevents hodgepodge, logrolling legislation. With regard to the test to be applied by the court in determining whether a particular provision violates the single subject rule, the fact that the scope of a legislative enactment is broad and comprehensive is not fatal under the single subject rule so long as the matters included in the enactment have a natural or logical connection.¹¹

The proponents of the bill have indicated that they believe that all three provisions of the bill "deal with the operations and activities of fire control districts."

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

See, "III. Comments, A. Constitutional Issues, 2. Other," above.

Other Comments

It is assumed that the proposed exception for firefighters is considered to be a "hardship" exception, rather than because of these individuals' official positions. Such an exception may open the door for

¹¹ Chenoweth v. Kemp, 396 So.2d 1122 (Fla. 1981).

other first responders, such as emergency medical technicians, to come forward and request similar treatment. Unfortunately, a jury's make-up may be significantly affected when there are permissible reasons for jury avoidance that are available to a select portion of society.

The Florida Association of Special Districts is a proponent of the bill.¹²

D. STATEMENT OF THE SPONSOR

The Sponsor has indicated that he does not wish to submit a statement.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

¹² Chris Lyon of Lewis, Longman and Walker, P.A., in a March 2, 2007, e-mail.

A bill to be entitled

An act relating to firefighting; amending s. 40.013, F.S.; excusing certain firefighters from jury duty service; amending s. 191.008, F.S.; authorizing the governing board of a fire control district to recover court costs and attorney's fees in certain civil actions; amending s. 191.011, F.S.; authorizing a fire control district to exempt property owned or operated by religious institutions from non-ad valorem assessments; providing a definition; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 40.013, Florida Statutes, is amended to read:

40.013 Persons disqualified or excused from jury service.--

(2)

(b) Any full-time federal, state, or local law enforcement officer or such entities' investigative personnel or any full-time firefighter, as defined in s. 112.81, shall be excused from jury service unless such persons choose to serve.

Section 2. Subsections (5), (6), and (7) of section 191.008, Florida Statutes, are renumbered as subsections (6), (7), and (8), respectively, and a new subsection (5) is added to that section, to read:

191.008 Special powers.--Independent special fire control districts shall provide for fire suppression and prevention by

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2007

29 establishing and maintaining fire stations and fire substations
 30 and acquiring and maintaining such firefighting and fire
 31 protection equipment deemed necessary to prevent or fight fires.
 32 All construction shall be in compliance with applicable state,
 33 regional, and local regulations, including adopted comprehensive
 34 plans and land development regulations. The board shall have and
 35 may exercise any or all of the following special powers relating
 36 to facilities and duties authorized by this act:

37 (5) Recover reasonable court costs, including attorney's
 38 fees, from the nonprevailing party in any civil action to
 39 enforce the provisions of chapter 553 or chapter 633 and this
 40 section concerning fire suppression and prevention and the
 41 enforcement of the firesafety code.

42 Section 3. Subsection (12) is added to section 191.011,
 43 Florida Statutes, to read:

44 191.011 Procedures for the levy and collection of non-ad
 45 valorem assessments.--

46 (12) Property owned or operated by a religious institution
 47 and used primarily as a place of worship shall be exempt from
 48 any non-ad valorem assessments levied pursuant to this act if
 49 the governing board of the district desires to exempt all
 50 religious institutions in the district from such assessments.
 51 The term "religious institution" means any church, synagogue, or
 52 other established physical place for worship at which nonprofit
 53 religious services and activities are regularly conducted and
 54 carried on.

55 Section 4. This act shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Town of Loxahatchee Groves

Chapter 2006-328, L.O.F., created a charter for the Town of Loxahatchee Groves in Palm Beach County. On October 10, 2006, this act was submitted to the qualified electors residing within the proposed corporate limits of the Town of Loxahatchee Groves, who approved the charter and the establishment of the town. Section 9(7) of the Town of Loxahatchee Groves' charter provides that the charter may be amended in accordance with the provisions for charter amendments as specified in general law.

The current charter includes a legal description for the corporate boundaries of the town, and a transition schedule. This transition schedule provides for a special election to choose five town council members on March 13, 2007. See, s. 10 (2) of ch. 2006-328, L.O.F. The transition schedule also provides for such matters as first year expenses of the town, transitional ordinances and resolutions, temporary emergency ordinances, and transitional comprehensive plan and land development regulations.

Municipal Charter Amendments

Section 2(a) of Art. VIII of the State Constitution provides that the charter of a municipality may be amended pursuant to general or special law.

Section 166.031, F.S., provides that the governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by 10 percent of the registered electors, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter *except that part describing the boundaries of such municipality*. The governing body of the municipality must place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose. Upon adoption of an amendment to a charter by a majority of the electors voting in a referendum, the governing body of the municipality is required to have the amendment incorporated into the charter and must file the revised charter with the Department of State. All amendments are effective on the date specified therein or as otherwise provided in the charter. A municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. This section is supplemental to the provisions of all other laws relating to the amendment of municipal charters and is not intended to diminish any substantive or procedural power vested in any municipality by present law. A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed.

The Palm Beach County Charter

Palm Beach County became a charter county in 1985. As such, it is governed by s. 1(g) of Art. VIII of the State Constitution which provides that counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter of such a county is required to provide which shall prevail in the event of a conflict between county and municipal ordinances.

Section 1.3 of the Palm Beach County Charter provides that municipal ordinances prevail over county ordinances to the extent of any conflict, regardless of the time of passage of the municipal ordinances, except that the county ordinances shall prevail over conflicting municipal ordinances: (1) in matters relating to the protection of wells and well fields; (2) in matters relating to school, county-owned beaches, district parks and regional parks, solid waste disposal, county law enforcement, and impact fees collected for county road programs and public buildings; and in matters related to county fire-rescue impact fees and county library impact fees in those municipalities whose properties are taxed by the county for library and/or fire-rescue services, respectively; (3) for the adoption and amendment of the countywide land use element; and (4) in matters relating to the establishment of levels of service for collector and arterial roads which are not the responsibility of any municipality, and the restriction of the issuance of development orders which would add traffic to such roads which have traffic exceeding the adopted level of service, provided that such ordinance is adopted and amended by a majority of the board of county commissioners.

Effect of Proposed Changes

HB 775 amends ch. 2006-328, L.O.F., the special act which established the Town of Loxahatchee Groves and provided its charter. The bill revises the legal description for the Town of Loxahatchee Groves to clarify that a parcel of property is excluded from the city limits. This action is in response to concerns raised by the Palm Beach County Property Appraiser's office that the current legal description, which involves a rather lengthy account after the words "LESS AND EXCEPT" in paragraph (a) of subsection (3) of s.1 of ch. 2006-328, L.O.F., could be interpreted to not include a piece of land described in a separate paragraph and so adds the term "[a]lso less" to prevent that result.

Additionally, the bill revises transition language which addresses the applicability of Palm Beach County ordinances within the Town of Loxahatchee Groves. It removes superfluous language, and clarifies language with regard to the granting of variances to existing Palm Beach County ordinances, rules and regulations within the town, adding language which provides for such to be granted if authorized by the Palm Beach County Charter.

Finally, the bill provides an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends paragraph (a) of subsection (3) of s.1 of ch. 2006-328, L.O.F., to revise the legal description for the corporate boundaries of the Town of Loxahatchee Groves.

Section 2: Amends subsection (5) of s.10 of chapter 2006-328, L.O.F., to clarify the applicability of Palm Beach County ordinances within the Town of Loxahatchee Groves.

Section 3: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 12, 2007

STORAGE NAME: h0775a.ULA.doc
DATE: 3/7/2007

WHERE?

The Palm Beach Post, a daily newspaper of general circulation published in Palm Beach County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

The Economic Impact Statement indicates that this bill will have no fiscal effect.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

THE PALM BEACH POST
Published Daily and Sunday
West Palm Beach, Palm Beach County, Florida

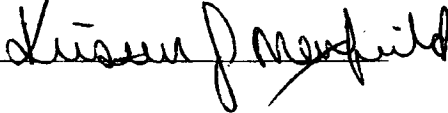
PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared **Marc Kramer**, who on oath says that he is **Inside Sales Supervisor** of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a **Notice** in the matter of **Seek Legislation** was published in said newspaper in the issues of **January 12, 2007**. Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she/he has neither paid nor promised any person, firm or corporation any discount rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.




Sworn to and subscribed before 12th day of January A.D. 2007



Personally known or Produced Identification _____
Type of Identification Produced _____

NO. 7455625
NOTICE OF
LOCAL LEGISLATION
TO WHOM IT MAY CONCERN: Notice is hereby given of the Committee to incorporate Loxahatchee Groves' intent to apply to the 2007 Session of the Florida Legislature for passage of:
An act relating to the Town of Loxahatchee Groves, Palm Beach County; amending Section 1, Chapter 2006-328, Laws of Florida; revising the legal description for the Town of Loxahatchee Groves; revising Section 10, Chapter 2006-328, Laws of Florida; revising the applicability of Palm Beach County ordinances with the Town of Loxahatchee Groves; providing and effective date.
Committee to Incorporate Loxahatchee Groves
c/o Goren, Cherof, Doody & Ezrol, P.A.
3099 E. Commercial Boulevard, Suite 200
Fort Lauderdale, Florida 33308
PUB: The Palm Beach Post
January 12, 2007

NOTARY PUBLIC-STATE OF FLORIDA
 Kristen J. Maxfield
Commission # DD528685
Expires: MAR. 14, 2010
Bonded thru Atlantic Bonding Co., Inc.

HOUSE OF REPRESENTATIVES

2007 LOCAL BILL CERTIFICATION

BILL #: 005
SPONSOR(S): Rep. Shelley Vana
RELATING TO: Town of Loxahatchee Groves
[Indicate Area Affected (City, County, Special District) and Subject]
NAME OF DELEGATION: Palm Beach County
CONTACT PERSON: Ed Chase, Executive Director
PHONE # and E-MAIL: 561/355-2406 echase@pbcgov.com

I. House policy requires that three things occur before a Council or Committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the bill's purpose cannot be accomplished at the local level; (2) a local public hearing must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a Council or Committee without a completed, original Local Bill Certification Form.

Does the delegation certify that the purpose of the bill cannot be accomplished locally?
YES NO

Has a public hearing been held? YES NO

Date hearing held: December 16, 2006
Location: Palm Beach Gardens, FL

Was this bill formally approved by a majority of the delegation members?
YES NO UNIT RULE UNANIMOUS

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided in general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this Constitutional requirement been met?

Notice published: YES NO **Date:** January 12, 2007

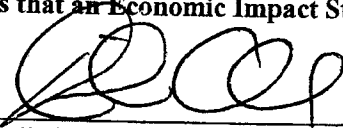
Where? Palm Beach Post **County:** Palm Beach

Referendum in lieu of publication: YES NO

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional requirement been met?
YES NO NOT APPLICABLE

House policy requires that an Economic Impact Statement for Local Bills be prepared at the local level.



Delegation Chair (Original Signature) 1/29/07
Date

HOUSE COMMITTEE ON LOCAL GOVERNMENT AND VETERANS AFFAIRS
2007 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a Council or Committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact.

BILL #:

SPONSOR(S):

RELATING TO:

REP STELLY VANA (DIST 85)
TOWN OF LOXAHATCHEE GROVES
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

	<u>FY 07-08</u>	<u>FY 08-09</u>
Expenditures:		N/A

II. ANTICIPATED SOURCE(S) OF FUNDING:

	<u>FY 07-08</u>	<u>FY 08-09</u>
Federal:		
State:		N/A
Local:		

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	<u>FY 07-08</u>	<u>FY 08-09</u>
Revenues:		N/A

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages:

N/A

Disadvantages:

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

N/A

VI. DATA AND METHOD USED IN MAKING ESTIMATES (INCLUDE SOURCE[S] OF DATA):

N/A

David Auer
PREPARED BY: COMMITTEE TO INCORPORATE LIX GROUP
Must be signed by Preparer] Date 11/19/04
TITLE: PRESIDENT
REPRESENTING: CELG

HB 775

2007

1 A bill to be entitled
 2 An act relating to the Town of Loxahatchee Groves, Palm
 3 Beach County; amending chapter 2006-328, Laws of Florida;
 4 revising the legal description for the Town of Loxahatchee
 5 Groves; revising the applicability of Palm Beach County
 6 ordinances within the Town of Loxahatchee Groves;
 7 providing an effective date.

8

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

10

11 Section 1. Paragraph (a) of subsection (3) of section 1 of
 12 chapter 2006-328, Laws of Florida, is amended to read:

13 Section 1. Charter; creation; form of government;
 14 boundaries and powers.--

15 (3) (a) CORPORATE BOUNDARIES.--The corporate boundaries of
 16 the Town of Loxahatchee Groves shall be as described as follows:

17

18 That portion of Loxahatchee Sub-Drainage District,
 19 Township 43 South, Range 41 East and Range 40 East,
 20 Palm Beach County, Florida, being more particularly
 21 described as follows:

22

23 Beginning at the Northwest corner of Section Eighteen
 24 (18) in Township Forty-three (43) South, Range Forty-
 25 one (41) East, Palm Beach County, Florida, and run
 26 thence along the North line of Section Eighteen (18)
 27 and Seventeen (17) of said Township to the Northeast
 28 corner of Section Seventeen (17) in said Township and

29 Range; thence run South along the Eastern boundary of
 30 Section Seventeen (17) to the Southeast corner of said
 31 Section;

32
 33 Thence run East along the Northern boundary of Section
 34 Twenty-one (21) and of Section Twenty-two (22) to the
 35 Northeast corner of the Northwest quarter of the said
 36 Section Twenty-two (22); Thence run South along the
 37 East line of the Northwest quarter of said Section
 38 Twenty-two (22) to the Southeast corner of said
 39 Northwest quarter of said Section; Thence run West
 40 along the South line of the Southeast quarter of
 41 Northwest quarter of said Section Twenty-two (22) to
 42 the Southwest corner of said Southeast quarter of
 43 Northwest quarter of said Section; Thence run South
 44 along the East line of the West half of the Southwest
 45 quarter of Section Twenty-two (22) and of the West
 46 half of West half of Section Twenty-seven (27) and of
 47 the West half of West half of Section Thirty-four (34)
 48 to the North Right of Way line of State Road 80, in
 49 Section Thirty-four (34); Thence West along the
 50 Northern edge of the North Right of Way line of State
 51 Road 80, across the West half of West half of Section
 52 Thirty-four (34) and across Section Thirty-three (33),
 53 Thirty-two (32), and Thirty-one (31) in said Township
 54 to the point where the range line dividing ranges
 55 Forty (40) and Forty-one (41) East intersects said
 56 North Right of Way line of State Road 80;

57
 58 Thence North along the West line of Sections Thirty-
 59 one (31), Thirty (30), Nineteen (19) and Eighteen (18)
 60 to the Point of Beginning, embracing approximately Six
 61 Thousand Nine Hundred Thirty five and 56/100
 62 (6,935.56) acres.

63
 64 Said lands lying within the above described boundary
 65 lines are described more particularly as follow, to
 66 wit:

67
 68 All of Section Seventeen (17), Eighteen (18), Nineteen
 69 (19), Twenty (20), and Twenty-one (21) and the
 70 Northwest quarter and West half of Southwest quarter
 71 of Section Twenty-two (22); and West half of West half
 72 of Section Twenty-seven (27); and all Section Twenty-
 73 eight (28), Twenty-nine (29) and Thirty (30) and all
 74 of Section Thirty-one (31) North of North Right of Way
 75 line of State Road 80; and all of Section Thirty-three
 76 (32) North of North Right of Way line of State Road
 77 80; and all of Section Thirty-three (33) North of
 78 North Right of Way line of State Road 80; and all of
 79 the West half of West half of Section Thirty-four (34)
 80 North of North Right of Way line of State Road 80; all
 81 in Township Forty-three (43) South Range Forty-one
 82 (41) East, all of said lands being situate in Palm
 83 Beach County, State of Florida, according to the
 84 United States official surveys of said lands.

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TOGETHER WITH

The South 1/2 of Sections 7 and 8, T43S, R41E.

The South 1/2 of the East 1/4 of Section 12, The East 1/4 of Sections 13, 24, 25, T43S, R40E, and that part of the East 1/4 of Section 36, T43S, R40E, lying North of the North Right of Way of S.R. 80, all in Palm Beach County, Florida, containing 1320 acres, more or less.

LESS AND EXCEPT The All or Nothing Legislation Parcel as described in Senate Bill No. 2616, Laws of Florida, Chapter 99-425, formerly known as The Palms West Hospital property

A parcel bounded by Southern Boulevard (S.R. 80) on the South, the Southern boundary of the drainage/road Right of Way known as collecting canal on the North, Folsom/Crestwood of the East, and the Western boundary of The All or Nothing Legislation Parcel as described in Senate Bill No. 2616, Laws of Florida, Chapter 99-425 on the west, said parcel being more particularly described as follows:

A parcel of land located in the County of Palm Beach, State of Florida, to wit:

113
 114 The point of beginning being the intersection of the
 115 Easterly line of Lot 4, Block K, Loxahatchee District,
 116 according to the plat thereof on file in the Office of
 117 the Clerk of the Circuit Court recorded in Plat Book
 118 7, Page 81, of the Public Records of Palm Beach
 119 County, Florida, and the Southerly boundary of the
 120 "Collecting Canal" as shown on the Replat of
 121 Loxahatchee Groves Subdivision according to the Plat
 122 thereof, recorded in Plat Book 12, Page 29, of the
 123 Public Records of Palm Beach County, Florida; Thence
 124 Easterly along said Southerly boundary of the
 125 "Collecting Canal" to the Easterly boundary of said
 126 Replat of Loxahatchee Groves; Thence South along said
 127 Easterly boundary line of the Replat of Loxahatchee
 128 Groves to the North Right of Way line of State Road
 129 80; Thence Westerly along said Northerly Right of Way
 130 line of State Road 80 to the Easterly line of Lot 4,
 131 Block K, Loxahatchee District;

132
 133 Thence Northerly along said Easterly line of Lot 4 to
 134 the Point of Beginning, and

135
 136 Also less a portion of Lot 4, Block "K," Loxahatchee
 137 District subdivision, according to the map or plat
 138 thereof as recorded in Plat Book 7, page 81, public
 139 records, Palm Beach County, Florida, being more
 140 particularly described as follows:

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Commencing at the northeast corner of said lot 4;
thence, south 02°16'42" west, along the east line of
said lot 4, a distance of 834.00 feet for a point of
beginning.

Thence, continue south 02°16'42" west along said east
line, a distance of 1221.92 feet, more or less, to the
intersection thereof with the north right-of-way line
of State Road No. 80 as recorded in official records
book 12372, page 468, said public records; thence,
north 88°08'61" west, departing said east line and
along said north right-of-way line, a distance of
260.20 feet; thence, north 02°16'46" east, departing
said right-of-way line, a distance of 80.00 feet;
thence, north 88°08'51" west, a distance of 248.59
feet; thence, north 02°16'46" east, a distance of
321.11; thence, north 88°08'51" west, a distance of
275.01 feet, more or less, to the intersection thereof
with the west line of said lot 4; thence, north
02°16'46" east, along said west line, a distance of
806.33 feet; thence, south 89°12'21" east, departing
said west line and along the south line of the north
834.00 feet of said lot 4, as measured along the east
and west lines of said lot 4, a distance of 784.02
feet to the point of beginning.

Containing: 18.867 acres, more or less.

169 Section 2. Subsection (5) of section 10 of chapter 2006-
 170 328, Laws of Florida, is amended to read:

171 Section 10. Transition schedule.--

172 (5) TRANSITIONAL ORDINANCES AND RESOLUTIONS.--All
 173 applicable county ordinances currently in place at the time of
 174 passage of the referendum, unless specifically referenced
 175 herein, shall remain in place until and unless rescinded by
 176 action of the town council, ~~except that a county ordinance,~~
 177 ~~rule, or regulation which is in conflict with an ordinance,~~
 178 ~~rule, or regulation of the town shall not be effective to the~~
 179 ~~extent of such conflict,~~ except as otherwise provided by the
 180 Palm Beach County Charter, as may be amended from time to time.
 181 Variances shall not ~~Any existing Palm Beach County ordinances,~~
 182 ~~rules, and regulations as of October 12, 2006, shall not be~~
 183 ~~altered, changed, rescinded, or added to, nor shall any variance~~
 184 ~~be granted to any existing Palm Beach County ordinance, rule, or~~
 185 ~~regulation in existence as of October 12, 2006, thereto~~ insofar
 186 as such action would affect the town without the approval of the
 187 town council, except as authorized by the Palm Beach County
 188 Charter, as may be amended from time to time.

189 Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 779
SPONSOR(S): Frishe
TIED BILLS:

Town of Belleair Shore, Pinellas County

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>6 Y, 0 N</u>	<u>Nelson LPN</u>	<u>Kearney dk</u>
2) <u>Government Efficiency & Accountability Council</u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill amends the special act that created the Town of Belleair Shore in Pinellas County, and provides authority for the town's governing board to pass ordinances, resolutions or enter into interlocal agreements which will allow it to hold regular and special meetings outside its municipal boundaries.

The bill has an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government

The bill will allow a municipal governing board to enact ordinances and resolutions regarding an exercise of extraterritorial power, and enter into interlocal agreements contemplating the same, thereby enabling it to hold meetings outside its municipal boundaries.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Town of Belleair Shore

The Town of Belleair Shore was incorporated pursuant to ch. 67-1107, L.O.F., the special act that created its charter. Belleair Shore consists of one mile of beachfront property in Pinellas County on the Gulf of Mexico, and is bordered on the north by the City of Belleair Beach and on the south by the City of Indian Rocks Beach. In 2006, the town's population was estimated at 71.¹ The town contains approximately 55 private homes, and has no businesses, stores, schools, churches² or public buildings.

Belleair Shore is governed by a five-member board which is required by the town charter to "hold regular meetings at such time and place as may be prescribed by ordinance or resolution."³ As there is no appropriate venue within Belleair Shore to hold these meetings, the City of Belleair Bluffs has offered the use of its city hall to the town commission. The driving distance to this location from Belleair Shore is approximately two miles.⁴

Municipal Exercise of Extraterritorial Power/Meetings Held Outside Jurisdictional Boundaries

Section 166.021(3)(a), F.S., provides that a municipal legislative body may adopt legislation concerning any subject matter upon which the state Legislature may act, except for : "[t]he subjects of annexation, merger, and *exercise of extraterritorial power*, which require general or special law pursuant to s. 2(c), Art. VII of the State Constitution."

Previously, the Florida Attorney General has opined that a municipality's governing body may not hold its meetings outside its jurisdictional boundaries unless authorized by general or special law, recognizing the Legislature's role in authorizing extraterritorial powers. See, OAG 2003-03, advising that municipal councils may not hold meetings outside municipal limits and that all acts and proceedings at such meetings are void in the absence of statutory authorization.⁵

The special act which created Belleair Shore did not provide the town commission specific authority to hold meetings outside its municipal limits.

¹ Florida Estimates of Population 2006, Bureau of Economic and Business Research, University of Florida, Gainesville.

² <http://www.tampabaybeaches.com>.

³ See, s. 4 (c) of ch. 67-1107, L.O.F.

⁴ Telephone conversation with Town of Belleair Shore Mayor John Robertson on February 15, 2007.

⁵ Also, see, OAG 75-139.

Effect of Proposed Changes

HB 779 amends ch. 67-1107, L.O.F., the special act creating the Town of Bellair Shore, and adds language which specifically authorizes the town commission to pass ordinances, resolutions or enter into interlocal agreements which will allow it to hold regular and special meetings outside its jurisdictional limits. The bill provides an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Subsection (d) is added to s. 4 of ch. 67-1107, L.O.F.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 12, 2007.

WHERE? The *Pinellas News*, a weekly paper of general circulation published in Pinellas County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill will have no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments

Unlike the provision that requires the meetings of a board of county commissioners to be "held at any appropriate public place in the county....,"⁶ there is no statutorily-prescribed place for municipal council meetings. Nonetheless, the requirements of Florida's Government in the Sunshine Law must be considered in selecting sites for such meetings.⁷

D. STATEMENT OF THE SPONSOR

Representative Frishe states: "This is a very simple measure to allow the Town of Belleair Shore, Pinellas County, Florida to be in compliance with State law."

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

⁶ Section 125.001, F.S.

⁷ See, s. 286.011, F.S., and s. 24 of Art. I of the State Constitution.

Pinellas News

www.pinellas-news.com

TEL (727) 894-2411

FAX (727) 894-2522

**STATE OF FLORIDA
COUNTY OF PINELLAS**

NO: 011224
ACCT: 15008
Subject: 67-1107


Before the undersigned authority personally appeared, John H. Terrana, who on oath says that he is a Legal Account Executive of the Pinellas News a weekly newspaper published in St. Petersburg located within Pinellas County, Florida: that the attached copy of advertisement **NOTICE OF LEGISLATION** in the matter of **AMENDING CHAPTER 67-1107, LAW OF FL.**, was published in the said newspaper in the issues of **JANUARY 12, 2007.**

Affiant further says that the said Pinellas News is a newspaper published at St. Petersburg, in said Pinellas County, Florida, and that the said newspaper heretofore has been continuously published in said Pinellas County, each week and has been entered as a periodical mail matter at the post office in St. Petersburg in said Pinellas County, for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

NOTICE OF LEGISLATION

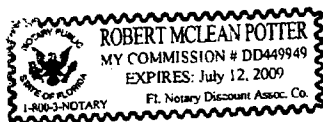
TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2007 Legislature for passage of an act relating to the Town of Belleair Shore, Pinellas County; amending chapter 67-1107, Laws of Florida; authorizing the Town Commission of the Town of Belleair Shore to hold regular and special meetings outside the jurisdictional limits of the town as prescribed by ordinance, resolution, or interlocal agreement; providing an effective date.

15008 Jan 12, 2007 011224


John H. Terrana

The foregoing instrument was acknowledged before me by John H. Terrana, Personally Known to me this 12TH Day of JANUARY, 2007, AD.


Notary Public



533 4th Street North • Saint Petersburg, FL 33701-2301
P.O. Box 1507 • Saint Petersburg, FL 33731-1507

HOUSE OF REPRESENTATIVES

2007 LOCAL BILL CERTIFICATION

BILL #: 779
 SPONSOR(S): Rep. Jim Frishe + Senator Dennis Jones
 RELATING TO: Town of Belleair Shore, Pinellas County
[Indicate Area Affected (City, County, Special District) and Subject]
 NAME OF DELEGATION: Pinellas County Legislative Delegation
 CONTACT PERSON: Donna McGaughey
 PHONE # and E-Mail: 727-464-3592 dmcgaugh@pinellascounty.org

I. House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES NO

(2) Has a public hearing been held? YES NO

Date hearing held: JANUARY 4, 2007
 Location: Dunedin Senior Center, Dunedin, FL

(3) Was this bill formally approved by a majority of the delegation members?
 YES NO UNIT RULE UNANIMOUS

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES NO DATE JANUARY 12, 2007
 Where? Pinellas News County Pinellas
 Referendum in lieu of publication: YES NO

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?

YES NO NOT APPLICABLE

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Tom Anderson 1/19/07
 Delegation Chair (Original Signature) Date

HOUSE OF REPRESENTATIVES

2007 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Committee on Urban & Local Affairs as soon as possible after the bill is filed.

BILL #:

SPONSOR(S): Rep. James Frishe + Senator Dennis L. Jones

RELATING TO: Town of Belleair Shore, Pinellas County
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures: N/A FY 07-08 FY 08-09

II. ANTICIPATED SOURCE(S) OF FUNDING:

Federal: N/A FY 07-08 FY 08-09
State:
Local:

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues: N/A FY 07-08 FY 08-09

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: N/A

Disadvantages:

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR
EMPLOYMENT: *N/A*

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF
DATA]: *N/A*

PREPARED BY: *Donna McHughley* *1/26/07*
[Must be signed by Preparer] Date

TITLE: *Delegation Asst.*

REPRESENTING: *Pinellas Delegation*

PHONE: *(727-464-3592) SC 570-3592*

E-Mail Address: *dmagaugh@pinellascounty.org*

HB 779

2007

1 A bill to be entitled

2 An act relating to the Town of Belleair Shore, Pinellas
3 County; amending chapter 67-1107, Laws of Florida;
4 authorizing the Town Commission of the Town of Belleair
5 Shore to hold regular and special meetings outside the
6 jurisdictional limits of the town as prescribed by
7 ordinance, resolution, or interlocal agreement; providing
8 an effective date.

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

11
12 Section 1. Subsection (d) is added to section 4 of chapter
13 67-1107, Laws of Florida, to read:

14 Section 4. Form of Government.

15 (d) The Town Commission may hold regular and special
16 meetings outside the jurisdictional limits of the Town at such
17 time and place as may be prescribed by ordinance, resolution, or
18 interlocal agreement.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 781
Homes in Pinellas County
SPONSOR(S): Anderson
TIED BILLS:

Licensing and Regulating of Children's Centers and Family Day Care

IDEN./SIM. BILLS: SB 1694

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>7 Y, 0 N</u>	<u>Ligas <i>AA</i></u>	<u>Kearney <i>dk</i></u>
2) <u>Government Efficiency & Accountability Council</u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill allows parents and legal guardians to have their children in secure, safe, licensed day care when they have to work a 24-hour shift, without the necessity of a variance. The bill provides for written certification from the employer that the parent is working a 24-hour shift. It also clearly specifies that a child may not remain in child care for more than 72 consecutive hours in a 7 day period.

This bill redefines both children's center and family day care homes by removing the criteria that they may only provide child care from 2 to 12 hours.

This bill shall take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families – The bill decreases the burdens of government on family decision-making. It also increases the flexibility of governmental agencies respecting the needs of families concerning time, locations and procedures.

Safeguard Individual Liberty – The bill increases parents and legal guardian's options for safe and licensed child care which provides for more control over their own affairs.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

The Department of Children and Family Services (DCF) is responsible for administering child care regulations throughout Florida, unless a county has chosen to assume this regulatory function pursuant to s. 402.306, F.S., which requires that a county meet or exceed prescribed state standards regarding state child care. Pinellas County is one of seven counties which have chosen to designate a local licensing agency to license child care facilities in their county. The Pinellas County Labor Board for Children's Centers and Family Day Care Homes is the licensing body in Pinellas County.

Currently, family day care homes and children's centers are permitted to provide child care for 2 to 12 hours. Both are prohibited from providing care for more than 12 hours except in exigent circumstances such as car accidents, emergency hospitalization, or the death of a family member.

A parent or legal guardian may apply for a variance, if they are in need of child care exceeding 12-hours, for the following reasons:

- Work More Than 12-hour Less Than 24-hour Shift – The parent or legal guardian must work a shift of more than 12 hours but less than 24 hours. A statement verifying employment and hours/days per week worked must be included.
- Multiple Employers – The parent or legal guardian must work for a combined total of more than 12 hours in a day. A statement verifying employment and hours worked per week must be included.
- Work and School Schedule – The parent or legal guardian must work and attend school for a combined total of more than 12 hours in a day. A class schedule from the education institution as well as a statement verifying employment must be included.
- Medical Necessity - The application must include a physician's attestation to the medical need of the parent or legal guardian.
- Work Variance in Excess of 24 hours – The application must include a statement from the parent or legal guardian's employer that the parent or legal guardian works a shift of 24-hours or more listing the number of days within a 7-day period a 24-hour shift or longer is worked. The time that a child remains in care may not exceed 72 consecutive hours in a 7-day period.

To be eligible for a variance the provider must:

- Be licensed for a minimum of one year in Pinellas County and be approved for overnight care or be eligible to be approved for overnight care, if applicable.
- Have received no noncompliance for over capacity or lack of supervisions, no Class I fines, and/or have not been placed on the Enforcement Plan within the past one year. Any occurrence of high risk noncompliance or sanctions during the variance would result in immediate loss of the variance (within 7 days for parents to make other arrangements).
- Notify the License Board staff of any schedule change(s).

Variations are granted specific to the provider solely for the child and/or children listed and are non-transferable by either party.

The child care provider may not have a history of high risk noncompliance within 1 year.

A provider found to be caring for a child and/or children over 12 hours per day without exigent circumstances and without a variance in violation of these regulations will not be eligible to apply for a variance for one year from the date of the violation.

During a declared state of emergency, the License Board may temporarily waive the time limitations.

Presently, this limitation has been reported to cause hardship for parents who work shifts of 24 hours, including law enforcement, nurses and military personnel.

Effect of Proposed Changes:

This bill redefines children's centers by removing the stipulation that the centers are only permitted to provide care from 2 to 12 hours per day per child.

This bill redefines family day care homes by removing the stipulation that the facilities are only permitted to provide care from 2 to 12 hours per day per child.

This bill authorizes child care to be provided for 24-hours or longer for a child whose parent or legal guardian works a shift of 24-hours or more, without the necessity of a variance. The requirement for working a shift of 24-hours or more must be certified in writing by the employer and the documentation must be maintained in the child care facility.

The time that a child remains in child care is limited to 72 consecutive hours in any seven day period. During a state of emergency, however, the licensing agency is authorized to temporarily waive the time limitations.

C. SECTION DIRECTORY:

Section 1: Amends subsections (1), (5), and (6) of section 2 of chapter 61-2681, Laws of Florida, as amended by section 1 of chapter 70-893, Laws of Florida, adding prolonged child care guidelines.

Section 2: Provides the bill will be effective upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 12, 2007

WHERE?

Pinellas News, Pinellas County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

N/A

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill sponsor intends to file a technical amendment to make the bill easier to read.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On February 21, 2007 the Committee on Urban & Local Affairs adopted an amendment to change the placement of the new provisions contained in the bill to clarify the intended purpose of the legislation and to make the bill easier to read.

HOUSE OF REPRESENTATIVES
2007 LOCAL BILL CERTIFICATION

BILL #: 781
SPONSOR(S): Rep. Tom Anderson + Senator Dennis Jones
RELATING TO: Pinellas County License Board for Children's Centers +
(Indicate Area Affected (City, County, Special District) and Subject) FAMILY DAY CARE HOMES
NAME OF DELEGATION: Pinellas County Legislative Delegation
CONTACT PERSON: Donna McGaughey
PHONE # and E-Mail: 727-464-3592 dmcgaugh@pinellascounty.org

I. House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES NO

(2) Has a public hearing been held? YES NO

Date hearing held: JANUARY 4, 2007

Location: DUNEDIN SENIOR CENTER, DUNEDIN, FL

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

YES NO UNIT RULE UNANIMOUS

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES NO DATE JANUARY 12, 2007

Where? PINELLAS NEWS COUNTY PINELLAS

Referendum in lieu of publication: YES NO

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?

YES NO NOT APPLICABLE

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Tom Anderson 1/19/07
Delegation Chair (Original Signature) Date

HOUSE OF REPRESENTATIVES

2007 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Committee on Urban & Local Affairs as soon as possible after the bill is filed.

BILL #: 781
SPONSOR(S): Senator Dennis Gono & Representative Tom Anderson
RELATING TO: Licensing & Regulation of Children's Centers & Family Day Care Homes
[Indicate Area Affected (City, County, Special District) and Subject] in Pinellas County

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures: FY 07-08 FY 08-09
N/A

II. ANTICIPATED SOURCE(S) OF FUNDING:

Federal: FY 07-08 FY 08-09
State: N/A
Local:

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues: FY 07-08 FY 08-09
N/A

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: N/A
Disadvantages:

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

N/A

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

N/A

PREPARED BY: Liada La Bonte 1/29/07
[Must be signed by Preparer] Date

TITLE: Chief Legislative Assistant

REPRESENTING: Senator Dennis Jones

PHONE: (727-549-6411)

E-Mail Address: labonte.LIADA.513@FLSENATE.GOV

A bill to be entitled

An act relating to the licensing and regulating of children's centers and family day care homes in Pinellas County; amending chapter 61-2681, Laws of Florida, as amended; redefining the terms "children's center" and "family day care home"; authorizing the provision of child care for a period longer than otherwise authorized for a child whose parent or legal guardian works a shift of 24 hours or more; providing an effective date.

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

Section 1. Subsections (1), (5), and (6) of section 2 of chapter 61-2681, Laws of Florida, as amended by section 1 of chapter 70-893, Laws of Florida, are amended to read:

Section 2. Definitions.--

(1) A children's center includes any day nursery, nursery school, kindergarten, or other facility whatsoever which, with or without compensation, cares for five (5) or more children seventeen (17) years of age or under, not related to the operator by blood, marriage, or adoption, away from the child's own home ~~for from two (2) to twelve (12) hours per day per child~~. This term shall not be construed to include any center under the jurisdiction of the state board of education or to include any nonpublic academic school except in regard to children below first grade level.

(5)~~(a)~~ A family day care home means a facility for child care in a place of residence of a family, person, or persons who

29 receive no more than four (4) children under seventeen (17)
 30 years of age away from their own homes who are not related to
 31 such person or persons by blood, marriage, or adoption, for the
 32 purpose of providing family care and training for such children
 33 ~~for from two (2) to twelve (12) hours per day.~~ No more than
 34 three (3) of the four (4) children may be under two (2) years of
 35 age. This term shall not be construed to include children above
 36 first grade level except in homes where children below first
 37 grade level are also received for care.

38 ~~(b) Under special circumstances, family day care homes may~~
 39 ~~be licensed to care for children twenty four (24) hours a day.~~
 40 ~~To fall under the administration of the license board, these~~
 41 ~~family day care homes may not receive children from any licensed~~
 42 ~~child placing agencies. These family day care homes shall meet~~
 43 ~~the same minimum standards established by the state welfare~~
 44 ~~board for the care of children under seventeen (17) years of age~~
 45 ~~being cared for away from their own parents or guardians, except~~
 46 ~~where the requirements are in conflict with this law or changed~~
 47 ~~as provided herein.~~

48 (6) Children's centers licensed hereunder shall not
 49 provide ~~provided~~ regular overnight care for children.

50 (a) Overnight care on New Year's Eve and other similar
 51 occasions to be specified by the license board for a number not
 52 in excess of the total enrollment authorized on its license is
 53 permissive, subject to the determination by the license board
 54 that such overnight care is reasonable under the circumstances.

55 (b) In addition, child care may be provided for 24 hours
 56 or longer for a child whose parent or legal guardian works a

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57 | shift of 24 hours or more. The requirement that a parent or
58 | legal guardian work a shift of 24 hours or more must be
59 | certified in writing by the employer, and the written
60 | certification must be maintained in the facility by the child
61 | care provider and made available to the license board and the
62 | state child care licensing agency. The time that a child remains
63 | in child care, however, may not exceed 72 consecutive hours in
64 | any 7-day period. During a declared state of emergency, the
65 | license board or the state child care licensing agency may
66 | temporarily waive the time limitations provided in this
67 | paragraph.

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

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0781

COUNCIL/COMMITTEE ACTION

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

THIS AMENDMENT IS TRAVELING WITH THE BILL. NO ACTION REQUIRED

1 Council/Committee hearing bill: Government Efficiency &
2 Accountability Council
3 Committee on Urban & Local Affairs offered the following:

Amendment

Remove line(s) 27-67 and insert:

7 (5) (a) A family day care home means a facility for child
8 care in a place of residence of a family, person, or persons who
9 receive no more than four (4) children under seventeen (17)
10 years of age away from their own homes who are not related to
11 such person or persons by blood, marriage, or adoption, for the
12 purpose of providing family care and training for such children
13 ~~for from two (2) to twelve (12) hours per day.~~ No more than
14 three (3) of the four (4) children may be under two (2) years of
15 age. This term shall not be construed to include children above
16 first grade level except in homes where children below first
17 grade level are also received for care.

18 (b) Child care may be provided for 24 hours or longer for
19 a child whose parent or legal guardian works a shift of 24 hours
20 or more. The requirement that a parent or legal guardian work a
21 shift of 24 hours or more must be certified in writing by the

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

22 employer, and the written certification must be maintained in
23 the facility by the child care provider and made available to
24 the license board and the state child care licensing agency. The
25 time that a child remains in child care, however, may not exceed
26 72 consecutive hours in any 7-day period. During a declared
27 state of emergency, the license board or the state child care
28 licensing agency may temporarily waive the time limitations
29 provided in this paragraph. Under special circumstances, family
30 day care homes may be licensed to care for children twenty four
31 (24) hours a day. To fall under the administration of the
32 license board, these family day care homes may not receive
33 children from any licensed child placing agencies. These family
34 day care homes shall meet the same minimum standards established
35 by the state welfare board for the care of children under
36 seventeen (17) years of age being cared for away from their own
37 parents or guardians, except where the requirements are in
38 conflict with this law or changed as provided herein.

39 (6) Children's centers licensed hereunder shall not
40 provide provided regular overnight care for children. Overnight
41 care on New Year's Eve and other similar occasions to be
42 specified by the license board for a number not in excess of the
43 total enrollment authorized on its license is permissive,
44 subject to the determination by the license board that such
45 overnight care is reasonable under the circumstances.

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HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 783 Relating to Broward County
SPONSOR(S): Seiler
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>6 Y, 0 N</u>	<u>Kruse MK</u>	<u>Kruse MK</u>
2) <u>Government Efficiency & Accountability Council</u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill requires the appointment of the Broward County Clerk of Courts to the Broward County Public Safety Coordinating Council.

The bill has an effective date of upon becoming law.

According to the Economic Impact Statement, this bill will not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Safety Coordinating Councils

Each county is required to create a Public Safety Coordinating Council.¹ The board of county commissioners for a county makes the appointments to the council which consists of the following appointees:

1. The state attorney, or an assistant state attorney designated by the state attorney.
2. The public defender, or an assistant public defender designated by the public defender.
3. The chief circuit judge, or another circuit judge designated by the chief circuit judge.
4. The chief county judge, or another county judge designated by the chief county judge.
5. The chief correctional officer.
6. The sheriff, or a member designated by the sheriff, if the sheriff is not the chief correctional officer.
7. The state probation circuit administrator, or a member designated by the state probation circuit administrator, to be appointed to a 4-year term.
8. The chairperson of the board of county commissioners, or another county commissioner as designee.
9. If the county has such program available, the director of any county probation or pretrial intervention program, to be appointed to a 4-year term.
10. The director of a local substance abuse treatment program, or a member designated by the director, to be appointed to a 4-year term.
11. Representatives from county and state jobs programs and other community groups who work with offenders and victims, appointed by the chairperson of the board of county commissioners to 4-year terms.²

A Public Safety Coordinating Council has two purposes:

1. to assess the population status of all detention or correctional facilities owned or contracted by the county, or the county consortium, and to formulate recommendations to ensure that the capacities of such facilities are not exceeded. The recommendations must include an assessment of the availability of pretrial intervention or probation programs, work-release programs, substance abuse programs, gain-time schedules, applicable bail bond schedules, and the confinement status of the inmates housed within each facility owned or contracted by the county, or the county consortium.³

¹ Section 951.26(1), F.S.

² Section 951.26(1)(a), F.S.

³ Section 951.26(2), F.S.

2. to develop a local public safety plan for future construction needs, if the council should decide it is necessary. The plan must cover at least a 5-year period and may be submitted for consideration to the local planning agency for the county at least 120 days before the adoption of or amendment to the comprehensive plan for the county by the local planning agency pursuant to part II of chapter 163.⁴

Effect of Proposed Changes

HB 783 requires the Broward County Board of County Commissioners to appoint the Broward County Clerk of Courts to the Broward County Public Safety Coordinating Council. The Broward County Clerk of Courts has indicated that because of the direct impact his office has on the work of the Council, that it would be logical for the Clerk to be a member of the Council.

The bill provides an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Requires the appointment of the Broward County Clerk of Courts to the Broward County Public Safety Coordinating Council.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 12, 2007.

WHERE? The Sun Sentinel, a daily paper of general circulation published in Broward, Palm Beach, and Miami-Dade County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill will have no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

⁴ Section 951.26(3)(a), F.S.
STORAGE NAME: h0783a.ULA.doc
DATE: 3/7/2007

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

HB 783

2007

1 A bill to be entitled
2 An act relating to Broward County; requiring the board of
3 county commissioners to appoint the clerk of courts to the
4 Broward County Public Safety Coordinating Council;
5 providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. In addition to the members appointed pursuant
10 to section 951.26(1), Florida Statutes, the Broward County Board
11 of County Commissioners shall appoint the Broward County Clerk
12 of Courts to the Broward County Public Safety Coordinating
13 Council.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 797 Firefighters

SPONSOR(S): Brandenburg

TIED BILLS: IDEN./SIM. BILLS: SB 2338

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Urban & Local Affairs</u>	<u>6 Y, 0 N</u>	<u>Kruse <i>MIC</i></u>	<u>Kruse <i>MIC</i></u>
2) <u>Government Efficiency & Accountability Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill adds a master's degree to the college degrees that if earned by a firefighter and relate to their duties as a firefighter will increase their monthly compensation. The bill also increases the compensation received for earning such degrees.

The fiscal impact of this bill is indeterminate.

The bill has an effective date of July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Firefighters who meet certain educational achievement criteria are eligible to receive supplemental compensation from his or her employer in addition to their normal compensation. A firefighter must meet one of the following criteria:

1. If a firefighter receives an associate degree from a college, which degree is applicable to fire department duties, the firefighter shall receive additional compensation.
2. If a firefighter, regardless of whether or not she or he earned an associate degree earlier, who receives from an accredited college or university a bachelor's degree, which bachelor's degree is applicable to fire department duties, the firefighter shall receive additional compensation.¹

The supplemental compensation a firefighter may receive is as follows:

- (a) Fifty dollars a month to a firefighter who earns an associate degree from a college and meets the qualifications regarding the applicability of that degree to their duties as a firefighter.
- (b) One hundred and ten dollars a month to a firefighter who earns a bachelor's degree and meets the qualifications regarding the applicability of that degree to their duties as a firefighter.

Effect of Proposed Changes

The bill adds a master's degree to the college degrees earned that may qualify a firefighter to receive supplemental compensation. The master's degree must be applicable to fire department duties. The bill provides supplemental compensation of three hundred dollars a month to a firefighter who earns a qualifying master's degree.

The bill also raises the supplemental compensation received for earning an associate degree from fifty dollars a month to one hundred twenty five dollars a month. Additionally, the bill raises the compensation for earning a bachelor's degree from one hundred ten dollars a month to two hundred dollars a month.

The bill has an effective date of July 1, 2007.

C. SECTION DIRECTORY:

Section 1: Amends subsections (2) and (3) of section 633.382, F.S., relating to how a firefighter may earn supplemental compensation for obtaining a master's degree and sets out the compensation that may be received for earning other levels of college degrees.

Section 2: Provides an effective date.

¹ Section 633.382(2)(a)1 & 2, F.S.
STORAGE NAME: h0797a.ULA.doc
DATE: 3/7/2007

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill would require a local government to expend funds to pay for the supplemental firefighter compensation. However, it appears an exception applies because the Legislature has formally determined there is an important state interest and has established a dedicated funding source.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

At its meeting on March 7, 2007, the Committee on Urban & Local Affairs adopted two amendments to the bill. Amendment 1 added a fire inspector as a person eligible for supplemental compensation should the fire inspector earn an AA, bachelor's degree, or master's degree. Amendment 2 requires that an AA earned for supplemental compensation be earned at an accredited college or university. Current law did not state that the AA had to be earned from a college or university that is accredited, although current law requires that the bachelor's degree be earned from a college or university that is accredited.

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A bill to be entitled
 An act relating to firefighters; amending s. 633.382,
 F.S.; specifying qualifications for and amount of
 supplemental compensation for a firefighter receiving a
 master's degree; increasing the amount of supplemental
 compensation for a firefighter receiving an associate or
 bachelor's degree; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 633.382,
 Florida Statutes, are amended to read:

633.382 Firefighters; supplemental compensation.--

(2) QUALIFICATIONS FOR SUPPLEMENTAL COMPENSATION.--

(a) In addition to the compensation now paid by an
 employing agency to any firefighter, every firefighter shall be
 paid supplemental compensation by the employing agency when such
 firefighter has complied with one of the following criteria:

1. Any firefighter who receives an associate degree from a
 college, which degree is applicable to fire department duties,
 as outlined in policy guidelines of the division, shall be
 additionally compensated as outlined in paragraph (3) (a).

2. Any firefighter, regardless of whether or not she or he
 earned an associate degree earlier, who receives from an
 accredited college or university a bachelor's degree, which
 bachelor's degree is applicable to fire department duties, as
 outlined in policy guidelines of the division, shall receive
 compensation as outlined in paragraph (3) (b).

29 3. Any firefighter, regardless of whether or not she or he
 30 earned a bachelor's degree earlier, who receives from an
 31 accredited college or university a master's degree, which
 32 master's degree is applicable to fire department duties, as
 33 outlined in policy guidelines of the division, shall receive
 34 compensation as outlined in paragraph (3)(c).

35 (b) Whenever any question arises as to the eligibility of
 36 any firefighter to receive supplemental compensation as provided
 37 in this section, the question, together with all facts relating
 38 thereto, shall be submitted to the division for determination,
 39 and the decision of the division with regard to determination of
 40 eligibility shall be final, subject to the provisions of chapter
 41 120.

42 (3) SUPPLEMENTAL COMPENSATION.--Supplemental compensation
 43 shall be determined as follows:

44 (a) One hundred and twenty-five ~~Fifty~~ dollars shall be
 45 paid monthly to each firefighter who qualifies under ~~the~~
 46 ~~provisions of~~ subparagraph (2)(a)1.

47 (b) Two ~~One hundred and ten~~ dollars shall be paid monthly
 48 to each firefighter who qualifies under ~~the provisions of~~
 49 subparagraph (2)(a)2.

50 (c) Three hundred dollars shall be paid monthly to each
 51 firefighter who qualifies under subparagraph (2)(a)3.

52 Section 2. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0797

COUNCIL/COMMITTEE ACTION

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

**THIS AMENDMENT IS
TRAVELING WITH THE
BILL. NO ACTION
REQUIRED**

1 Council/Committee hearing bill: Government Efficiency &
2 Accountability Council
3 Committee on Urban & Local Affairs offered the following:
4

Amendment (with directory and title amendments)

Between lines 13 and 14, insert:

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

(a) "Employing agency" means any municipality or any county, the state, or any political subdivision of the state, including authorities and special districts employing firefighters.

(b) "Firefighter" means any person who meets the definition of the term "firefighter" in s. 633.30(1) who is certified in compliance with s. 633.35 and who is employed solely within the fire department of the employing agency or is employed by the division or any person who meets the definition of the term "firesafety inspector" in s. 633.021(10) and who is employed solely within the fire department of the employing agency or is employed by the division.

===== D I R E C T O R Y A M E N D M E N T =====

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

22 Remove line 11 and insert:

23 Section 1. Subsections (1), (2), and (3) of section
24 633.382,

25

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

27 Remove line 3 and insert:

28 F.S.; revising the definition of the term "firefighter" to
29 include certain firesafety inspectors; specifying qualifications
30 for and amount of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0797

COUNCIL/COMMITTEE ACTION

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

THIS AMENDMENT IS TRAVELING WITH THE BILL. NO ACTION REQUIRED

1 Council/Committee hearing bill: Government Efficiency &
 2 Accountability Council
 3 Committee on Urban & Local Affairs offered the following:

Amendment (with title amendment)

Remove lines 19 and 20 and insert:

7 1. Any firefighter who receives an associate degree from
 8 an accredited a college or university, which degree is
 9 applicable to fire department duties,

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

Remove line 3 and insert:

13 F.S.; revising supplemental compensation qualifications for a
 14 firefighter receiving an associate degree to provide that the
 15 degree must be obtained from an accredited college or
 16 university; specifying qualifications for and amount of

000000

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 993 Escambia County
SPONSOR(S): Evers
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Urban & Local Affairs	8 Y, 0 N	Nelson <i>LPN</i>	Kruse <i>M/K</i>
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill repeals a 1957 special act which required the enclosure of clay pits, caves or other depressions in Escambia County. The Escambia County Board of County Commissioners recently enacted a comprehensive county ordinance to address the subject matter of the special act.

The bill has an effective date of upon becoming law.

According to the Economic Impact Statement, this bill will have no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

This bill repeals ch. 57-1291, F.S., a special act which required the enclosure of clay pits, caves or other depressions in Escambia County that were "so located and of such depth that a child might conceivably be drowned...." Owners, lessors or occupants of any real property containing a depression of this type were required to enclose the area with a fence or other device of a height of at least four feet. The Escambia County Board of County Commissions has indicated that this law was "overbroad" and never enforced, and that the board recently enacted a county ordinance to address the subject matter of the special act.

This Escambia County ordinance, Chapter 42, Article IV, Division 2, Sec. 42-111 through Sec. 42-113, was enacted by the board on January 4, 2007, and filed with the Department of State on January 9, 2007. It provides for conditions constituting nuisances (including excavations, holes and pits), and the methods of abatement, as well as for enforcement by county code enforcement officers.

The bill has an effective date of upon becoming law.

C. SECTION DIRECTORY:

Section 1: Repeals ch. 57-1291, F.S., a special act relating to Escambia County requiring the enclosure of certain depressions.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 10, 2006

WHERE? The *Pensacola News Journal*, a newspaper of general circulation published in Escambia County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill will have no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Chapter 57-1291, L.O.F., the act which is repealed by the bill, was amended by ch. 2002-379, L.O.F. The bill should be amended to also repeal that act.

Other Comments

The Escambia County Board of County Commissioners supports this bill.¹

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 7, 2007, the Urban & Local Affairs Committee adopted an amendment which repeals ch. 2002-379, L.O.F., a special act which amended the act that this bill repeals. This act had provided an exception for a stormwater management facility within the City of Pensacola constructed in accordance with uniform state rules or more-restrictive local government ordinances.

¹ Janet Lander, Escambia County Attorney, in a telephone conversation on March 1, 2007.

993

PENSACOLA News Journal

Informed. In Tune. In Touch.

Published Daily-Pensacola, Escambia County, FL

PROOF OF PUBLICATION

State of Florida

County of Escambia:

Before the undersigned authority personally appeared **LESLEY L. WHALEY** who on oath, says that she is a personal representative of the Pensacola News Journal, a daily newspaper published in Escambia County, Florida; that the attached copy of advertisement, being a Legal in the matter of:

NOTICE OF INTENT TO SEEK ENACTMENT OF LEGISLATION

Was published in said newspaper in the issue(s) of:

NOVEMBER 10, 2006

Affiant further says that the said Pensacola News Journal is a newspaper published in said Escambia County, Florida, and that the said newspaper has heretofore been published in said Escambia County, Florida, and has been entered as second class matter at the Post Office in said Escambia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 23RD Day of JANUARY, 2007, by **LESLEY L. WHALEY** who is personally known to me.

Lesley L. Whaley Affiant

Nikki E. Nichols Notary Public

NIKKI E. NICHOLS
Notary Public-State of FL
Comm. Exp. Aug. 01, 2009
Comm. No. DD 427341

NOTICE OF INTENT TO SEEK ENACTMENT OF LEGISLATION
NOTICE IS HEREBY GIVEN of the Intention of the Board of County Commissioners of Escambia County, Florida to seek enactment, during the 2007 Regular Session of the Florida Legislature or a subsequent Special Session, of an act relating to Escambia County; repealing chapter 57-1291, Laws of Florida, in its entirety pertaining to enclosure of certain pits and depressions; providing an effective date.
Board of County Commissioners
Escambia County, Florida
Legal No. 70033 1T Nov. 10, 2006

HOUSE OF REPRESENTATIVES

2007 LOCAL BILL CERTIFICATION

BILL #: 993
 SPONSOR(S): REP. EVERS
 RELATING TO: ESCAMBIA COUNTY
[Indicate Area Affected (City, County, Special District) and Subject]
 NAME OF DELEGATION: ESCAMBIA COUNTY DELEGATION
 CONTACT PERSON: MIKE BERGLUND
 PHONE # and E-Mail: 488-8188

I. House policy requires that three things occur before a council or a committee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) a local public hearing by the legislative delegation must be held in the area affected; and (3) at or after any local public hearing, held for the purpose of hearing the local bill issue(s), the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the legislative delegation. Local bills will not be considered by a council or a committee without a completed, original Local Bill Certification Form.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished locally? YES NO

(2) Has a public hearing been held? YES NO

Date hearing held: DEC. 13, 2006

Location: PENSACOLA JUNIOR COLLEGE, PENSACOLA

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

YES NO UNIT RULE UNANIMOUS

II. Article III, Section 10, of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES NO DATE Nov. 10, 2006

Where? PENSACOLA NEWS JOURNAL County ESCAMBIA

Referendum in lieu of publication: YES NO

III. Article VII, Section 9(b), of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

Has this constitutional taxation requirement been met?

YES NO NOT APPLICABLE

House policy requires that an Economic Impact Statement for local bills be prepared at the local level.

Rep. Mike Evers 3/5/2007
 Delegation Chair (Original Signature) / Date

HOUSE OF REPRESENTATIVES

2006 ECONOMIC IMPACT STATEMENT

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

BILL #: HB 993
 SPONSOR(S): EVANS
 RELATING TO: Escambia County / Clay Pits / Enclosure
[Indicate Area Affected (City, County, Special District) and Subject]

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures: FY 06-07 FY 07-08

*** NO FINANCIAL OBLIGATION**

II. ANTICIPATED SOURCE(S) OF FUNDING:

Federal: FY 06-07 FY 07-08
 State:
 Local:

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues: FY 06-07 FY 07-08

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages:

Disadvantages:

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Co./Dept.	Roads	Co.	Adminis		
Phone #		Phone #	595-9924		
Fax #	9322160	Fax #			

Economic Impact Statement
PAGE 2

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

PREPARED BY: Pat Overton 2-22-07
[Must be signed by Preparer] date

TITLE: ROAD DEPARTMENT DIRECTOR

REPRESENTING: ESCAMBIA COUNTY BCC

PHONE: (850-937-2122)

E-Mail Address: pat_overton@escambia.fl.us

HB 993

2007

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A bill to be entitled
An act relating to Escambia County; repealing chapter 57-1291, Laws of Florida, relating to the requirement to enclose clay pits and all depressions of a certain depth upon lands in the county; providing an effective date.

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

Section 1. Chapter 57-1291, Laws of Florida, is repealed.

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

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. HB 993

COUNCIL/COMMITTEE ACTION

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

**THIS AMENDMENT IS
TRAVELING WITH THE
BILL. NO ACTION
REQUIRED**

1 Council/Committee hearing bill: Government Efficiency &
2 Accountability Council
3 Committee on Urban & Local Affairs offered the following:

Amendment (with title amendments)

Between line(s) 9 and 10 insert:

Section 2. Chapter 2002-379, Laws of Florida, is repealed.

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

9
10 On line 5 after the semi colon insert: repealing chapter
11 2002-379, Laws of Florida, amending s. 1, ch. 57-1291, Laws of
12 Florida; providing an exception for stormwater management
13 facilities to a requirement of enclosures around certain
14 depressions;

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1051 Property Tax Exemptions for Totally and Permanently Disabled Persons
SPONSOR(S): Meador and others
TIED BILLS: IDEN./SIM. BILLS: SB 1744

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Government Efficiency & Accountability Council		Ligas AAL	Cooper [Signature]
2) Policy & Budget Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

Unless expressly exempted, all real and personal property belonging to residents of Florida is subject to taxation. Current statute provides that any real estate used and owned as a homestead by a totally and permanently disabled person, who is legally blind, is exempt from taxation. The person applying for the exemption must provide certification of disability from two physicians.

This bill authorizes optometrists to certify disability based on legal blindness for the purposes of tax exemptions on homestead property. It still requires one of the two persons certifying the disability due to legal blindness to be a physician.

There does not appear to be a fiscal impact on state or local government.

This bill has an effective date of July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes – provides for greater accessibility for tax exemptions on homestead property for disabled persons.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Tax Exemption

Unless expressly exempted, all real and personal property belonging to residents of Florida is subject to taxation.¹ Current statute provides that any real estate used and owned as a homestead² by a totally and permanently disabled person,³ who is legally blind, is exempt from taxation.⁴

Determination of Disability

Any person seeking the total and permanent disability exemption must produce a certificate of disability from two licensed doctors of this state or certification from the U.S. Department of Veteran Affairs⁵ to the property appraiser of the county wherein the property lies. The certificate of disability will serve as prima facie evidence of entitlement to the exemption.⁶

The physician's certification requires an affirmation, by a physician licensed pursuant to chapter 458 or chapter 459, F.S., that a person is totally and permanently disabled due to the following mental or physical condition(s): quadriplegia, paraplegia, hemiplegia, other total and permanent disability requiring use of a wheelchair for mobility, or legal blindness.

The certification provides a notice to the taxpayer that on or before March 1 of each year, he or she must present a copy of the certification form or a letter from the U.S. Department of Veteran Affairs to the county property appraiser to apply for a total and permanent disability exemption. The certification also notifies both taxpayers and physicians that there are criminal penalties for any person found guilty of knowingly and willfully providing false information for the purpose of claiming a disability exemption.

Pursuant to chapter 458, physician means a person who is licensed to practice medicine in this state. Moreover, the practice of medicine is the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental condition.⁷

According to chapter 459, an osteopathic physician is a person who is licensed to practice osteopathic medicine in this state. The practice of osteopathic medicine is defined as the diagnosis, treatment, operation, or prescription for any human disease, pain, injury, deformity, or other physical or mental

¹ Fla. Stat. § 196.001(1) (2006).

² "Real estate used and owned as a homestead" means real property to the extent provided in s. 6(a), Art. VII of the Florida Constitution, but less any portion thereof used for commercial purposes, with the title of such property being recorded in the official records of the county in which the property is located. Fla. Stat. §196.012(13) (2006).

³ "Totally and permanently disabled person" means a person who is currently certified by two licensed physicians of this state who are professionally unrelated, by the U.S. Department of Veterans Affairs or its predecessor, or by the Social Security Administration, to be totally and permanently disabled. Fla. Stat. § 196.012(11) (2006).

⁴ Fla. Stat. §196.101(2) (2006).

⁵ The predecessor to the U.S. Department of Veteran Affairs is an acceptable substitute for certification of disability. Fla. Stat. § 196.101(3) (2006).

⁶ Fla. Stat. § 196.101(3) (2006).

⁷ Fla. Stat. § 458.305(3) (2006).

condition, which practice is based in part upon educational standards and requirements which emphasize the importance of the musculoskeletal structure and manipulative therapy in the maintenance and restoration of health.⁸

Legal blindness is statutorily defined as central visual acuity of 20/200 or less in the better eye with the use of a correcting glasses or a disqualifying field defect in which the peripheral field has contracted to such an extent that the widest diameter or visual field subtends an angular distance no greater than 20 degrees.⁹

Income Limitation

Additionally, applicants seeking to qualify for exemption must meet income requirements. The gross income¹⁰ of all persons residing in or upon the homestead for the prior year may not exceed \$14,500.¹¹ This figure is adjusted yearly based on the percentage change in the average cost-of-living index from the previous year. The amount for FY 06-07 is \$23,604.¹² According to statute, the Department of Revenue must require the taxpayer to annually submit a sworn statement of gross income as well as copies of federal income tax returns, wage and earnings statements, and other documents it deems necessary, for each member of the household.¹³ The statement must also attest to the accuracy of the other documents. The person must also be a permanent resident of the state and must provide an affidavit claiming residence.¹⁴

Practice of Optometry

The practice of optometry is regulated pursuant to chapter 463. Optometry is the diagnosis of conditions of the human eye and its appendages; the employment of any objective or subjective means or methods, including the administration of topical ocular pharmaceutical agents, for the purpose of determining the refractive powers of the human eyes, or any visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages.¹⁵ Optometry also includes the prescribing and employment of lenses, prisms, frames, mountings, contact lenses, orthoptic exercises, light frequencies, and any other means or methods, including topical ocular pharmaceutical agents, for the correction, remedy, or relief of any insufficiencies or abnormal conditions of the human eyes and their appendages.¹⁶

Presently, optometrists are authorized to certify disability for the purposes of issuing disabled parking permits.¹⁷

⁸ Fla. Stat. § 459.003(3) (2006).

⁹ Fla. Stat. § 413.033(1) (2006).

¹⁰ "Gross income" includes U.S. Department of Veteran Affairs benefits and social security benefits paid to the persons. Fla. Stat. § 196.101(4)(a) (2006).

¹¹ Fla. Stat. § 196.101(4)(b) (2006).

¹² As reported by the Department of Revenue on March 13, 2007.

¹³ Fla. Stat. § 196.101(4)(c) (2006).

¹⁴ Fla. Stat. § 196.101(4)(a) (2006).

¹⁵ "Optometry" means the diagnosis of conditions of the human eye and its appendages; the employment of any objective or subjective means or methods, including the administration of topical ocular pharmaceutical agents, for the purpose of determining the refractive powers of the human eyes, or any visual, muscular, neurological, or anatomic anomalies of the human eyes and their appendages; and the prescribing and employment of lenses, prisms, frames, mountings, contact lenses, orthoptic exercises, light frequencies, and any other means or methods, including topical ocular pharmaceutical agents, for the correction, remedy, or relief of any insufficiencies or abnormal conditions of the human eyes and their appendages. Fla. Stat. §463.00 (5) (2006).

¹⁶ Fla. Stat. § 463.002(3) and (4) (2006).

¹⁷ Fla. Stat. § 320.0848(1)(b)(2) (2006).

Effect of Proposed Changes

The bill provides that optometrists may provide certification of legal blindness for the purposes of applying for a total and permanent disability tax exemption on a homestead property. The bill still requires that at least one of the two certificates of disability be signed by a physician.

The bill also states that optometrists, licensed under ch. 463, F.S., may certify disability by using the existing certification form found in s.196.101(5), F.S.

C. SECTION DIRECTORY:

Section 1 amends s.196.101, F.S., to authorize an optometrist, licensed under ch. 463, F.S., to certify a person to be disabled as a result of legal blindness for the purposes of a homestead tax exemption.

Section 2 provides an effective date of July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

This bill does not create, modify, amend, or eliminate a state expenditure.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

This bill does not create, modify, amend, or eliminate an expenditure for local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create, modify, or eliminate rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues:

Line 16 uses the term "legal blindness." Line 18 uses the term "blindness." For purposes of internal consistency, line 18 should read "legal blindness."

The bill states that optometrists, licensed under ch. 463, F.S., may certify disability by using the existing certification form found in s.196.101(5), F.S. To avoid potential implementation issues, a subsection (7) may need to be created to provide the language and form of an optometrist's certification for purposes of this section.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

HB 1051

2007

1 A bill to be entitled
 2 An act relating to property tax exemptions for totally and
 3 permanently disabled persons; amending s. 196.101, F.S.;
 4 providing for certification of total and permanent
 5 disability due to blindness for purposes of such
 6 exemption; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Subsection (6) is added to section 196.101,
 11 Florida Statutes, to read:

12 196.101 Exemption for totally and permanently disabled
 13 persons.--

14 (6) An optometrist licensed under chapter 463 may certify
 15 a person to be totally and permanently disabled as a result of
 16 legal blindness alone by issuing a certification in accordance
 17 with subsection (5). Certification of total and permanent
 18 disability due to blindness by a physician and an optometrist
 19 licensed in this state may be deemed to meet the requirements of
 20 subsection (3).

21 Section 2. This act shall take effect July 1, 2007.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GEAC 07-17 Trust Fund/DOR/DMA
SPONSOR(S): Government Efficiency & Accountability Council
TIED BILLS: **IDEN./SIM. BILLS:** SB 1308, SB 1320

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Government Efficiency & Accountability Council		Rayman <i>SR</i>	Cooper <i>RC</i>
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill makes changes to certain trust funds pursuant to section 215.3206, Florida Statutes, which requires a legislative review of each of the trust funds in an agency subject to the four year review cycle. The bill provides for termination or modification of specified trust funds within the Department of Revenue and the Department of Military Affairs.

This bill terminates three trust funds within the Department of Revenue, re-designates one trust fund within the Department of Revenue, and renames one trust fund within the Department of Military Affairs.

This bill substantially amends the following sections of the Florida Statutes: 215.20, 250.175, 538.09, and 538.25.

This bill takes effect on July 1, 2007, except as otherwise expressly provided in the act.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Background:

Review of trust funds is required by s. 215.3208, F.S., and s. 19(f), Art. III of the State Constitution. The Legislature, through the legislative budget instructions, has placed agencies on a review cycle to facilitate the review and recreation of trust funds.

A trust fund analysis by staff under the jurisdiction of the Government Efficiency & Accountability Council resulted in the following findings.

Department of Revenue

Apalachicola Bay Oyster Surcharge Clearing Trust Fund, FLAIR number 73-2-028

The Apalachicola Bay Oyster Surcharge Clearing Trust Fund was used for recording and accounting of the \$.50 surcharge collection on each 60 pound bag of oysters, paid by wholesale dealers. Chapter 2006-185, L.O.F., abolished the surcharge. The Department of Revenue has requested termination of this fund, as it is no longer needed.

Effective July 1, 2008, the bill terminates the Apalachicola Bay Oyster Surcharge Clearing Trust Fund. The fund is no longer used, all current balances remaining in the trust fund are transferred to the General Inspection Trust Fund within the Department of Agriculture and Consumer Services.

Effective July 1, 2008, the bill amends s. 215.20(4)(p), F.S., to remove the trust fund from the list of trust funds required to contribute a service charge of 0.3 percent appropriated from income of a revenue nature deposited into the trust fund to be deposited into the General Revenue Fund.

Secondhand Dealers and Secondary Metals Recycler Clearing Trust Fund, FLAIR number 73-2-617

The Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund is used for controlling and accounting of fingerprinting and registration fees of secondhand dealer and metals recyclers pending transfer to the Florida Department of Law Enforcement (FDLE). Currently, these fees are deposited into the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund, then transferred to the Administrative Trust Fund, and finally transferred to FDLE. The Department of Revenue has requested to transfer these fees directly to the Operations Trust Fund. Termination of the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund will streamline the process and deposit fees directly into the Operations Trust Fund for transfer. The fees pay for the processing of fingerprints by FDLE.

Effective July 1, 2008, the bill terminates the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund. All current balances remaining in the trust fund are transferred to the Operations Trust Fund within the Department of Revenue.

Effective July 1, 2008, the bill amends s. 215.20(4)(p), F.S., to remove the trust fund from the list of trust funds required to contribute a service charge of 0.3 percent appropriated from income of a revenue nature deposited into the trust fund to be deposited into the General Revenue Fund. The bill also adds the Operations Trust fund to the list of trust funds required to contribute the service charge of

also adds the Operations Trust fund to the list of trust funds required to contribute the service charge of 0.3 percent appropriated from income of a revenue nature deposited into the trust fund to be deposited into the General Revenue Fund. Therefore, there is no fiscal impact to the General Revenue Fund.

Effective July 1, 2008, the bill amends s. 538.09(1), F.S., to redirect future deposits from the Secondhand Dealers and Metals Recycler Clearing Trust Fund to the Operations Trust Fund of the Department of Revenue.

Effective July 1, 2008, the bill amends s. 538.25(1)(a), F.S., to remove references to the Secondhand Dealers and Metals Recycler Clearing Trust Fund and to redirect fees into the Operations Trust Fund of the Department of Revenue.

Fuel Tax Refund Payments Clearing Trust Fund, FLAIR number 73-2-317

The Fuel Tax Refund Payments Trust Fund was historically used for the controlling and accounting of fuel tax refunds earmarked to taxpayers and has been inactive in recent years. Currently, fuel tax refunds are processed directly from the Gas Tax Collection Trust Fund.

The bill terminates the Fuel Tax Refund Payments Trust Fund. No current balances or obligations remain in the trust fund.

Land Reclamation Trust Fund, FLAIR number 73-2-426

In review of the Land Reclamation Trust Fund it was found that the trust fund was previously terminated and found to be obsolete.

Effective July 1, 2008, the bill amends s. 215.20(4)(p), F.S., to remove the Land Reclamation Trust Fund from the list of trust funds required to contribute a service charge of 0.3 percent appropriated from income of a revenue nature deposited into the trust fund to be deposited into the General Revenue Fund. Since the trust fund is no longer used, there is no fiscal impact on the General Revenue Fund.

Department of Military Affairs

Cooperative Agreement Trust Fund, FLAIR number 62-2-039

Section 215.32(2)(b), F.S. defines the purposes and uses of various trust funds to be used in day to day operations and directs agencies, to the extent possible, to use existing trust funds consistent with the statutory guidelines. Department of Military Affairs has recommended that the Cooperative Grants Trust Fund be renamed the Federal Grants Trust Fund as directed by s. 215.3208, F.S. Currently, the Cooperative Agreement Trust Fund is used for the receipt of federal funds received by the department under cooperative agreements between federal and state governments to perform tasks specified in the agreements.

The bill renames the Cooperative Agreement Trust Fund within the Department of Military Affairs to the Federal Grants Trust Fund to be consistent with s. 215.32(2)(b), F.S.

This bill amends section 250.175(4)(a) F. S., to change the reference of the Cooperative Agreement Trust Fund to the Federal Grants Trust Fund within the Department of Military Affairs.

C. SECTION DIRECTORY:

Section 1. Terminates the Apalachicola Bay Oyster Surcharge Clearing Trust Fund, Secondhand Dealers and Secondary Metals Recycler Clearing Trust Fund, and Fuel Tax Refund Payments Clearing Trust Fund within the Department of Revenue; provides for disposition of debts, obligations, and cash balances in funds; provides an effective date.

Section 2. Amends s. 215.20(4)(p), F.S., effective July 1, 2008, to remove references to the Apalachicola Bay Oyster Surcharge Clearing Trust Fund, the Land Reclamation Trust Fund, and the Secondhand Dealers and Secondary Metals Recycler Clearing Trust Fund and adds reference to the Operations Trust Fund, within the Department of Revenue.

Section 3. Renames the Cooperative Agreement Trust Fund within the Department of Military Affairs to the Federal Grants Trust Fund.

Section 4. Amends section 250.175(4)(a) F. S., to change the reference of the Cooperative Agreement Trust Fund to the Federal Grants Trust Fund within the Department of Military Affairs.

Section 5. Amends s. 538.09(1), F.S., effective July 1, 2008, to redirect future deposits from the Secondhand Dealers and Metals Recycler Clearing Trust Fund to the Operations Trust Fund within the Department of Revenue.

Section 6. Amends s. 538.25(1)(a), F.S., effective July 1, 2008, to remove references to the Secondhand Dealers and Metals Recycler Clearing Trust Fund and to redirect fees into the Operations Trust Fund of the Department of Revenue.

Section 7. Provides that the bill shall take effect July 1, 2007, except as otherwise expressly provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill makes changes to certain trust funds pursuant to section 215.3206, Florida Statutes, which requires a legislative review of each of the trust funds in an agency subject to the four year review cycle. The bill provides for termination or modification of specified trust funds within the Department of Revenue and the Department of Military Affairs. There is no impact on total state revenue or expenditures.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

No impact of municipal or county governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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BILL

ORIGINAL

YEAR

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A bill to be entitled
 An act relating to trust funds; terminating specified trust funds within the Department of Revenue; providing for disposition of balances in and revenues of such trust funds; prescribing procedures for the termination of such trust funds; amending s. 215.20, F.S., relating to the service charge on income of trust funds; redesignating the Cooperative Agreement Trust Fund within the Department of Military Affairs; amending s. 250.175, F.S., relating to trust funds within the Department of Military Affairs; amending ss. 538.09 and 538.25, F.S., relating to the deposit of registration fees from secondhand dealers and secondary metals recyclers; conforming provisions to changes made by the act; providing effective dates.

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

Section 1. (1) The following trust funds within the Department of Revenue are terminated:

(a) The Apalachicola Bay Oyster Surcharge Clearing Trust Fund, FLAIR number 73-2-028. All current balances remaining in the Apalachicola Bay Oyster Surcharge Clearing Trust Fund, FLAIR number 73-2-028 shall be transferred to the General Inspection Trust Fund within the Department of Agriculture and Consumer Services, FLAIR number 42-2-321.

(b) Effective July 1, 2008, the Secondhand Dealer and Secondary Metals Recycler Clearing Trust Fund, FLAIR number 73-2-617. All current balances remaining in the trust fund on the

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BILL

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29 | date of termination shall be transferred to the Operations
 30 | Trust Fund within the Department of Revenue.

31 | (c) The Fuel Tax Refund Payments Trust Fund, FLAIR number
 32 | 73-2-317.

33 | (2) The Department of Revenue shall pay any outstanding
 34 | debts and obligations of the terminated funds as soon as
 35 | practicable, and the Chief Financial Officer shall close out and
 36 | remove the terminated funds from various state accounting
 37 | systems using generally accepted accounting principles
 38 | concerning warrants outstanding, assets, and liabilities.

39 | Section 2. Effective July 1, 2008, paragraph (p) of
 40 | subsection (4) of section 215.20, Florida Statutes, is amended to
 41 | read:

42 | 215.20 Certain income and certain trust funds to contribute
 43 | to the General Revenue Fund.--

44 | (4) The income of a revenue nature deposited in the
 45 | following described trust funds, by whatever name designated, is
 46 | that from which the appropriations authorized by subsection (3)
 47 | shall be made:

48 | (p) Within the Department of Revenue:

49 | 1. The Additional Court Cost Clearing Trust Fund.

50 | 2. The Administrative Trust Fund.

51 | ~~3. The Apalachicola Bay Oyster Surcharge Clearing Trust~~
 52 | ~~Fund.~~

53 | 34. The Certification Program Trust Fund.

54 | 45. The Fuel Tax Collection Trust Fund.

55 | ~~6.~~ ~~The Land Reclamation Trust Fund.~~

56 | 57. The Local Alternative Fuel User Fee Clearing Trust
 57 | Fund.

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BILL ORIGINAL YEAR

- 58 | 68. The Local Option Fuel Tax Trust Fund.
- 59 | 79. The Motor Vehicle Rental Surcharge Clearing Trust Fund.
- 60 | ~~810.~~ The Motor Vehicle Warranty Trust Fund.
- 61 | ~~911.~~ The Oil and Gas Tax Trust Fund.
- 62 | 10. The Operations Trust Fund.
- 63 | ~~12.~~ ~~The Secondhand Dealer and Secondary Metals Recycler~~
- 64 | ~~Clearing Trust Fund.~~
- 65 | 1113. The Severance Tax Solid Mineral Trust Fund.
- 66 | 1214. The State Alternative Fuel User Fee Clearing Trust
- 67 | Fund.
- 68 | 1315. All taxes levied on motor fuels other than gasoline
- 69 | levied pursuant to the provisions of s. 206.87(1)(a).

70
 71 The enumeration of the foregoing moneys or trust funds shall not
 72 prohibit the applicability thereto of s. 215.24 should the
 73 Governor determine that for the reasons mentioned in s. 215.24
 74 the money or trust funds should be exempt herefrom, as it is the
 75 purpose of this law to exempt income from its force and effect
 76 when, by the operation of this law, federal matching funds or
 77 contributions or private grants to any trust fund would be lost
 78 to the state.

79 Section 3. The Cooperative Agreement Trust Fund within the
 80 Department of Military Affairs, FLAIR number 62-2-039, is renamed
 81 to be the Federal Grants Trust Fund.

82 Section 4. Subsection (4) of section 250.175, Florida
 83 Statutes, is amended to read:

84 250.175 Trust funds; authorization; name; purpose.--

85 (4)(a) The Federal Grants ~~Cooperative Agreement~~ Trust Fund
 86 is created within the Department of Military Affairs. The

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BILL ORIGINAL YEAR

87 department shall deposit into the trust fund federal funds
 88 received by the department under cooperative agreements between
 89 the federal and state governments, which shall be used to perform
 90 the functions and tasks specified in the agreements. The
 91 department shall also deposit into the trust fund other funds
 92 received by the department.

93 (b) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 94 any balance in the trust fund at the end of any fiscal year shall
 95 remain in the trust fund and is available for carrying out the
 96 purposes of the trust fund.

97 Section 5. Effective July 1, 2008, subsection (1) of
 98 section 538.09, Florida Statutes, is amended to read:

99 538.09 Registration.--

100 (1) A secondhand dealer shall not engage in the business of
 101 purchasing, consigning, or trading secondhand goods from any
 102 location without registering with the Department of Revenue. A
 103 fee equal to the federal and state costs for processing required
 104 fingerprints must be submitted to the department with each
 105 application for registration. One application is required for
 106 each dealer. If a secondhand dealer is the owner of more than one
 107 secondhand store location, the application must list each
 108 location, and the department shall issue a duplicate registration
 109 for each location. For purposes of subsections (4) and (5) of
 110 this section, these duplicate registrations shall be deemed
 111 individual registrations. A dealer shall pay a fee of \$6 per
 112 location at the time of registration and an annual renewal fee of
 113 \$6 per location on October 1 of each year. All fees collected,
 114 less costs of administration, shall be transferred into the
 115 Operations ~~a trust fund to be established and entitled the~~

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BILL ORIGINAL YEAR

116 ~~Secondhand Dealer and Secondary Metals Recycler Clearing~~ Trust
 117 Fund. The Department of Revenue shall forward the full set of
 118 fingerprints to the Department of Law Enforcement for state and
 119 federal processing, provided the federal service is available, to
 120 be processed for any criminal justice information as defined in
 121 s. 943.045. The cost of processing such fingerprints shall be
 122 payable to the Department of Law Enforcement by the Department of
 123 Revenue. The department may issue a temporary registration to
 124 each location pending completion of the background check by state
 125 and federal law enforcement agencies, but shall revoke such
 126 temporary registration if the completed background check reveals
 127 a prohibited criminal background. An applicant for a secondhand
 128 dealer registration must be a natural person who has reached the
 129 age of 18 years.

130 (a) If the applicant is a partnership, all the partners
 131 must apply.

132 (b) If the applicant is a joint venture, association, or
 133 other noncorporate entity, all members of such joint venture,
 134 association, or other noncorporate entity must make application
 135 for registration as natural persons.

136 (c) If the applicant is a corporation, the registration
 137 must include the name and address of such corporation's
 138 registered agent for service of process in the state and a
 139 certified copy of statement from the Secretary of State that the
 140 corporation is duly organized in the state or, if the corporation
 141 is organized in a state other than Florida, a certified copy of
 142 statement from the Secretary of State that the corporation is
 143 duly qualified to do business in this state. If the dealer has
 144 more than one location, the application must list each location

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BILL ORIGINAL YEAR

145 owned by the same legal entity and the department shall issue a
 146 duplicate registration for each location.

147 Section 6. Effective July 1, 2008, paragraph (a) of
 148 subsection (1) of section 538.25, Florida Statutes, is amended to
 149 read:

150 538.25 Registration.--

151 (1) No person shall engage in business as a secondary
 152 metals recycler at any location without registering with the
 153 department.

154 (a) A fee equal to the federal and state costs for
 155 processing required fingerprints must be submitted to the
 156 department with each application for registration. One
 157 application is required for each secondary metals recycler. If a
 158 secondary metals recycler is the owner of more than one secondary
 159 metals recycling location, the application must list each
 160 location, and the department shall issue a duplicate registration
 161 for each location. For purposes of subsections (3), (4), and (5),
 162 these duplicate registrations shall be deemed individual
 163 registrations. A secondary metals recycler shall pay a fee of \$6
 164 per location at the time of registration and an annual renewal
 165 fee of \$6 per location on October 1 of each year. All fees
 166 collected, less costs of administration, shall be transferred
 167 into the Operations Trust Fund ~~Secondhand Dealer and Secondary~~
 168 ~~Metals Recycler Clearing Trust Fund established pursuant to s.~~
 169 ~~538.09.~~

170 Section 7. Except as otherwise expressly provided in this
 171 act, this act shall take effect July 1, 2007.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

1. MAJOR STATUTES THAT CONTROL THE TRUST FUND:

Section 250.175(2)(a) of the Florida Statutes, created the trust fund within the Department of Military Affairs.

2. BRIEF DESCRIPTION OF THE FUND'S USES OR PURPOSES:

The trust fund is used to pay all operational costs incurred by the Florida National Guard when called to active duty. The Emergency Response Trust Fund is used by the Department of Military Affairs.

3. MAJOR SOURCES OF REVENUE FOR THE FUND:

The revenue sources for this trust fund are Federal Emergency Management Agency (FEMA) reimbursements and transfers of state funds when approved by budget amendments processed pursuant to chapter 216, Florida Statutes.

4. TOTAL PROJECTED RECEIPTS INTO THE FUND AND CURRENT YEAR APPROPRIATIONS FROM THE FUND:

Reimbursements from FEMA for the costs of activating the Florida National Guard and transfers of state funds approved by budget amendments processed under chapter 216, Florida Statutes, shall be deposited into the trust fund. Costs associated with Tropical Storm Ernesto during the 2006 hurricane season have been deposited into the trust fund.

B. EFFECT OF PROPOSED CHANGES:

The bill re-creates the trust fund without modification.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

IV. COMMENTS

V. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to trust funds; re-creating the Emergency
 3 Response Trust Fund within the Department of Military
 4 Affairs; reenacting and amending s. 250.175(2), F.S.,
 5 relating to the Emergency Response Trust Fund; providing
 6 for sources of funds and purposes; providing for future
 7 review and termination or re-creation of the trust fund;
 8 providing for annual carryforward of funds; providing an
 9 effective date.

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

12
 13 Section 1. The Emergency Response Trust Fund, FLAIR number
 14 62-2-087, is created within the Department of Military Affairs.

15 Section 2. Notwithstanding the repeal contained in section
 16 14 of chapter 2003-68, Laws of Florida, subsection (2) of section
 17 250.175, Florida Statutes, is reenacted and amended to read:

18 250.175 Trust funds; authorization; name; purpose.--

19 (2) (a) The Emergency Response Trust Fund is created within
 20 the Department of Military Affairs. Reimbursements from the
 21 Federal Emergency Management Agency for the costs of activating
 22 the Florida National Guard and transfers of state funds approved
 23 by budget amendments processed under chapter 216 shall be
 24 deposited into the trust fund. The trust fund shall be used to
 25 pay all operational costs incurred by the Florida National Guard
 26 when called to active duty.

27 (b) In accordance with s. 19(f)(2), Art. III of the State
 28 Constitution, the Emergency Response Trust Fund shall, unless
 29 terminated sooner, be terminated on July 1, 2011 ~~2006~~. Before its

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BILL

ORIGINAL

YEAR

30 | scheduled termination, the trust fund shall be reviewed as
 31 | provided in s. 215.3206(1) and (2).

32 | (c) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 33 | any balance in the trust fund at the end of any fiscal year shall
 34 | remain in the trust fund and is available for carrying out the
 35 | purposes of the trust fund. The trust fund is exempt from the
 36 | service charges imposed by s. 215.20.

37 | Section 3. This act shall take effect July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Present situation:

Section 19(f), Art. III of the State Constitution requires that trust funds be created by a three-fifths vote of the membership in each house and be in a separate bill for the sole purpose of creating that trust fund. The Constitution also requires that all newly created agency trust funds terminate every four years unless recreated.

Section 215.3208(1), F.S., provides that, in order to implement s. 19(f), Art. III of the State Constitution, a schedule for review of trust funds be included in the legislative budget instructions developed pursuant to s. 216.023, F.S. The trust funds in the Department of Revenue are scheduled for review this year.

In order to meet accounting standards established by the Government Accounting Standards Board, s. 215.32, F.S., requires that agencies have trust funds for day-to-day operations. One of the required trust funds is an operations trust fund. The department currently does not have an operations trust fund. With its scheduled review of trust funds, the department has requested the creation of this trust fund to comply with s. 215.32, F.S.

Currently, revenues are deposited into designated clearing accounts for distribution. The department has statutory authority to use a percentage of those revenues to administer the General Tax Administration Program. The department distributes the appropriate amount from each revenue source and deposits it into the Administrative Trust Fund.

Proposed changes:

The creation of this trust fund will allow the department to receive funds to be used for operations within the General Tax Administration (GTA) program. The GTA program is responsible for remittance and distribution of multiple taxes in Florida. Under Florida Statutes, the department is authorized to recoup its operating costs on certain taxes. This trust fund will serve as the operating fund depository for those funds.

The creation of this trust fund will align agency accounts with the requirements of s. 215.32, F.S.

The trust fund will terminate in four years, on July 1, 2012, pursuant to s. 19 (f)(2), Art. II of the State Constitution, unless recreated by the Legislature.

C. SECTION DIRECTORY:

Section 1. Creates the Operations Trust Fund within the Department of Revenue for use as a depository for funds to be used for program operations funded by program revenues. Requires termination of the trust fund on July 1, 2012, unless re-created.

Section 2. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable

2. Other:

This bill creates a new trust fund and must pass the Legislature by a three-fifths vote of the membership of each house to become law pursuant to s. 19 (f), Article III of the State Constitution.

B. RULE-MAKING AUTHORITY:

Not required.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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BILL ORIGINAL YEAR

1 A bill to be entitled
 2 An act relating to trust funds; creating the Operations
 3 Trust Fund within the Department of Revenue; providing for
 4 sources of funds and purposes; providing for future review
 5 and termination or re-creation of the trust fund;
 6 providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:
 9

10 Section 1. (1) The Operations Trust Fund is created within
 11 the Department of Revenue.



12 (2) The fund is established for use as a depository for
 13 funds to be used for program operations funded by program
 14 revenues. Funds shall be expended only pursuant to legislative
 15 appropriation or an approved amendment to the department's
 16 operating budget pursuant to the provisions of chapter 216,
 17 Florida Statutes.

18 (3) In accordance with Section 19(f)(2), Article III of the
 19 State Constitution, the Operations Trust Fund shall, unless
 20 terminated sooner, be terminated on July 1, 2012. Before its
 21 scheduled termination, the trust fund shall be reviewed as
 22 provided in s. 215.3206(1) and (2), Florida Statutes.

23 Section 2. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GEAC 07-20 Federal Grants TF/DOR
SPONSOR(S): Government Efficiency & Accountability Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Government Efficiency & Accountability Council		Levin 	Cooper 
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill creates the Federal Grants Trust Fund within the Department of Revenue, effective July 1, 2008. This trust fund is established to be used for allowable grant activities funded by restricted program revenues. Funds that will be credited to the Federal Grants Trust Fund will consist of grants and funding from the federal government, interest earnings, and cash advances from other trust funds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Present situation:

Section 19(f), Art. III of the State Constitution requires that trust funds be created by a three-fifths vote of the membership in each house and be in a separate bill for the sole purpose of creating that trust fund. The Constitution also requires that all newly created agency trust funds terminate every four years unless recreated.

Section 215.3208(1), F.S., provides that, in order to implement s. 19(f), Art. III of the State Constitution, a schedule for review of trust funds be included in the legislative budget instructions developed pursuant to s. 216.023, F.S. The trust funds in the Department of Revenue are scheduled for review this year.

In order to meet accounting standards established by the Government Accounting Standards Board, s. 215.32, F.S., requires that agencies have trust funds for day-to-day operations. One of the required trust funds is a federal grants trust fund. The department currently does not have a federal grants trust fund. With its scheduled review of trust funds, the department has requested the creation of this trust fund to comply with s. 215.32, F.S.

Currently, federal funds are deposited into the Grants and Donations Trust Fund. Pursuant to s. 215.32, F.S., the Federal Grants Trust Fund is to be used as a depository for funds for allowable grant activities funded by restricted program revenues from federal sources.

Proposed changes:

The creation of this trust fund will allow the department to receive funds from grants and funding from the federal government, interest earnings, and cash advances from other trust funds. The department will use this trust fund as a depository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources.

The creation of this trust fund will align agency accounts with the requirements of s. 215.32, F.S.

The trust fund will terminate in four years, on July 1, 2012, pursuant to s. 19 (f)(2), Art. II of the State Constitution, unless recreated by the Legislature.

C. SECTION DIRECTORY:

Section 1. Creates the Grants and Donations Trust Fund within the Department of Revenue for use as a depository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources. Requires termination of the trust fund on July 1, 2012, unless re-created.

Section 2. Provides an effective date of July 1, 2008.

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:

No impact of municipal or county governments.

2. Other:

This bill creates a new trust fund and must pass the Legislature by a three-fifths vote of the membership of each house to become law pursuant to s. 19 (f), Article III of the State Constitution.

B. RULE-MAKING AUTHORITY:

Not required.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to trust funds; creating the Federal
 3 Grants Trust Fund within the Department of Revenue;
 4 providing for sources of funds and purposes; providing for
 5 future review and termination or re-creation of the trust
 6 fund; providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:
 9

10 Section 1. (1) The Federal Grants Trust Fund is created
 11 within the Department of Revenue.



12 (2) The trust fund is established for use as a depository
 13 for funds to be used for allowable grant activities funded by
 14 restricted program revenues from federal sources. Moneys to be
 15 credited to the trust fund shall consist of grants and funding
 16 from the Federal Government, interest earnings, and cash advances
 17 from other trust funds. Funds shall be expended only pursuant to
 18 legislative appropriation or an approved amendment to the
 19 department's operating budget pursuant to the provisions of
 20 chapter 216, Florida Statutes.

21 (3) In accordance with Section 19(f)(2), Article III of the
 22 State Constitution, the Federal Grants Trust Fund shall, unless
 23 terminated sooner, be terminated on July 1, 2012. Before its
 24 scheduled termination, the trust fund shall be reviewed as
 25 provided in s. 215.3206(1) and (2), Florida Statutes.

26 Section 2. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GEAC 07-21 Audit & Warrant Clearing TF/DOR
SPONSOR(S): Government Efficiency & Accountability Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Government Efficiency & Accountability Council		Levin 	Cooper 
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill creates the Audit and Warrant Clearing Trust Fund within the Department of Revenue, effective July 1, 2007. This trust fund is established for use as a depository for audit receipts, warrant receipts, and governmental leasehold receipts, and for subsequent distributions to appropriate entities and accounts.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Not applicable.

B. EFFECT OF PROPOSED CHANGES:

Present situation:

Section 19(f), Art. III of the State Constitution requires that trust funds be created by a three-fifths vote of the membership in each house and be in a separate bill for the sole purpose of creating that trust fund. The Constitution also requires that all newly created agency trust funds terminate every four years unless recreated.

Section 215.3208(1), F.S., provides that, in order to implement s. 19(f), Art. III of the State Constitution, a schedule for review of trust funds be included in the legislative budget instructions developed pursuant to s. 216.023, F.S. The trust funds in the Department of Revenue are scheduled for review this year.

Currently, audit, warrant, and governmental leaseholds receipts are deposited into the Administrative Trust Fund in the General Tax Administration Program. Pursuant to s. 215.32, F.S., the Administrative Trust Fund is to be used as a depository for funds for management activities that are departmental in nature and funded by indirect cost earnings and assessments against trust funds.

Proposed changes:

The creation of this trust fund will allow the department to deposit audit receipts, warrant receipts, and governmental leasehold funds to this particular trust fund for subsequent annual distribution to local school boards. The department is requesting this as a distinct fund for these three types of receipts, instead of using the Administrative Trust Fund for this purpose.

The creation of this trust fund will align agency accounts with the requirements of s. 215.32, F.S.

The trust fund will terminate in four years, on July 1, 2011, pursuant to s. 19 (f)(2), Art. II of the State Constitution, unless recreated by the Legislature.

C. SECTION DIRECTORY:

Section 1. Creates the Audit and Warrant Clearing Trust Fund within the Department of Revenue for use as a depository for funds subsequently distributed annually to local school boards. Requires termination of the trust fund on July 1, 2011, unless re-created.

Section 2. Provides an effective date of July 1, 2007.

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:

No impact of municipal or county governments.

2. Other:

This bill creates a new trust fund and must pass the Legislature by a three-fifths vote of the membership of each house to become law pursuant to s. 19 (f), Article III of the State Constitution.

B. RULE-MAKING AUTHORITY:

Not required.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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BILL ORIGINAL YEAR

1 A bill to be entitled
 2 An act relating to trust funds; creating the Audit and
 3 Warrant Clearing Trust Fund within the Department of
 4 Revenue; providing for sources of funds and purposes;
 5 providing for future review and termination or re-creation
 6 of the trust fund; providing an effective date.

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

10 Section 1. (1) The Audit and Warrant Clearing Trust Fund
 11 is created within the Department of Revenue.

12 (2) The fund is established for use as a depository for
 13 audit receipts, warrant receipts and governmental leaseholds
 14 receipts and for subsequent distributions to appropriate entities
 15 and accounts.

16 (3) In accordance with Section 19(f)(2), Article III of the
 17 State Constitution, the Audit and Warrant Clearing Trust Fund
 18 shall, unless terminated sooner, be terminated on July 1, 2011.
 19 Before its scheduled termination, the trust fund shall be
 20 reviewed as provided in s. 215.3206(1) and (2), Florida Statutes.

21 Section 2. This act shall take effect July 1, 2007.