



Military & Local Affairs Policy Committee

**Wednesday, March 10, 2010
8:30 AM
Webster Hall (212 Knott)**

MEETING PACKET

**Larry Cretul
Speaker**

**Dorothy Hukill
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Military & Local Affairs Policy Committee

Start Date and Time: Wednesday, March 10, 2010 08:30 am
End Date and Time: Wednesday, March 10, 2010 10:30 am
Location: Webster Hall (212 Knott)
Duration: 2.00 hrs

Consideration of the following proposed committee bill(s):

PCB MLA 10-06 -- Growth Management
PCB MLA 10-07 -- Military Support

Consideration of the following bill(s):

HB 129 Leaves of Absence for State Officers and Employees Engaged in Military Training by Renuart
CS/HB 513 Mobile Home Park Tenancies by Civil Justice & Courts Policy Committee, Horner
CS/HB 569 Landfills by Agriculture & Natural Resources Policy Committee, Poppell
HB 1045 Palm Beach County by Brandenburg
HB 1047 City of Clearwater, Pinellas County by Frishe
HB 1053 Melbourne-Tillman Water Control District, Brevard County by Workman
HB 1215 Broward County by Porth
HB 1247 Hillsborough County by Ambler
HB 1249 Lee County Sheriff's Office by Williams, T.

NOTICE FINALIZED on 03/08/2010 16:13 by Dickens.Mary

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB MLA 10-06 Growth Management
SPONSOR(S): Military & Local Affairs Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Military & Local Affairs Policy Committee		Rojas <i>JR</i>	Hoagland <i>[Signature]</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

In 2009 the Legislature enacted Chapter 2009-96, Laws of Florida, commonly referred to as The Community Renewal Act of 2009 (the Act).

On July 8, 2009, the City of Weston, along with other local governments filed a Complaint for Declaratory and Injunctive Relief. The plaintiffs are challenging the Act on a number of constitutional bases. As such, many local governments have been reluctant to act due to the uncertainty regarding the Act. Final resolution as to the constitutionality of the Act remains uncertain, and will not be determined by the judicial system, while the 2010 legislative session is in progress.

The bill provides that any properly noticed two year permit extension as provided for pursuant to section 14 of chapter 2009-96, Laws of Florida, is valid and shall remain in effect.

The bill also provides that any amendments legally in effect to a local government's comprehensive plan to authorize and implement a transportation concurrency exception area pursuant to section 4, chapter 2009-96, Laws of Florida, shall remain in effect.

The bill provides specified protections for any project or portion of a project in a dense urban area that qualifies for a DRI exemption. Large developments in these areas may proceed without having to undergo full DRI review if there is:

- a development application has been filed or approved, or
- a complete development application or rescission request has been approved or is pending and continuing in good faith.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In 2009 the Legislature enacted Chapter 2009-96, Laws of Florida, commonly referred to as The Community Renewal Act of 2009 (the Act). The goals of the Legislature were to stimulate economic development and to reduce the unintended consequences that the transportation concurrency system created.

The Act removed restriction on development in urban areas by removing the state requirement for transportation concurrency. It also continued the transition away from the lengthy approval process of the development of regional impact program for large projects by eliminating this requirement in certain urban areas. The Act also recognized the current slowdown in construction activity by extending permits so that activity could resume without delay for those that have already made investments, but had to delay activity due to the economic downturn.

Additionally, burdens placed on the private sector by local government regulations, such as requiring security cameras and delays in impact fee reductions, were eliminated. The Act also removed the unintended burden placed on the private sector from legislative penalties relating to deadlines that were not being met by local governments. The Act facilitated the rehabilitation of affordable housing and provided greater flexibility in allowing economic development in rural areas. All local governments were provided some relief in meeting financial feasibility deadlines and certain small local governments were exempted from the requirement to amend their plans to address school concurrency. Local governments' ability to manage and fund growth related impacts were expressly protected through their home rule powers.

On July 8, 2009, the City of Weston, along with other local governments filed a Complaint for Declaratory and Injunctive Relief. The plaintiffs are challenging the Act on a number of constitutional bases. As such, many local governments have been reluctant to act due to the uncertainty regarding the Act. Final resolution as to the constitutionality of the Act remains uncertain and will not be determined by the judicial system while the 2010 legislative session is in progress.

Targeted Effects of the Bill

Statewide Permit Extension

Section 14 of the Act provides that any permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373, F.S., that has an expiration date of

September 1, 2008, through January 1, 2012, is extended and renewed for a period of two years following its date of expiration. This extension was also provided for any local government-issued development order or building permit. The two year extension also applies to build out dates including any build out date extension previously granted under s. 380.06(19)(c), F.S. This section did not prohibit conversion from the construction phase to the operation phase upon completion of construction. Holders of a valid permit or other authorization were required to notify the authorizing agency in writing no later than December 31, 2009, identifying the specific permit or authorization for which the holder intended to use the extension.

The bill provides that any two year permit extension as provided for pursuant to section 14 of chapter 2009-96, Laws of Florida, is valid and shall remain in effect.

Transportation Concurrency Exception Areas

The Act legislatively designated specified areas as transportation concurrency exception areas (TCEA); however, it also empowered counties¹ and municipalities² that did not meet the criteria for legislative designation to adopt amendments to their comprehensive to designate TCEAs.

Any local government that has a TCEA under one of these provisions must, within two years, adopt into its comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation. If a local government uses the comprehensive plan amendment method of creating TCEAs, it must first consult the state land planning agency and the Department of Transportation regarding the impact on the adopted level-of-service standards established for regional transportation facilities as well as the Strategic Intermodal System (SIS).

The Act also specified that designation of a TCEA did not limit a local government's home rule power to adopt ordinances or impose fees. The Act further provided that the creation of a TCEA does not affect any contract or agreement entered into or development order rendered before the creation of the transportation concurrency exception area except for developments of regional impact that choose to rescind under s. 380.06(29)(e), F.S.

The bill provides that any amendments to a local government's comprehensive plan adopted pursuant to s. 163.3184, F.S., to authorize and implement a transportation concurrency exception area pursuant to section 4, chapter 2009-96, Laws of Florida, shall remain in effect.

Developments of Regional Impact (DRI)

The Act created a number of exemptions in s. 380.06(29)(e), F.S., from the DRI process for qualifying dense urban land areas. The Act provided that DRIs that had been approved or that have an application for development approval pending when the exemption takes effect may continue the DRI process or rescind the DRI development order. Developments that choose to rescind are exempt from the twice a year limitation on plan amendments for the year following the exemption.

If a local government that qualifies as a dense urban land area for DRI exemption purposes is subsequently found to be ineligible for designation as a dense urban land area, any development located within that area which has a complete, pending application for authorization to commence development may maintain the exemption if the developer is continuing the application process in good faith or the development is approved. The Act also included language expressing the intent to not limit or modify the rights of any person to complete any development that has been authorized as a DRI.

¹ urban infill as defined in s. 163.3164(27), F.S.; urban infill and redevelopment as defined in s. 163.2517, F.S.; or urban service areas as defined in s. 163.3164(29), F.S., or urban service areas under s. 163.3177(14), F.S.

² urban infill as defined in s. 163.3164(27), F.S.; community redevelopment as defined in s. 163.340(10), F.S.; downtown revitalization as defined in s. 163.3164(25), F.S.; urban infill and redevelopment as defined in s. 163.2517, F.S.; or urban service areas as defined in s. 163.3164(29), F.S.

The bill provides protection for any project in an area that qualifies for a DRI exemption created by the Act under s. 380.06(29), F.S. The specific exemptions that would be upheld would be:

- a development application has been filed or approved, or
- a complete development application or rescission request has been approved or is pending and continuing in good faith.

B. SECTION DIRECTORY:

Section 1. Designates certain actions taken in reliance of 2009-96, L.O.F., as valid.

Section 2. 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 Community Renewal Act of 2009 was designed to remove stumbling blocks to economic recovery and to facilitate future economic activity by providing relief where needed and appropriate. The bill's validation of certain rights under the Act safeguards actions taken under existing law and further facilitates relief and continued economic activity.

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 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.

2. Other:

The bill states in pertinent part:

“Notwithstanding any final declaration by a court of this state that chapter 2009-96, Laws of Florida, or any portion of such law is invalid, the final actions if taken prior to such final judicial declaration of invalidity, remain valid and continue in effect.”

Conceivably, the exercise of judicial powers by the Legislature, an agency, a quasi-public body, or a private contractor, could violate numerous provisions of the Florida Constitution, including Article II, Section 3 -- Separation of Powers.

Florida courts have relied upon the separation-of-powers doctrine to avoid entanglement with the internal affairs of the Legislature. However, the judiciary has the power to assess whether the external activities of the Legislature comply with state law; whether the final product of the Legislative process complies with the constitution; or whether a state statute applies to the Legislature. The Florida Supreme Court has stated that a determination as to whether legislation has been constitutionally adopted does not violate separation of powers. *Chiles v. Phelps*, 714 So.2d 453 (Fla. 1998).

Legislation which interferes with the exercise of judicial authority is unconstitutional. *Simmons v. State*, 36 So.2d 207 (Fla.1948). The Legislature is limited in its ability to eliminate a judicial remedy, even in cases where the remedy was statutorily conferred. *State ex rel. Franks v. Clark*, 46 So.2d 488 (Fla. 1950). Thus, a statute limiting the court's ability to enforce its rulings through the sanction of criminal contempt has been held to violate the separation-of-powers doctrine. *Walker v. Bentley*, 660 So.2d 313 (Fla. 2d DCA 1995). In *Johnson v. State*, 336 So.2d 93 (Fla. 1976), the Florida Supreme Court overturned a law which attempted to regulate the judicial disposition of the records of first time offenders found innocent of any crime. To allow such a law to stand, the court explained, would be to allow the Legislature to usurp judicial authority.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

BILL

ORIGINAL

YEAR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A bill to be entitled
An act relating to growth management; specifying
continuing validity and effect of certain exemptions, 2-
year extensions, and local comprehensive plan amendments
authorized or adopted and in effect prior to a certain
judicial declaration of invalidity; providing an effective
date.

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

Section 1. Notwithstanding any final declaration by a
court of this state that chapter 2009-96, Laws of Florida, or
any portion of such law is invalid, the following actions, if
taken prior to such final judicial declaration of invalidity,
shall remain valid and continue in effect:

(1) Any exemption is granted for any project for which a
development approval has been given or filed pursuant to s.
380.06, Florida Statutes, or for which a complete development
application or rescission request has been approved or is
pending and the application or rescission process is continuing
in good faith within a development that is located within an
area that qualifies for an exemption under s. 380.06, Florida
Statutes, as amended by chapter 2009-96, Laws of Florida.

(2) Any 2-year extension is authorized pursuant to section
14 of chapter 2009-96, Laws of Florida.

(3) Any amendment to a local comprehensive plan is adopted
pursuant to s. 163.3184, Florida Statutes, as amended by chapter
2009-96, Laws of Florida, and is legally in effect to authorize

BILL

ORIGINAL

YEAR

29 | and implement a transportation concurrency exception area
30 | pursuant to s. 163.3180, Florida Statutes, as amended by chapter
31 | 2009-96, Laws of Florida.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB MLA 10-07 Military Support
SPONSOR(S): Military & Local Affairs Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Military & Local Affairs Policy Committee		Fudge <i>CF</i>	Hoagland <i>HH</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Military related activity has a significant positive impact on Florida's economy. In 2005, it represented an estimated \$52 billion in gross state product and more than 732,300 jobs and \$1 billion in state and local tax revenues. Florida has shown support for this military presence through numerous legislative actions, including requiring compatibility of land uses to minimize encroachment, prioritizing the purchase of state lands to serve as buffer areas, providing tax relief and financial benefits for military personnel and retirees, providing educational benefits and family support.

This proposed committee bill continues that commitment to the military presence in Florida. The proposed committee bill:

- Strengthens existing encroachment and compatibility provisions in the Growth Management Act
- Specifies the installations and local governments subject to the requirements to improve communication between the bases and the local governments, and providing criteria to address compatibility in the future land use
- Clarifies the factors to be considered in developing criteria
- Provides a process if local governments fail to meet the future land use element requirements by June 30, 2012, to require mediation and ultimately the potential for sanctions from the Administration Commission
- Expands notification of land use activities by requiring copies of applications for proposed development orders that request waivers from height and lighting restrictions and sound proofing requirements to be submitted to the base commander upon request;
- Clarifies that active duty members of the armed forces and their spouses may continue to receive a homestead exemption when the service member is deployed;
- Authorizes the establishment of a second Assistant Adjutant General Army position at the state's National Guard Joint Forces Headquarters. The additional position is federally funded and, therefore, has no fiscal impact on state funds;
- Creates a temporary professional license for spouses of active duty members of the Armed Forces of the United States who have been assigned to a duty station in Florida;

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Military related activity has a significant positive impact on Florida's economy. In 2005, it represented an estimated \$52 billion in gross state product with more than 732,300 jobs and \$1 billion in state and local tax revenues. Florida has shown support for this military presence through numerous legislative actions, by requiring compatibility of land uses to minimize encroachment, prioritizing the purchase of state lands to serve as buffer areas, providing tax relief and financial benefits for military personnel and retirees, and providing educational benefits and family support.¹

Current Law Regarding Land Use Compatibility and Encroachment

In 2004, the Legislature passed provisions to address the interface between local government land use actions and military base encroachment concerns. Section 163.3175, F.S., requires the exchange of information between local communities and military installations when land use decisions may affect operations at an installation. Section 163.3175, F.S., also specifies issues that the installation's commanding officer may address in commenting on a proposed land use change and requires a local government to consider the commanding officer's comments. It also requires a representative of the military installation to be included as an ex-officio, nonvoting member of the affected local government's land planning or zoning board.

In addition, s. 163.3177(6)(a), F.S., requires a local government to amend the future land use plan element of its comprehensive plan to address the compatibility of future uses on lands adjacent or closely proximate to military installations and to include criteria to achieve that compatibility. In 2004, local governments were directed to amend their plans by June 30, 2006. This date was later changed to June 30, 2012.

In 2008, the Florida House of Representatives Committee on Military & Veterans' Affairs, conducted an interim project on military base encroachment.² The Survey of Local Governments distributed as part

¹ Florida Defense Industry Economic Impact Analysis, Dr. Rick Harper, Director of the University of West Florida Haas Center, November 4, 2009, presentation to the Florida House of Representatives Committee on Military & Local Affairs.

² The results of the 2008 Committee on Military & Veterans' Affairs interim project are found in "Military Encroachment: A White Paper" available at:
[http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteId=2345&Session=2008&DocumentType=Reports&FileName=Military Base Encroachment.pdf](http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteId=2345&Session=2008&DocumentType=Reports&FileName=Military%20Base%20Encroachment.pdf)

of this project asked whether each local government complied with statutory requirements to amend their comprehensive plan by June 30, 2006, to address military compatibility issues. According to the survey responses, 10 counties and 14 cities reported that they had not complied with the statutory requirement to update their comprehensive plans to include military compatibility criteria (8 counties and 7 cities had adopted updates by 2008). The DCA reports that "[a]bout 75% of the affected local governments have missed the June 30, 2006 due date, probably because there is no consequence to them of doing so."

The 2008 Survey of Military Installations distributed as part of this project sought to determine whether local governments were complying with the statutory requirement of providing information to military installations regarding the adoption of comprehensive plans, amendments, or land use regulations. According to survey responses from the Air Force and Navy, the local governments appeared to generally comply with statutory requirements and consider the military's comments during the planning process.

**MILITARY BASE COORDINATION AND COMPATIBILITY
LOCAL GOVERNMENT IMPLEMENTATION STATUS AS OF JANUARY 13, 2010³**

STATUS	LOCAL GOVERNMENTS	TOTAL
Completed Planning Board Appointment and Plan Amendment	Bradford County Brevard County Escambia County Gulf County Highlands County Homestead Jacksonville-Duval County Marion County Parker Santa Rosa County Satellite Beach (3175 coordination only; amendment not needed) Volusia County	12
Adopted Amendment Under Review	Clay County (NOI publication date 1/29/10)	1
Partially Completed	Okaloosa County (only coordination policies adopted) Tampa (only coordination policies adopted) Mexico Beach (does not address the entire city)	3
Amendment Proposed, but not yet adopted	Putnam County (proposed in 2007)	1
Joint Land Use Study Recently Completed, but Amendment Not Yet Submitted	Bay County Panama City Panama City Beach Cinco Bayou Crestview Destin	15

³ Department of Community Affairs

	Fort Walton Beach Laurel Hill Mary Esther Niceville Shalimar Valparaiso Walton County DeFuniak Springs Freeport	
Waiting for Joint Land Use Study to be Completed	Avon Park Frostproof Okeechobee County Osceola County Polk County Sebring	6
No Action	Key West Lake County Monroe County Miami-Dade County	4

Effect of Proposed Changes

This proposed committee bill strengthens existing encroachment and compatibility provisions in the Growth Management Act.

The bill replaces general definitions in s. 163.3175(7), F.S., regarding "affected local governments" as a municipality "adjacent to or in close proximity to..." a "military installation" by identifying specific installations and local governments which are required to disclosure certain information to improve communication between the bases and the local governments, and providing criteria to address compatibility in the future land use.

The proposed committee bill amends s. 165.3177(6)(a), F.S., relating to future land use elements to clarify the factors to be considered in developing criteria for compatibility.

A process for addressing non-compliance is provided which requires mediation, conducted by the regional planning council, to commence between the local governments, military installations, state land planning agency and other parties, including private land owners. The bill also provides that the state land planning agency may report the local government to the Administration Commission for failure to include criteria into its local government comprehensive plan by December 31, 2013. The Administration Commission is provided the authority to specify remedial action and impose sanctions including direction to state agencies not to provide funds for infrastructure projects, grant programs, and withholding revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and chapter 212, F.S. These changes to law are not intended to result in any of the local governments that have complied with the 2004 requirements to further amend their comprehensive plans prior to 2012.

The proposed committee bill further expands notification of land use activities by requiring copies of applications for development orders that request waivers from height and lighting restrictions and sound proofing requirements to be submitted to the base commander upon request.

Current Law Regarding Active Military Personnel Deployed Outside the State

Section 196.061, F.S., provides that rental of a dwelling previously claimed to be a homestead constitutes abandonment. However, this provision does not apply to a member of the Armed Forces

whose service is a result of a mandatory obligation imposed by the Selective Service Act or who volunteers for service as a member of the Armed Forces.⁴

Several property appraisers permit active duty members to rent their homesteads and retain their homestead exemption if they are transferred out of the area on orders and notify the property appraiser.⁵ However, there has been situations where the property is owned by one of the spouses prior to marriage. Once married, the other spouse is not added to the deed. The original owner (yet to be a spouse) would have applied and began receiving homestead prior to marriage. The concern is that when the spouse, who is not on the deed, is ordered overseas and the other spouse (original owner) goes with him or her may not be able to rent the property without losing the homestead exemption.

Effect of Proposed Change

The bill clarifies that the provision of s. 196.061, F.S., apply to military members and their spouses and that valid military orders deploying such member or their spouse is sufficient to maintain permanent residence for purposes of s. 196.015, F.S.

Additional Assistant Adjutant General Army

Florida is one of 15 states that have undergone a restructuring of its Army National Guard Enhanced Infantry Brigade. The Enhanced Infantry Brigade is composed of approximately 3,500 soldiers and, until recently, has been commanded by an officer in the rank of Brigadier General. The new organizational structure replicates the active duty Army's Infantry Brigade Combat Team and will now be commanded by an officer with the rank of colonel.

States such as Florida have been allowed to transfer the former Infantry Brigade General Officer position to the state's National Guard Joint Forces Headquarters as an additional Assistant Adjutant General Army position. With more than 10,000 Florida Army National Guard soldiers currently serving, authorization for two Army officers serving in the grade of Brigadier General is consistent with authorizations in other states with similar forces.

Effect of Proposed Changes

The bill amends s. 250.10, F.S., to authorize the Adjutant General of the Florida National Guard to appoint a federally recognized officer to a second position of Assistant Adjutant General Army. Such appointment is subject to confirmation by the Senate. The appointee must have served in the Florida Army Guard for the preceding five years and have attained the rank of colonel or higher at the time of appointment.

Military Spouses/Professional Licensure

Section 455.02, F.S., applies to licensees who are members of the armed forces on active duty who are absent from the state and not practicing their profession in the private sector. This statute applies to numerous professions regulated by DBPR but not all professions.

The member/licensee is exempted from license renewal requirements for the duration of active duty while absent from the state of Florida, and for a period of six months after discharge or return to the state, and not practicing the profession.

⁴ In 1971, the Attorney General concluded that a service member is entitled to a homestead exemption even though he may be transferred elsewhere during his ownership, and rental of such property does not constitute abandonment. Op. Att'y Gen. Fla. 71-055 (1971).

⁵ For example, the Osceola County Property Appraiser states that "if you are a member of the armed forces on active military duty, you are permitted to rent your home, but you must notify the office in advance and provide your military orders."
<http://www.osceola.org/index.cfm?IsFuses=department/PropertyAppraiser/HomesteadExemption>, last visited on March 5, 2010.

Section 455.02(2), F.S., authorizes the Boards under the Division of Professions within the Department of Business and Professional Regulation to promulgate rules exempting spouses of members of the Armed Forces from licensure renewal provisions, but only in cases of absence from the state because of their spouses' duties with the Armed Forces.

In addition, many of the professions in Florida have an endorsement provision as a part of their licensing authority that allows for the acceptance of an active out-of-state practitioner in good standing to be qualified to be licensed in Florida based on the out-of-state license criteria, i.e. barbering. Similarly, many of the professions in Florida provide for "a reciprocal agreement" between professions in different states to allow licensure of out-of-state practitioners by reciprocity based on similar licensing qualifications, i.e. construction contracting.

However, there are no provisions allowing spouses of active duty military personnel, who are relocating to Florida, to practice their profession by using a temporary Florida license issued based on license qualification of the applicants' home state.

Effect of proposed changes

The bill creates a temporary professional license for spouses of active duty members of the Armed Forces of the United States who have been assigned to a duty station in Florida pursuant to his or her spouse's official active duty military orders. The spouse must hold a valid out-of-state license and submit to a criminal background check. The nonrenewable temporary license allows the spouse to work in his or her respective profession for six months from the date of issuance of the temporary license.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3175, F.S., identifying local governments and military installations subject to coordination and growth management provisions prescribing the information that must be provided to the commanding officer of the military installation upon request; requiring mediation and provides for sanctions.

Section 2: Amends s. 163.3177, F.S., by enumerating factors to consider in determining compatibility.

Section 3: Amends s. 196.061, F.S., to clarify that valid military orders transferring a member of the Armed Forces or their spouse are sufficient to maintain permanent residency for purposes of s. 196.015, F.S.

Section 4: Amends s. 250.10, F.S., to authorize the Adjutant General of the Florida National Guard to appoint a federally recognized officer to a second position of Assistant Adjutant General Army.

Section 5. Amends s. 455.02, F.S., to create a temporary professional license classification for spouses of active duty members of the Armed Forces of the United States who have been assigned to a duty station in Florida.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Temporary Professional Licenses

There is no fiscal impact associated with this provision.⁶

Additional Assistant Adjutant General Army

This position is federally funded and there is no additional cost to the state.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There may be minor costs associated with transmission of certain applications for development orders.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that the military is a \$60 billion industry, the bill helps ensure the continued presence of the military by facilitating communication between military installations and local governments. Action taken to protect or increase the military presence in Florida will have a positive impact on the private sector. However, encroachment may negatively impact individual property owners.

The bill will ensure that active duty members of the Armed Forces and their spouses will not lose their homestead exemption when the member is deployed out of the state. The bill also allows the spouses of members of the Armed Forces who are on active duty in the state, to receive a temporary professional license.

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.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

⁶ Department of Business and Professional Regulation Substantive Bill Analysis for HB 713 dated February 2, 2010 (on file with the Full Appropriations Council on General Government & Health Care).

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to military support; amending s.
 3 163.3175; specifying military bases and local governments
 4 subject to requirements; requiring submittal of certain
 5 development orders to base commanders; deleting
 6 definitions; providing for mediation and sanctions for
 7 failure to comply; amending s. 163.3177; providing
 8 factors regarding consistency with military
 9 installations; amending s. 196.061; specifying criteria
 10 to be met to be exempt from abandonment of homestead
 11 exemption; amending s. 455.02; authorizing the temporary
 12 professional licensure of the spouses of active duty
 13 members of the United States Armed Forces under certain
 14 circumstances; providing application requirements;
 15 requiring criminal history checks and fees; amending s.
 16 250.10, F.S.; providing for the appointment of a second
 17 Assistant Adjutant General for the Florida National Guard
 18 Army; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 163.3175, Florida Statutes, is amended
 23 to read:

24 163.3175 Legislative findings on compatibility of
 25 development with military installations; exchange of information
 26 between local governments and military installations.—

27 (1) The Legislature finds that incompatible development of
 28 land close to military installations can adversely affect the

BILL

ORIGINAL

YEAR

29 ability of such an installation to carry out its mission. The
 30 Legislature further finds that such development also threatens
 31 the public safety because of the possibility of accidents
 32 occurring within the areas surrounding a military installation.
 33 In addition, the economic vitality of a community is affected
 34 when military operations and missions must relocate because of
 35 incompatible urban encroachment. Therefore, the Legislature
 36 finds it desirable for the local governments in the state to
 37 cooperate with military installations to encourage compatible
 38 land use, help prevent incompatible encroachment, and facilitate
 39 the continued presence of major military installations in this
 40 state.

41 (2) Certain major military installations, due to their
 42 mission and activities have a greater potential of experiencing
 43 compatibility and coordination issues than others. As such,
 44 this section and the provisions in s. 163.3177(6)(a) relating to
 45 compatibility with military installations apply to specific
 46 affected local governments in association to certain military
 47 installations as follows:

48 (a) Avon Park Air Force Range associated with Highlands,
 49 Okeechobee, Osceola, and Polk counties and Avon Park,
 50 Sebring, and Frostproof.

51 (b) Camp Blanding associated with Clay, Bradford, and
 52 Putnam counties.

53 (c) Elgin Air Force Base and Hurlburt Field associated
 54 with Gulf, Okaloosa, Santa Rosa, and Walton counties and
 55 Cinco Bayou, Crestview, Destin, Fort Walton Beach, Laurel
 56 Hill, Mary Ester, Niceville, Shalimar, Valpariso, Defuniak

BILL

ORIGINAL

YEAR

- 57 | Springs, and Freeport.
- 58 | (d) Homestead Air Reserve Base Miami-Dade County and
- 59 | Homestead.
- 60 | (e) Jacksonville Bombing Range Complex associated with
- 61 | Lake, Marion, Putnam, and Volusia counties.
- 62 | (f) MacDill Air Force Base associated with Tampa.
- 63 | (g) Naval Air Station Jacksonville and Marine Corps Blount
- 64 | Island associated with Jacksonville.
- 65 | (h) Naval Air Station Key West associated with Monroe
- 66 | County and Key West.
- 67 | (i) Naval Support Activity Panama City associated with Bay
- 68 | County, Panama City and Panama City Beach.
- 69 | (j) Naval Air Station Pensacola associated with Escambia
- 70 | County.
- 71 | (k) Naval Air Station Whiting Field associated with Santa
- 72 | Rosa County.
- 73 | (l) Naval Station Mayport associated with Atlantic Beach
- 74 | and Jacksonville.
- 75 | (m) Patrick Air Force Base and Cape Canaveral Air Force
- 76 | Station, associated with Brevard County and Satellite
- 77 | Beach.
- 78 | (n) Tyndall Air Force Base associated with Mexico Beach
- 79 | and Parker.
- 80 | (3) The Florida Council on Military Base and Mission
- 81 | Support may recommend to the Legislature changes to the military
- 82 | installations and local governments specified in subsection (2)
- 83 | based on a military base's potential for impacts from
- 84 | encroachment, and incompatible land uses and development.

BILL

ORIGINAL

YEAR

85 | (4) Each county affected local government in which a
 86 | ~~military installation is either wholly or partially located and~~
 87 | ~~each affected local government~~ must transmit to the commanding
 88 | officer of ~~that~~ the installation information relating to
 89 | proposed changes to comprehensive plans, plan amendments, and
 90 | proposed changes to land development regulations which, if
 91 | approved, would affect the intensity, density, or use of the
 92 | land adjacent to or in close proximity to the military
 93 | installation. At the request of the commanding officer, local
 94 | governments must also transmit to the commanding officer copies
 95 | of applications for development orders requesting a variance or
 96 | waiver from height or lighting restrictions, or sound proofing
 97 | requirements within areas defined in the local government's
 98 | comprehensive plan as being in a zone of influence of the
 99 | military installation. Each ~~county~~ and affected local
 100 | government shall provide the military installation an
 101 | opportunity to review and comment on the proposed changes.

102 | ~~(3)~~ (5) The commanding officer or his or her designee may
 103 | provide comments to the ~~county~~ or affected local government on
 104 | the impact such proposed changes may have on the mission of the
 105 | military installation. Such comments may include:

106 | (a) If the installation has an airfield, whether such
 107 | proposed changes will be incompatible with the safety and noise
 108 | standards contained in the Air Installation Compatible Use Zone
 109 | (AICUZ) adopted by the military installation for that airfield;

110 | (b) Whether such changes are incompatible with the
 111 | Installation Environmental Noise Management Program (IENMP) of
 112 | the United States Army;

BILL ORIGINAL YEAR

113 (c) Whether such changes are incompatible with the
 114 findings of a Joint Land Use Study (JLUS) for the area if one
 115 has been completed; and

116 (d) Whether the military installation's mission will be
 117 adversely affected by the proposed actions of the county or
 118 affected local government.

119 (6) ~~(4)~~ The ~~county or~~ affected local government shall take
 120 into consideration any comments provided by the commanding
 121 officer or his or her designee pursuant to subsection (4) ~~when~~
 122 ~~making such decision regarding a comprehensive planning or and~~
 123 ~~development regulation.~~ The ~~county or~~ affected local government
 124 shall forward a copy of any ~~such~~ comments regarding
 125 comprehensive plan amendments to the state land planning agency.

126 (7) ~~(5)~~ To facilitate the exchange of information provided
 127 for in this section, a representative of a military installation
 128 acting on behalf of all military installations within that
 129 jurisdiction shall be included as an ex officio, nonvoting
 130 member of the county's or affected local government's land
 131 planning or zoning board.

132 (8) ~~(6)~~ The commanding officer is encouraged to provide
 133 information about any community planning assistance grants that
 134 may be available to a county or affected local government
 135 through the federal Office of Economic Adjustment as an
 136 incentive for communities to participate in a joint planning
 137 process that would facilitate the compatibility of community
 138 planning and the activities and mission of the military
 139 installation.

140 (9) ~~(7)~~ If a local government, as required under s.

BILL ORIGINAL YEAR

141 163.3177(6)(a), does not adopt criteria and address
 142 compatibility of lands adjacent to or closely proximate to
 143 existing military installations in its future land use element
 144 by June 30, 2012, the local government, military installation,
 145 the state land planning agency, and other parties as identified
 146 by the regional planning council, including, but not limited to
 147 private landowner representatives, shall enter into mediation
 148 conducted pursuant to s. 186.509. If the local government
 149 comprehensive plan does not contain criteria addressing
 150 compatibility by December 31, 2013, the agency may notify the
 151 Administration Commission. The Administration Commission may
 152 impose sanctions pursuant to s. 163.3184(11).

153 ~~As used in this section, the term:~~

154 ~~(a) "Affected local government" means a municipality~~
 155 ~~adjacent to or in close proximity to the military installation~~
 156 ~~as determined by the state land planning agency.~~

157 ~~(b) "Military installation" means a base, camp, post,~~
 158 ~~station, airfield, yard, center, home port facility for any~~
 159 ~~ship, or other land area under the jurisdiction of the~~
 160 ~~Department of Defense, including any leased facility. Such term~~
 161 ~~does not include any facility used primarily for civil works,~~
 162 ~~rivers and harbors projects, or flood control projects.~~

163 Section 2. Paragraph (a) of subsection (6) of section
 164 163.3177, Florida Statutes, is amended to read:

165 163.3177 Required and optional elements of comprehensive
 166 plan; studies and surveys.—

167 (6) In addition to the requirements of subsections (1)-(5)
 168 and (12), the comprehensive plan shall include the following

BILL

ORIGINAL

YEAR

169 elements:
 170 (a) A future land use plan element designating proposed
 171 future general distribution, location, and extent of the uses of
 172 land for residential uses, commercial uses, industry,
 173 agriculture, recreation, conservation, education, public
 174 buildings and grounds, other public facilities, and other
 175 categories of the public and private uses of land. Counties are
 176 encouraged to designate rural land stewardship areas, pursuant
 177 to paragraph (11)(d), as overlays on the future land use map.
 178 Each future land use category must be defined in terms of uses
 179 included, and must include standards to be followed in the
 180 control and distribution of population densities and building
 181 and structure intensities. The proposed distribution, location,
 182 and extent of the various categories of land use shall be shown
 183 on a land use map or map series which shall be supplemented by
 184 goals, policies, and measurable objectives. The future land use
 185 plan shall be based upon surveys, studies, and data regarding
 186 the area, including the amount of land required to accommodate
 187 anticipated growth; the projected population of the area; the
 188 character of undeveloped land; the availability of water
 189 supplies, public facilities, and services; the need for
 190 redevelopment, including the renewal of blighted areas and the
 191 elimination of nonconforming uses which are inconsistent with
 192 the character of the community; the compatibility of uses on
 193 lands adjacent to or closely proximate to military
 194 installations; lands adjacent to an airport as defined in s.
 195 330.35 and consistent with s. 333.02; the discouragement of
 196 urban sprawl; energy-efficient land use patterns accounting for

BILL ORIGINAL YEAR

197 existing and future electric power generation and transmission
 198 systems; greenhouse gas reduction strategies; and, in rural
 199 communities, the need for job creation, capital investment, and
 200 economic development that will strengthen and diversify the
 201 community's economy. The future land use plan may designate
 202 areas for future planned development use involving combinations
 203 of types of uses for which special regulations may be necessary
 204 to ensure development in accord with the principles and
 205 standards of the comprehensive plan and this act. The future
 206 land use plan element shall include criteria to be used to
 207 achieve the compatibility of lands adjacent or closely proximate
 208 to military installations, based on factors identified in s.
 209 163.3175(5), and lands adjacent to an airport as defined in s.
 210 330.35 and consistent with s. 333.02. In addition, for rural
 211 communities, the amount of land designated for future planned
 212 industrial use shall be based upon surveys and studies that
 213 reflect the need for job creation, capital investment, and the
 214 necessity to strengthen and diversify the local economies, and
 215 may not be limited solely by the projected population of the
 216 rural community. The future land use plan of a county may also
 217 designate areas for possible future municipal incorporation. The
 218 land use maps or map series shall generally identify and depict
 219 historic district boundaries and shall designate historically
 220 significant properties meriting protection. For coastal
 221 counties, the future land use element must include, without
 222 limitation, regulatory incentives and criteria that encourage
 223 the preservation of recreational and commercial working
 224 waterfronts as defined in s. 342.07. The future land use element

BILL

ORIGINAL

YEAR

225 | must clearly identify the land use categories in which public
 226 | schools are an allowable use. When delineating the land use
 227 | categories in which public schools are an allowable use, a local
 228 | government shall include in the categories sufficient land
 229 | proximate to residential development to meet the projected needs
 230 | for schools in coordination with public school boards and may
 231 | establish differing criteria for schools of different type or
 232 | size. Each local government shall include lands contiguous to
 233 | existing school sites, to the maximum extent possible, within
 234 | the land use categories in which public schools are an allowable
 235 | use. The failure by a local government to comply with these
 236 | school siting requirements will result in the prohibition of the
 237 | local government's ability to amend the local comprehensive
 238 | plan, except for plan amendments described in s. 163.3187(1)(b),
 239 | until the school siting requirements are met. Amendments
 240 | proposed by a local government for purposes of identifying the
 241 | land use categories in which public schools are an allowable use
 242 | are exempt from the limitation on the frequency of plan
 243 | amendments contained in s. 163.3187. The future land use element
 244 | shall include criteria that encourage the location of schools
 245 | proximate to urban residential areas to the extent possible and
 246 | shall require that the local government seek to collocate public
 247 | facilities, such as parks, libraries, and community centers,
 248 | with schools to the extent possible and to encourage the use of
 249 | elementary schools as focal points for neighborhoods. For
 250 | schools serving predominantly rural counties, defined as a
 251 | county with a population of 100,000 or fewer, an agricultural
 252 | land use category is eligible for the location of public school

BILL ORIGINAL YEAR

253 facilities if the local comprehensive plan contains school
 254 siting criteria and the location is consistent with such
 255 criteria. Local governments required to update or amend their
 256 comprehensive plan to include criteria and address compatibility
 257 of lands adjacent or closely proximate to existing military
 258 installations, or lands adjacent to an airport as defined in s.
 259 330.35 and consistent with s. 333.02, in their future land use
 260 plan element shall transmit the update or amendment to the state
 261 land planning agency by June 30, 2012.

262 Section 3. Section 196.061, Florida Statutes, is amended
 263 to read:

264 196.061 Rental of homestead to constitute abandonment.—The
 265 rental of an entire dwelling previously claimed to be a
 266 homestead for tax purposes shall constitute the abandonment of
 267 said dwelling as a homestead, and said abandonment shall
 268 continue until such dwelling is physically occupied by the owner
 269 thereof. However, such abandonment of such homestead after
 270 January 1 of any year shall not affect the homestead exemption
 271 for tax purposes for that particular year so long as this
 272 provision is not used for 2 consecutive years. The provisions of
 273 this section shall not apply to a member of the Armed Forces of
 274 the United States whose service in such forces is the result of
 275 a mandatory obligation imposed by the federal Selective Service
 276 Act or who volunteers for service as a member of the Armed
 277 Forces of the United States. Moreover, valid military orders
 278 transferring such member or their spouse shall be sufficient to
 279 maintain permanent residence for purposes of s. 196.015, F.S.

280 Note.—Former s. 192.141.

BILL

ORIGINAL

YEAR

281 Section 4. Section 455.02, Florida Statutes, is amended to
 282 read:

283 455.02 Licensure of members of the Armed Forces in good
 284 standing with administrative boards and their spouses.—

285 (1) Any member of the Armed Forces of the United States
 286 now or hereafter on active duty who, at the time of becoming
 287 such a member, was in good standing with any administrative
 288 board of the state and was entitled to practice or engage in his
 289 or her profession or vocation in the state shall be kept in good
 290 standing by such administrative board, without registering,
 291 paying dues or fees, or performing any other act on his or her
 292 part to be performed, as long as he or she is a member of the
 293 Armed Forces of the United States on active duty and for a
 294 period of 6 months after discharge from active duty as a member
 295 of the Armed Forces of the United States, if provided he or she
 296 is not engaged in his or her licensed profession or vocation in
 297 the private sector for profit.

298 (2) The boards listed in s. 20.165 shall adopt ~~promulgate~~
 299 rules that exempt ~~exempting~~ the spouse ~~spouses~~ of a member
 300 ~~members~~ of the Armed Forces of the United States from licensure
 301 renewal provisions, but only in cases of his or her absence from
 302 the state because of his or her spouse's ~~their spouses'~~ duties
 303 with the Armed Forces.

304 (3) (a) The department may issue a temporary professional
 305 license to the spouse of an active duty member of the Armed
 306 Forces of the United States if the spouse applies to the
 307 department in the format prescribed by the department. An
 308 application must include:

BILL

ORIGINAL

YEAR

- 309 1. Proof that the applicant is married to a member of the
 310 Armed Forces of the United States who is on active duty.
- 311 2. Proof that the applicant holds a valid license for the
 312 profession issued by another state, the District of Columbia,
 313 any possession or territory of the United States, or any foreign
 314 jurisdiction.
- 315 3. Proof that the applicant's spouse is assigned to a duty
 316 station in this state and that the applicant is also assigned to
 317 a duty station in this state pursuant to the member's official
 318 active duty military orders.
- 319 4. Proof that a complete set of the applicant's
 320 fingerprints are submitted to the Department of Law Enforcement
 321 for a statewide criminal history check. The Department of Law
 322 Enforcement shall forward the fingerprints to the Federal Bureau
 323 of Investigation for a national criminal history check. The
 324 department shall, and the board may, review the results of the
 325 criminal history checks according to the level 2 screening
 326 standards in s. 435.04 and determine whether the applicant meets
 327 the licensure requirements. The costs of fingerprint processing
 328 shall be borne by the applicant. If the applicant's fingerprints
 329 are submitted through an authorized agency or vendor, the agency
 330 or vendor shall collect the required processing fees and remit
 331 the fees to the Department of Law Enforcement.
- 332 (b) An application must be accompanied by an application
 333 fee prescribed by the department that is sufficient to cover the
 334 cost of issuance of the temporary license.
- 335 (c) A temporary license expires 6 months after the date of
 336 issuance and is not renewable.

BILL

ORIGINAL

YEAR

337 Section 5. Subsection (4) of section 250.10, Florida
 338 Statutes, is amended to read:

339 250.10 Appointment and duties of the Adjutant General.—

340 (4) (a) The Adjutant General shall, subject to confirmation
 341 by the Senate, employ a federally recognized officer of the
 342 Florida National Guard, who has served in the Florida Army Guard
 343 for the preceding 5 years and attained the rank of colonel or
 344 higher at the time of appointment, to be the Assistant Adjutant
 345 General for Army.

346 (b) The Adjutant General may, subject to confirmation by
 347 the Senate, employ an additional, federally recognized officer
 348 of the Florida National Guard, who has served in the Florida
 349 Army Guard for the preceding 5 years and attained the rank of
 350 colonel or higher at the time of appointment, to be a second
 351 Assistant Adjutant General for Army.

352

353 Each ~~The~~ officer shall perform the duties required by the
 354 Adjutant General.

355 Section 6. This act shall take effect July 1, 2010.

Amendment No. 1

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 _____

1 Council/Committee hearing PCB: Military & Local Affairs Policy
2 Committee

3 Representative(s) Hukill offered the following:

4
5 **Amendment**

6 Remove lines 53-79 and insert:

7 (c) Eglin Air Force Base and Hurlburt Field associated
8 with Gulf, Okaloosa, Santa Rosa, and Walton counties and
9 Cinco Bayou, Crestview, Destin, Fort Walton Beach, Laurel
10 Hill, Mary Esther, Niceville, Shalimar, Valpariso, DeFuniak
11 Springs, and Freeport.

12 (d) Homestead Air Reserve Base associated with Miami-Dade
13 County and Homestead.

14 (e) Jacksonville Training Range Complex associated with
15 Lake, Marion, Putnam, and Volusia counties.

16 (f) MacDill Air Force Base associated with Tampa.

17 (g) Naval Air Station Jacksonville, Marine Corps Blount
18 Island Command, and Outlying Landing Field Whitehouse
19 associated with Jacksonville.

COUNCIL/COMMITTEE AMENDMENT

PCB Name: PCB MLA 10-07 (2010)

Amendment No. 1

- 20 (h) Naval Air Station Key West associated with Monroe
21 County and Key West.
- 22 (i) Naval Support Activity Panama City associated with Bay
23 County, Panama City and Panama City Beach.
- 24 (j) Naval Air Station Pensacola associated with Escambia
25 County.
- 26 (k) Naval Air Station Whiting Field and its Outlying
27 Landing Fields associated with Santa Rosa and Escambia
28 counties.
- 29 (l) Naval Station Mayport associated with Atlantic Beach
30 and Jacksonville.
- 31 (m) Patrick Air Force Base and Cape Canaveral Air Force
32 Station, associated with Brevard County and Satellite
33 Beach.
- 34 (n) Tyndall Air Force Base associated with Gulf and Bay
35 counties, and Mexico Beach and Parker.
- 36

COUNCIL/COMMITTEE AMENDMENT

PCB Name: PCB MLA 10-07 (2010)

Amendment No. 2

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	_____	

1 Council/Committee hearing PCB: Military & Local Affairs Policy
2 Committee
3 Representative(s) Hukill offered the following:

4
5 **Amendment**

6 Remove line 96 and insert:
7 waiver from height or lighting restrictions, or noise
8 attenuation reduction

COUNCIL/COMMITTEE AMENDMENT

PCB Name: PCB MLA 10-07 (2010)

Amendment No. 3

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 _____

1 Council/Committee hearing PCB: Military & Local Affairs Policy
2 Committee
3 Representative(s) Hukill offered the following:

4
5 **Amendment**

6 Remove lines 278-279 and insert:
7 transferring such member shall be sufficient to maintain
8 permanent residence, for the purpose of s. 196.015, for the
9 member and their spouse.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 129

Leaves of Absence for State Officers and Employees Engaged in

Military Training

SPONSOR(S): Renuart

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Military & Local Affairs Policy Committee		Fudge <i>RF</i>	Hoagland <i>SHK</i>
2) Government Operations Appropriations Committee			
3) Economic Development & Community Affairs Policy Council			
4)			
5)			

SUMMARY ANALYSIS

Current law provides up to 30 days of leave for state or local government officers and employees when they are engaged in state active duty as a member of the National Guard. However, current law only authorizes 17 days of leave for those same employees when they are engaged in national training as a commissioned reserve officer or reserve enlisted personnel in the United States military or naval service or member of the National Guard. The leave provided by law protects the employee from any loss of vacation leave, pay, time, or efficiency rating.

The bill increases the amount of leave authorized from 17 to 30 days.

The bill is effective July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Current law provides any officer or employee of the state or its political subdivisions, who is a member of the National Guard, with up to 30 days of leave without loss of pay, time, or efficiency rating, when engaged in state active duty.¹ However, when engaged in training ordered under the provisions of the United States military or naval training regulations, current law only authorizes leaves of absence of up to 17 days for those same employees who are commissioned reserve officers or reserve enlisted personnel in the United States military or naval service or members of the National Guard.² Leaves of absence for additional or longer periods of time are granted, for assignment to duty functions of a military character, without pay and without loss of time or efficiency rating.

While the Guard and Reserves still have a commitment of one weekend a month and two weeks a year³, all members, prior to deployment, must also engage in more specialized training of up to 55 days. This additional specialized training prepares the members for combat operations.

Effect of Proposed Changes

The bill increases the amount of authorized leave from 17 days to 30 days. Currently, there are approximately 2,000 Guard or Reserve members who work for 489 different Florida Retirement System employers, which include state and local governments. Of those 2,000 employees, all use the existing 17 days for annual training. The Department of Military Affairs anticipates that less than 30% of those employees will be affected by the additional training requirement.

B. SECTION DIRECTORY:

Section 1: Amends s. 115.07(2), F.S., by extending leaves of absence from 17 days to 30 days.

Section 2: Provides an effective date of July 1, 2010.

¹ National Guard members who are employees of the state, of any county or school district of the state, or of any municipality or political subdivision of the state, are also entitled to leave of absence when engaged in active state duty for a named event, declared disaster, or operation pursuant to s. 250.28 or s. 252.36. However, the leave of absence may not exceed 30 days for each emergency or disaster. Section 250.48, F.S.

² Section 115.07, F.S.

³ <http://www.floridaguard.army.mil/careers/army.aspx>

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

To the extent that state employees will no longer utilize annual leave or take leave without pay, there may be additional state expenditures. Based on 30% utilization the total estimated cost to the state is \$547,092. In addition, there may be instances where affected employees comprise a greater percentage of the agency's workforce. In those instances the agency may experience a loss of productivity. However, those situations cannot be identified at this time. Failure to authorize the expansion would force military members who exceed 17 days of annual training to use personal vacation time or take leave without pay in order to perform their required military duties.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The total estimated cost to local governments based on 30% utilization is \$851,760. There may be instances where affected employees comprise a greater percentage of a local government's workforce. In those instances the local government may experience a loss of productivity.

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 the bill requires counties or municipalities to spend funds or take an action requiring the expenditure of funds. However, the amount of the expenditure is insignificant, and therefore an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Florida Association of Counties has indicated that small counties may not have the redundancy necessary to backfill personnel for this additional amount of time.

The Department of Management Services (DMS) indicates that current law requires:

for any officer or employee whose working day consists of a shift measured in hours, each such 12-hour shift or less shall equal 1 working day leave of absence. All other shifts over 12 hours and up to 24 hours shall equal 2 working days leave of absence.

Employees, regardless of position, are paid on an hourly basis. Consequently, for the payroll system to account for the time used by an employee for military leave, it must be posted as an hourly use. This results in an inequitable benefit for similarly situated employees who have different work schedules, i.e., eight hour work day vs. a ten hour work day. DMS suggests that the leave should be based on hours (i.e. 240 hours = 8 hours x 30 days), which would be prorated based on the position's full-time equivalency (FTE).⁴

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

⁴ Department of Management Services Substantive Bill Analysis for HB 129 dated January 29, 2010 (on file with the Full Appropriations Council on General Government & Health Care).

HB 129

2010

1 A bill to be entitled
 2 An act relating to leaves of absence for state officers
 3 and employees engaged in military training; amending s.
 4 115.07, F.S.; increasing the number of hours granted as a
 5 leave of absence to a state officer or employee engaged in
 6 military training; providing an effective date.

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

9
 10 Section 1. Subsection (2) of section 115.07, Florida
 11 Statutes, is amended to read:

12 115.07 Officers and employees' leaves of absence for
 13 reserve or guard training.--

14 (1) All officers or employees of the state, of the several
 15 counties of the state, and of the municipalities or political
 16 subdivisions of the state who are commissioned reserve officers
 17 or reserve enlisted personnel in the United States military or
 18 naval service or members of the National Guard are entitled to
 19 leaves of absence from their respective duties, without loss of
 20 vacation leave, pay, time, or efficiency rating, on all days
 21 during which they are engaged in training ordered under the
 22 provisions of the United States military or naval training
 23 regulations for such personnel when assigned to active or
 24 inactive duty.

25 (2) Leaves of absence granted as a matter of legal right
 26 under the provisions of this section shall not exceed 30 ~~17~~
 27 working days in any one annual period. Administrative leaves of
 28 absence for additional or longer periods of time for assignment

HB 129

2010

29 | to duty functions of a military character shall be without pay
 30 | and shall be granted by the employing or appointing authority of
 31 | any state, county, municipal, or political subdivision employee
 32 | and when so granted shall be without loss of time or efficiency
 33 | rating.

34 | Section 2. This act shall take effect July 1, 2010.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 129 (2010)

Amendment No.

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 _____

1 Council/Committee hearing bill: Military & Local Affairs Policy
2 Committee

3 Representative Renuart offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 115.07, Florida Statutes, is amended to
8 read:

9 115.07 Officers and employees' leaves of absence for
10 reserve or guard training.-

11 (1) All officers or employees of the state, of the several
12 counties of the state, and of the municipalities or political
13 subdivisions of the state who are commissioned reserve officers
14 or reserve enlisted personnel in the United States military or
15 naval service or members of the National Guard are entitled to
16 leaves of absence from their respective duties, without loss of
17 vacation leave, pay, time, or efficiency rating, on all days
18 during which they are engaged in training ordered under the
19 provisions of the United States military or naval training

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 129 (2010)

Amendment No.

20 regulations for such personnel when assigned to active or
21 inactive duty.

22 (2) Leaves of absence granted as a matter of legal right
23 under the provisions of this section may ~~shall~~ not exceed 240 ~~17~~
24 working hours ~~days~~ in any one annual period. Administrative
25 leaves of absence for additional or longer periods of time for
26 assignment to duty functions of a military character shall be
27 without pay and shall be granted by the employing or appointing
28 authority of any state, county, municipal, or political
29 subdivision employee and when so granted shall be without loss
30 of time or efficiency rating.

31 ~~(3) With respect to any officer or employee whose working~~
32 ~~day consists of a shift measured in hours, each such 12-hour~~
33 ~~shift or less shall equal 1 working day leave of absence. All~~
34 ~~other shifts over 12 hours and up to 24 hours shall equal 2~~
35 ~~working days leave of absence.~~

36 (3)~~(4)~~ When an employee's assigned employment duty
37 conflicts with ordered active or inactive duty training, it is
38 ~~shall be~~ the responsibility of the employing agency of the
39 state, county, municipal, or political subdivision to provide a
40 substitute employee, if necessary, for the assumption of such
41 employment duty while the employee is on assignment for the ~~such~~
42 training.

43 (4)~~(5)~~ It is the intent of the Legislature that the state,
44 its several counties, and its municipalities and political
45 subdivisions shall grant leaves of absence for active or
46 inactive training to all employees who are members of the United
47 States Reserve Forces or the National Guard, to ensure the state

Amendment No.

48 and national security at all times through a strong armed force
49 of qualified and mobilization-ready personnel.

50 Section 2. Subsection (4) of section 250.10, Florida
51 Statutes, is amended to read:

52 250.10 Appointment and duties of the Adjutant General.—

53 (4) (a) The Adjutant General shall, subject to confirmation
54 by the Senate, employ a federally recognized officer of the
55 Florida National Guard, who has served in the Florida Army Guard
56 for the preceding 5 years and attained the rank of colonel or
57 higher at the time of appointment, to be the Assistant Adjutant
58 General for Army.

59 (b) The Adjutant General may, subject to confirmation by
60 the Senate, employ an additional, federally recognized officer
61 of the Florida National Guard, who has served in the Florida
62 Army Guard for the preceding 5 years and attained the rank of
63 colonel or higher at the time of appointment, to be a second
64 Assistant Adjutant General for Army.

65
66 Each ~~The~~ officer shall perform the duties required by the
67 Adjutant General.

68 Section 3. The Legislature finds and declares that this
69 act fulfills an important state interest.

70 Section 4. This act shall take effect July 1, 2010.

71

72

73

74

75

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

Remove the entire title and insert:

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 129 (2010)

Amendment No.

76 A bill to be entitled
77 An act relating to military affairs; amending s. 115.07,
78 F.S., relating to provisions authorizing leave of absence
79 for officers and employees of the state or counties,
80 municipalities, or political subdivisions who are
81 commissioned reserve officers or reserve enlisted
82 personnel in the United States military or naval service
83 or who are members of the National Guard; providing that
84 such officers and employees are entitled to 240 working
85 hours rather than 17 working days of annual leave of
86 absence without loss of time or efficiency rating;
87 removing an obsolete provision calculating leaves of
88 absence as measured in working days; amending s. 250.10,
89 F.S.; providing for the appointment of a second Assistant
90 Adjutant General for the Florida National Guard Army;
91 providing a finding that the act fulfills an important
92 state interest; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 513 Mobile Home Park Tenancies
SPONSOR(S): Civil Justice & Courts Policy Committee; Horner and others
TIED BILLS: None IDEN./SIM. BILLS: CS/CS/SB 1016

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Civil Justice & Courts Policy Committee, 12 Y, 1 N, As CS, Bond, De La Paz. Row 2: Military & Local Affairs Policy Committee, Rojas, Hoagland.

SUMMARY ANALYSIS

Mobile home parks are regulated by the state. Due to the cost and difficulty of moving mobile homes, current law requires a mobile home park owner to give tenants at least six months notice before eviction can take place due to a change of land use.

This bill requires that, at the beginning of the six months eviction period, and if the tenants have created a homeowners' association, the park owner must offer to sell the park to the association. The association has 45 days to agree to the asking price and terms.

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

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The landlord-tenant relationship between a mobile home park owner and a mobile home owner in a mobile home park is a unique relationship. Traditional landlord-tenant concepts are thought inapplicable where the land is owned by the park and the homes on the property are owned by the home owner. This relationship is impacted by the high cost of moving a mobile home. Chapter 723, F.S, governs the relationship between mobile home park owners and mobile home owners. Section 723.004(1), F.S, provides:

The Legislature finds that there are factors unique to the relationship between a mobile home owner and a mobile home park owner. Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected.

The Florida Supreme Court, in addressing mobile home park issues, has stated that:

a hybrid type of property relationship exists between the mobile home owner and the park owner and that the relationship is not simply one of landowner and tenant. Each has basic property rights which must reciprocally accommodate and harmonize. Separate and distinct mobile home laws are necessary to define the relationships and protect the interests of the persons involved.¹

Before the current downturn in real estate values, escalating property values, especially in the coastal areas, prompted a number of mobile home park owners to close their parks so that the land can be used for a different purpose (such as retail, office, apartments or condominiums). As the economy recovers, mobile home parks will likely again be slated for redevelopment.

¹ *Stewart v. Green*, 300 So.2d 889, 892 (Fla. 1974).

Florida Housing Finance Corporation

The Florida Housing Finance Corporation (FHFC) was created to provide financing and assistance for affordable housing projects throughout the state. The FHFC is public corporation owned by the state. The goal of the FHFC is to "help our fellow Floridians obtain safe, decent affordable housing that might otherwise be unavailable to them." The FHFC today operates a number of housing-related programs.²

This bill amends the legislative intent provisions regarding the FHFC at s. 420.502, F.S., to add that: "Mobile home parks are an essential element of providing affordable housing in the state."

This bill amends s. 420.0003, F.S., to require the FHFC to use its expertise to provide technical assistance to mobile home owners and their homeowners' associations regarding purchase of their mobile home park. The bill also authorizes the FHFC to assist in financing through bonds to be issued by a non-profit organization. If issued, such bonds would not be revenue bonds and would not be backed by the state.

Purchase of Mobile Home Park by Tenants

Section 723.061, F.S., provides the grounds for eviction of a mobile home park resident. One ground for eviction is an eviction of all tenants upon a change in land use. Tenants evicted under this provision must be given at least six months' notice.

Section 723.071, F.S., requires a mobile home park owner that offers a mobile home park for sale to the general public must notify the homeowners' association (tenant's association) of the price, terms and conditions of sale. The requirement only applies if the tenants have organized a homeowners association under ch. 723, F.S. The mobile home owners, by and through the homeowners association, may purchase the park at the price, terms and conditions in the notice if the owners execute a purchase contract within 45 days after mailing of the notice. If the park owner later elects to offer the park at a lower price, the home owners have an additional 10 days to meet the price and terms and conditions of the park owner by executing a contract.

This bill amends the eviction provisions of s. 723.061(1)(d), F.S., to provide mobile home owners with a process for purchase of the mobile home park from which they are to be evicted due to a change in land use. The purchase terms are similar to those in current law related to a park owner offering the park for sale. The park owner may not evict the homeowners from the park due to a change of land use unless the park owner first follows the process set forth in the bill.

If the homeowners have formed a homeowners' association pursuant to ss. 723.075-723.079, F.S., the bill requires the park owner to give written notice to the homeowners' association of the homeowners' right to purchase the mobile home park at the price, terms and conditions set forth in the notice. The park owner sets the price, terms and conditions.

The written notice must be provided to the officers of the homeowners' association. The bill gives the homeowners association the right to execute and deliver a contract for purchase of the park to the park owner within 45 days after the mailing of the written notice. The contract must be for the same price and terms and conditions set forth in the written notice. The park owner may not sell to another if the association agrees to a contract.

² Programs of the FHFC include: Multifamily development programs (or rental housing program) include Multifamily Mortgage Revenue Bonds (MMRB), Florida Affordable Housing Guarantee (Guarantee Program), HOME Investment Partnerships, Elderly Housing Community Loan (EHCL) and Low Income Housing Tax Credit (LIHTC) program. Special programs include the State Housing Initiatives Partnership (SHIP), Predevelopment Loan Program (PLP), Demonstration Loans, and the Affordable Housing Catalyst Program (Catalyst). Affordable housing programs include the Rep. Mike Davis Community Workforce Housing Innovation Pilot (CWHIP). Homeownership programs include the First Time Homebuyer (FTHB) Program, down payment assistance programs and the Homeownership Pool (HOP) Program. Information from the corporation's website, on January 19, 2020, at:

http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0001

This bill further provides that, if the park owner and the homeowners' association do not execute a contract within the 45 day period, the park owner may proceed with the eviction. If during the 6 month notice period prior to eviction the park owner elects to offer or sell the park at a price lower than in the initial notice, the park owner must notify the homeowners association and the association has an additional 10 days to agree to the revised offer terms.

This bill also provides that, at the conclusion of the 6 month notice period, the park owner has no further obligation under the amended s. 723.061(1)(d), F.S., or under s. 723.071, F.S.

B. SECTION DIRECTORY:

- Section 1. amends s. 420.0003, F.S., regarding the state housing strategy, as implemented by the Florida Housing Finance Corporation.
- Section 2. amends s. 420.502, F.S., amending the legislative findings related to the Florida Housing Finance Corporation Act.
- Section 3. amends s. 723.061, F.S., regarding eviction from a mobile home park upon a change in land use.
- Section 4. provides an effective date of July 1, 2010.

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:

The Florida Housing Finance Corporation provided the following fiscal comment as to the bill as first filed:³

At this time, the fiscal impact of HB 513 is indeterminate. We know that the bill would have an impact on Florida Housing but we don't know how many parks will be eligible, how many of those eligible parks would use the program, which of our programs would oversee the new mobile home program, or what the cost of managing/staffing the new program will be.

³ Email from Sean Lacey, January 19, 2010, on file with committee staff.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Business & Professional Regulation raised the concerns regarding limitations on the disposition of private property. However, the courts have addressed the issue of unreasonable restraints on alienation.

"The basic premise of the public policy rule against unreasonable restraints on alienation, see 7 *Thompson On Real Property*, § 3161 (1962); 31 C.J.S. *Estates* 8(b)(2) (1964), is that free alienability of property fosters economic growth and commercial development. *Davis v. Geyer*, 151 Fla. 362, 9 So.2d 727 (1942); *Seagate Condominium Association, Inc. v. Duffy*, 330 So.2d 484. Because "[t]he validity or invalidity of a restraint depends upon its long-term effect on the improvement and marketability of the property," *Iglehart v. Phillips*, 383 So.2d 610, 614 (Fla.1980), where the restraint, for whatever duration, does not impede the improvement of the property or its marketability, it is not illegal. *Id.* at 615. **Accordingly, where a restraint on alienation, no matter how absolute and encompassing, is conditioned upon the restrainer's obligation to purchase the property at the then fair market value, the restraint is valid.** *Id.* at 614-15, and cases collected."⁴ (*emphasis added*)

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 1, 2010, the Civil Justice & Courts Policy Committee adopted one amendment to this bill. The amendment substantially rewrote the provisions regarding the Florida Housing Finance Corporation and incorporated numerous grammatical and style improvements. The bill was then reported favorably with a committee substitute.

⁴ Aquarian Foundation, Inc. v. Sholom House, Inc., 448 So.2d 1166 (Fla.App. 3 Dist.,1984).

1 A bill to be entitled
 2 An act relating to mobile home park tenancies; amending s.
 3 420.0003, F.S.; directing the Florida Housing Finance
 4 Corporation to provide technical assistance to mobile home
 5 owners in purchasing their mobile home park; amending s.
 6 420.502, F.S.; providing legislative findings; amending s.
 7 723.061, F.S.; revising procedures for mobile home owners
 8 being provided eviction notice due to a change in use of
 9 the land comprising the mobile home park; requiring
 10 certain notice to the homeowners' association; providing
 11 an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Paragraph (e) is added to subsection (4) of
 16 section 420.0003, Florida Statutes, to read:

17 420.0003 State housing strategy.—

18 (4) IMPLEMENTATION.—The Department of Community Affairs
 19 and the Florida Housing Finance Corporation in carrying out the
 20 strategy articulated herein shall have the following duties:

21 (e) The Florida Housing Finance Corporation shall use its
 22 expertise to provide technical assistance to mobile home owners,
 23 working through their homeowners' association formed and
 24 operating pursuant to ss. 723.075-723.079, in purchasing their
 25 mobile home park, including, but not limited to, the issuance of
 26 bonds through a not-for-profit organization exempt under the
 27 provisions of s. 501(c)(3) of the United States Internal Revenue
 28 Code. Upon written request of mobile home owners working through

CS/HB 513

2010

29 their homeowners' association formed and operating pursuant to
 30 ss. 723.075-723.079, the Florida Housing Finance Corporation is
 31 directed to provide technical assistance in creating the not-
 32 for-profit organization to purchase their mobile home park.

33 Section 2. Subsection (9) is added to section 420.502,
 34 Florida Statutes, to read:

35 420.502 Legislative findings.—It is hereby found and
 36 declared as follows:

37 (9) Mobile home parks are an essential element of
 38 providing affordable housing in the state.

39 Section 3. Section 723.061, Florida Statutes, is amended
 40 to read:

41 723.061 Eviction; grounds, proceedings.—

42 (1) A mobile home park owner may evict a mobile home
 43 owner, a mobile home tenant, a mobile home occupant, or a mobile
 44 home only on one or more of the grounds provided in this
 45 section.

46 (a) Nonpayment of lot rental amount. If a mobile home
 47 owner or tenant, whichever is responsible, fails to pay the lot
 48 rental amount when due and if the default continues for 5 days
 49 after delivery of a written demand by the mobile home park owner
 50 for payment of the lot rental amount, the park owner may
 51 terminate the tenancy. However, if the mobile home owner or
 52 tenant, whichever is responsible, pays the lot rental amount
 53 due, including any late charges, court costs, and attorney's
 54 fees, the court may, for good cause, deny the order of eviction,
 55 provided such nonpayment has not occurred more than twice.

56 (b) Conviction of a violation of a federal or state law or
 57 local ordinance, which violation may be deemed detrimental to
 58 the health, safety, or welfare of other residents of the mobile
 59 home park. The mobile home owner or mobile home tenant will have
 60 7 days from the date that notice to vacate is delivered to
 61 vacate the premises. This paragraph shall be grounds to deny an
 62 initial tenancy of a purchaser of a home pursuant to paragraph
 63 (e) or to evict an unapproved occupant of a home.

64 (c) Violation of a park rule or regulation, the rental
 65 agreement, or this chapter.

66 1. For the first violation of any properly promulgated
 67 rule or regulation, rental agreement provision, or this chapter
 68 which is found by any court having jurisdiction thereof to have
 69 been an act which endangered the life, health, safety, or
 70 property of the park residents or employees or the peaceful
 71 enjoyment of the mobile home park by its residents, the mobile
 72 home park owner may terminate the rental agreement, and the
 73 mobile home owner, tenant, or occupant will have 7 days from the
 74 date that the notice is delivered to vacate the premises.

75 2. For a second violation of the same properly promulgated
 76 rule or regulation, rental agreement provision, or this chapter
 77 within 12 months, the mobile home park owner may terminate the
 78 tenancy if she or he has given the mobile home owner, tenant, or
 79 occupant written notice within 30 days of the first violation,
 80 which notice specified the actions of the mobile home owner,
 81 tenant, or occupant which caused the violation and gave the
 82 mobile home owner, tenant, or occupant 7 days to correct the
 83 noncompliance. The mobile home owner, tenant, or occupant must

84 have received written notice of the ground upon which she or he
 85 is to be evicted at least 30 days prior to the date on which she
 86 or he is required to vacate. A second violation of a properly
 87 promulgated rule or regulation, rental agreement provision, or
 88 this chapter within 12 months of the first violation is
 89 unequivocally a ground for eviction, and it is not a defense to
 90 any eviction proceeding that a violation has been cured after
 91 the second violation. Violation of a rule or regulation, rental
 92 agreement provision, or this chapter after the passage of 1 year
 93 from the first violation of the same rule or regulation, rental
 94 agreement provision, or this chapter does not constitute a
 95 ground for eviction under this section.

96
 97 No properly promulgated rule or regulation may be arbitrarily
 98 applied and used as a ground for eviction.

99 (d) Change in use of the land comprising the mobile home
 100 park, or the portion thereof from which mobile homes are to be
 101 evicted, from mobile home lot rentals to some other use,
 102 provided:

103 1. The park owner gives written notice to the homeowners'
 104 association formed and operating pursuant to ss. 723.075-723.079
 105 of its right to purchase the mobile home park, if the land
 106 comprising the mobile home park is changing use from mobile home
 107 lot rentals to a different use, at the price and terms and
 108 conditions set forth in such written notice.

109 a. Notice shall be given to the officers of the
 110 homeowners' association by United States mail. Within 45 days
 111 after the date of mailing the notice, the homeowners'

112 association shall have the right to execute and deliver a
 113 contract to the park owner to purchase the mobile home park
 114 under the same price and terms and conditions as set forth in
 115 the notice. The conditions in the notice may require the
 116 purchase of other real estate that is contiguous or adjacent to
 117 the mobile home park. If such contract between the park owner
 118 and the homeowners' association is not executed and delivered to
 119 the park owner within the 45-day period, the park owner shall be
 120 under no further obligation to the homeowners' association under
 121 this sub-subparagraph, and her or his only obligation shall be
 122 as set forth in sub-subparagraph b.

123 b. If the park owner elects to offer or sell the park at a
 124 price lower than the price specified in her or his initial
 125 notice to the officers of the homeowners' association, the
 126 homeowners' association shall have an additional 10 days to meet
 127 the revised price and terms and conditions of the park owner by
 128 executing and delivering the revised contract to the park owner.

129 c. The park owner shall have no obligation under this
 130 paragraph or s. 723.071 to give any further notice to or to
 131 negotiate with the homeowners' association for the sale of the
 132 mobile home park to the homeowners' association after 6 months
 133 from the date of mailing the initial notice described in sub-
 134 subparagraph a.

135 2. The park owner gives the affected mobile home owners
 136 and mobile home tenants with ~~all tenants affected~~ are given at
 137 least 6 months' notice of eviction due to the projected change
 138 ~~in~~ of use and of their need to secure other accommodations.

139 a. The notice of eviction due to a change in use of the
 140 land may be given to the affected mobile home owners at the same
 141 time as or after the notice of a right to purchase the mobile
 142 home park has been given to the officers of the homeowners'
 143 association as set forth in subparagraph 1.a.

144 b. The notice of eviction due to a change in use of the
 145 land shall include in a font no smaller than the body of the
 146 notice the following statement: YOU MAY BE ENTITLED TO
 147 COMPENSATION FROM THE FLORIDA MOBILE HOME RELOCATION TRUST FUND,
 148 ADMINISTERED BY THE FLORIDA MOBILE HOME RELOCATION CORPORATION
 149 (FMHRC). FMHRC CONTACT INFORMATION IS AVAILABLE FROM THE FLORIDA
 150 DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION.

151 c. The park owner may not give a notice of increase in lot
 152 rental amount within 90 days before giving notice of a change in
 153 use.

154 (e) Failure of the purchaser, prospective tenant, or
 155 occupant of a mobile home situated in the mobile home park to be
 156 qualified as, and to obtain approval to become, a tenant or
 157 occupant of the home, if such approval is required by a properly
 158 promulgated rule. If a purchaser or prospective tenant of a
 159 mobile home situated in the mobile home park occupies the mobile
 160 home before approval is granted, the mobile home owner or mobile
 161 home tenant shall have 7 days from the date the notice of the
 162 failure to be approved for tenancy is delivered to vacate the
 163 premises.

164 (2) In the event of eviction for change in ~~of~~ use,
 165 homeowners must object to the change in use by petitioning for
 166 administrative or judicial remedies within 90 days of the date

CS/HB 513

2010

167 of the notice or they will be barred from taking any subsequent
168 action to contest the change in use. This provision shall not be
169 construed to prevent any homeowner from objecting to a zoning
170 change at any time.

171 (3) The provisions of s. 723.083 shall not be applicable
172 to any park where the provisions of this subsection apply.

173 (4) A mobile home park owner applying for the removal of a
174 mobile home owner, tenant, occupant, or a mobile home shall
175 file, in the county court in the county where the mobile home
176 lot is situated, a complaint describing the lot and stating the
177 facts that authorize the removal of the mobile home owner,
178 tenant, occupant, or the mobile home. The park owner is entitled
179 to the summary procedure provided in s. 51.011, and the court
180 shall advance the cause on the calendar.

181 (5) Except for the notice to the officers of the
182 homeowners' association as provided in subparagraph (1)(d)1.,
183 any notice required by this section must be in writing, and must
184 be posted on the premises and sent to the mobile home owner and
185 tenant or occupant, as appropriate, by certified or registered
186 mail, return receipt requested, addressed to the mobile home
187 owner and tenant or occupant, as appropriate, at her or his last
188 known address. Delivery of the mailed notice shall be deemed
189 given 5 days after the date of postmark.

190 Section 4. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 569 Landfills
SPONSOR(S): Agriculture and Natural Resources Policy Committee, Poppell
TIED BILLS: IDEN./SIM. BILLS: SB 1052

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Agriculture & Natural Resources Policy Committee	12 Y, 0 N, As CS	Cunningham	Reese
2)	Military & Local Affairs Policy Committee		Rojas <i>JR</i>	Hoagland <i>WH</i>
3)	General Government Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Section 403.708, F.S., currently prohibits the deposit of yard trash in lined landfills classified by the Florida Department of Environmental Protection as Class I landfills. The bill allows Class I landfills that are designed to utilize an active gas collection system, provide or arrange for beneficial use of the landfill gas collected at such facilities, and obtain a permit modification to their operating permit to accept yard trash.

The bill has an effective date of July 1, 2010.

The bill appears to have no fiscal impact on state government; however, local governments and the private sector may be affected. See Section II of this analysis for further fiscal information.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

According to chapter 62-701.340, Florida Administrative Code, landfills or solid waste disposal units are classified into one of three categories by the amount or types of wastes received.

- Class I landfills are those that receive an average of 20 tons or more of Class I waste¹ per day. There are 53 Class I landfills in Florida.
- Class II landfills (which are no longer being permitted in Florida because most facilities opt to be permitted as a Class I landfill) are those that receive an average of less than 20 tons of Class I waste per day.
- Class III landfills are those that receive only Class III waste². Class III landfills cannot accept putrescible (likely to become putrid³) household waste. The Department of Environmental Protection (DEP) shall exempt Class III landfills from some or all of the requirements for liners, leachate controls, and water quality monitoring if the applicant demonstrates that no significant threat to the environment will result from the exemption based upon the types of waste received, methods for controlling types of waste disposed of, and the results of hydrogeological and geotechnical investigations.

Currently, section 403.708, F.S., prohibits the deposit of yard trash⁴ in lined landfills classified by DEP rule as Class I landfills. Yard trash that is source separated from solid waste may be accepted at a solid waste disposal area where separate yard trash composting facilities are provided and maintained. According to DEP, many local governments have expended significant money on implementing separate collection programs for yard trash. Due to the rising cost of purchasing additional land for landfill purposes, depositing yard trash in landfills has been discouraged. There are businesses that turn yard trash into mulch and other products and cities and municipalities are encouraged to recycle yard trash. Section 403.706, F.S., requires each county to implement a plan to achieve a goal of

¹ Class I waste means solid waste that is not hazardous waste, and that is not prohibited from disposal in a lined landfill. (rule 62-701.200, F.A.C.)

² Class III waste means yard trash, construction and demolition debris, processed tires, asbestos, carpet, cardboard, paper, glass, plastic, furniture other than appliances, or other materials approved by DEP that are not expected to produce leachate that poses a threat to public health or the environment.

³ www.thefreedictionary.com

⁴ Yard trash is defined in rule 62-701.200, F.A.C., as vegetative matter resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps.

composting no less than 5% and up to 10% of organic materials that would otherwise be disposed of in a landfill.

The Energy, Climate Change and Economic Security Act of 2008 established a new statewide recycling goal of 75% by 2020. The Act directed the Florida Department of Environmental Protection (DEP) to submit to the Florida Legislature a comprehensive program to achieve this goal. On January 4, 2010, the DEP submitted the required report to the Legislature.

The information and recommendations in the report were developed based on extensive research and the contributions of stakeholders who participated in four public workshops. An even wider range of ideas were submitted through DEP's Web forum and e-mails.

According to the report, Florida generates more than 32 million tons of municipal solid waste annually, almost two tons per resident per year. Today, more than two decades after the Legislature passed Florida's first 30% recycling goal, Floridians collectively recycle only 28% of their solid waste. The report explores ways to change that fact through heightened public awareness, state leadership, development and expansion of recycling markets, and more investments throughout the local government and commercial sectors.⁵

Effect of Proposed Changes

This bill allows Class I landfills, that have an active gas collection system, provide or arrange for beneficial use of the landfill gas, and obtain a permit modification to their operating permit, to accept yard trash. The permittee must certify that gas collection and beneficial use will continue after closure of the disposal facility that is accepting yard trash. Counties and municipalities that implement separate collection programs may save money; however, this may inadvertently impact the availability of jobs.

According to DEP, 44 landfills have active gas collection systems. There are currently about 12 active landfills with active gas collection systems that beneficially use the gas. Those landfills would be affected by this bill. This bill would allow those landfills to accept yard trash for disposal once a minor permit modification to its operating permit has been obtained. There are also about 32 landfills that actively collect landfill gas but do not beneficially use the gas. Some of those landfills could install a system to beneficially use the gas and obtain a permit modification to its operating permit, and those landfills would then also be allowed to accept yard trash.

The elimination of the lined landfill yard trash ban could impact several different fronts. Combined collection with household waste might, in some cases, result in more efficient collection and possibly fewer waste-hauling trucks on the road. This, in turn, may result in a cost savings. Decreased vehicle traffic would positively impact energy consumption and greenhouse gas emissions. On the other hand, when yard trash is disposed of in a landfill, it decomposes under anaerobic conditions and generates methane, a greenhouse gas that has a global warming potential 21 times greater than carbon dioxide. If this methane is captured very efficiently and utilized to produce energy, it may result in energy savings and reduced greenhouse gas emissions. If the methane produced by the yard trash is not captured very efficiently, total greenhouse gas emissions would be expected to increase. It is not yet clear whether the active gas collection systems currently in place will operate efficiently enough to result in an overall decrease in greenhouse gas emissions.

Combining collection of household waste and yard trash would have a major impact on the waste management industry, and may impact local governments, landfill operators, haulers, yard trash facilities, biomass facilities, and compost/top soil producers. A study is currently underway as part of a DEP-funded research effort under contract with the University of Florida to evaluate the overall impacts of allowing yard trash disposal in some lined landfills. Allowing these landfills to accept yard trash will, most likely, increase the amount of landfill gas generated, resulting in greater efficiency and more alternative fuel produced. However, the amount of yard trash that is available for mulch or compost

⁵ http://www.dep.state.fl.us/waste/quick_topics/publications/shw/recycling/75percent/75_recycling_report.pdf

would be reduced. Allowing yard trash to be disposed of in Class I landfills may also impede the local government's composting requirement provided for in s. 403.706, F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 403.708, F.S., to allow the disposal of yard trash in specified Class I landfills; requiring such landfills to obtain a modified operating permit; requiring permittees to certify certain collection and beneficial use of land fill gas.

Section 2. Provides an effective date of July 1, 2010.

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:

See fiscal comments section below.

2. Expenditures:

See fiscal comments section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Privately owned landfills may benefit from the allowance of yard trash in landfills that collect the gas and reuse it or sell it. Businesses that operate yard trash processing facilities may see a reduction in the availability of yard trash. Businesses that operate Class III landfills or construction and demolition disposal facilities could see a decrease in tipping fees if yard trash is diverted to Class I landfills. Businesses that operate a Class I landfill and elect to install a system to collect landfill gas and reuse it would incur start-up costs of the system and its installation.

D. FISCAL COMMENTS:

Non-recurring Effects: If a local government is operating a Class I landfill and elects to put in a system to beneficially use landfill gas, there would be start-up costs of installing such a system. Otherwise, none.

Recurring Effects: Many local governments have expended significant money on implementing separate collection programs for yard trash. In some cases the local government might save money if it could do away with separate collection and just take all the yard trash to the Class I landfill. In other cases the local government might find it more difficult or expensive to collect enough yard trash to continue supplying a mulching, or fuel-making operation.

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.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 3, 2010 the Agriculture and Natural Resources Policy Committee adopted a strike-all amendment to this bill. In addition to the original provisions of the bill, the amendment:

- authorizes the disposal of yard trash at specified Class I landfills;
- requires landfills to obtain a modified operating permit;
- requires permittees to certify certain collection and beneficial use of landfill gas; and
- provides an effective date.

1 A bill to be entitled
 2 An act relating to landfills; amending s. 403.708, F.S.;
 3 authorizing the disposal of yard trash at specified Class
 4 I landfills; requiring such landfills to obtain a modified
 5 operating permit; requiring permittees to certify certain
 6 collection and beneficial use of landfill gas; providing
 7 an effective date.

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

10
 11 Section 1. Paragraph (c) of subsection (12) of section
 12 403.708, Florida Statutes, is amended to read:

13 403.708 Prohibition; penalty.—

14 (12) A person who knows or should know of the nature of
 15 the following types of solid waste may not dispose of such solid
 16 waste in landfills:

17 (c) Yard trash in lined landfills classified by department
 18 rule as Class I landfills, unless the Class I landfill uses an
 19 active gas-collection system to collect landfill gas generated
 20 at the disposal facility and provides or arranges for a
 21 beneficial use of the gas. A qualifying permitted Class I
 22 landfill shall obtain a minor permit modification to its
 23 operating permit which describes the beneficial use being made
 24 of the landfill gas and modifies the facility's operation plan
 25 before receiving yard trash as authorized by this paragraph. The
 26 permittee must certify that gas collection and beneficial use
 27 will continue after closure of the disposal facility that is
 28 accepting yard trash. Yard trash that is source separated from

CS/HB 569

2010

29 solid waste may be accepted at a solid waste disposal area where
30 separate yard trash composting facilities are provided and
31 maintained. The department recognizes that incidental amounts of
32 yard trash may be disposed of in Class I landfills. In any
33 enforcement action taken pursuant to this paragraph, the
34 department shall consider the difficulty of removing incidental
35 amounts of yard trash from a mixed solid waste stream.

36 Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1045 Palm Beach County
SPONSOR(S): Brandenburg
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Nelson <i>JNS</i>	Hoagland <i>BK</i>
2)	Health Care Services Policy Committee			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The Department of Children and Family Services establishes licensing standards that must be met by each licensed child care facility in the state. The purpose of this program is to ensure that children are well cared for in a safe, healthy, positive and educational environment by trained, qualified child care staff. Any county with licensing standards that meet or exceed the state minimum standards may designate a licensing agency for local child care facilities.

HB 1045 amends a special act which provides for the operation and licensing of child care facilities in Palm Beach County. This bill:

- revises and provides definitions for various words and phrases;
- provides requirements for the operation and licensing of large family child care homes;
- provides for the issuance of provisional licenses to child care facilities, large family child care homes, and family day care homes;
- updates obsolete language;
- revises membership requirements for the Palm Beach County Child Care Advisory Council; and
- provides an effective date of upon becoming law.

The bill may have a positive fiscal impact on child care providers in Palm Beach County.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Licensing of Child Care Facilities

Pursuant to s. 402.305(1), F.S., the Department of Children and Family Services (DCF) establishes licensing standards that must be met by each licensed child care facility in the state. The purpose of this program is to ensure that children are well cared for in a safe, healthy, positive and educational environment by trained, qualified child care staff.

Section 402.306 (1), F.S., provides that counties with child care facility licensing standards that meet or exceed the state minimum standards (chs. 65C-20, 65C-22 and 65C-25, F.A.C.) may designate a local licensing agency or contract with the DCF to delegate the administration of the state minimum standards in the county. The DCF is responsible for the inspection and licensure of child care facilities in 61 of Florida's 67 counties. The remaining six counties (Brevard, Broward, Hillsborough, Palm Beach, Pinellas and Sarasota) have elected to regulate these facilities.¹

Palm Beach County

The Board of County Commissioners of Palm Beach County acting as the Child Care Facilities Board is the local licensing agency for child care facilities in the county. The Board has appointed a Child Care Advisory Council (CCAC) to act on its behalf for approving, denying or revoking licenses, and for recommending revisions to local child care rules and regulations. The CCAC meets monthly.

The Palm Beach County Health Department serves as staff to the CCAC, and is responsible for administering the child care licensing program. This includes conducting inspections of child care centers and family day care facilities to ensure that minimum standards are met and maintained for issuing and renewing licenses. The Department's child care inspectors also provide information, consultations, and technical assistance to licensed facilities and prospective facility owners and operators.

¹ <http://www.dcf.state.fl.us/childcare/licensing.shtml>.

Chapter 59-1698, L.O.F., as amended by ch. 77-620, L.O.F., provides the legal framework for child care licensing in Palm Beach County. This special act enables the county to create its own local rules and regulations for child care facilities and family day care homes.²

Effect of Proposed Changes

HB 1045 amends ch. 59-1698, L.O.F., as amended, relating to child care regulation in Palm Beach County. The bill:

- revises the definition of “children.” Currently, that term includes all persons related to the operator of a facility under 12 years of age, and all other persons under the age of 18. The bill increases the maximum age for included, related children from 12 to 13 years old.

The rationale for this change was to remove conflicts between the definition of children, as provided in the special act, and several provisions regarding household children in the Palm Beach County regulations. Although the special act defines children as persons under 12 years of age and related to the operator, the regulations—and state laws—require the counting of such children under 13 years of age for purposes of determining the number of children that can be accommodated in particular child care arrangements.

- deletes the definition of “child boarding homes.” A similar definition is not included in the current Florida Statutes, and this type of facility no longer exists in Palm Beach County.³
- revises the definition of “family day care facilities,” renaming such an entity a “family day care home,” and requiring that it be an occupied residence. This will align the special act’s terminology with that contained in s. 402.302(7), F.S.
- increases the maximum number of children allowed in family day care homes from five to six. This change is in response to a request from a local family child care association to increase the capacity of family day care homes. Local family day care providers have indicated that the current restrictions have a negative impact on their ability to operate as a viable small business. This proposed expansion in the capacity of family day care homes will result in an increase in available child care slots by more than 325 in Palm Beach County.

The current definition for the term “family day care home” found at s. 402.302(7), F.S., provides that these facilities are allowed to provide care for one of the following groups of children, which includes those children under 13 years of age who are related to the caregiver:

- a maximum of four children from birth to 12 months of age.

²Section 6 of ch. 77-620, L.O.F., provides: MINIMUM STANDARDS, REASONABLE RULES AND REGULATIONS TO BE PRESCRIBED BY THE BOARD.

1. The Board shall make, promulgate, amend and repeal such rules and regulations as are necessary to protect the health and safety of persons in child care facilities, child boarding homes, or family day care facilities; prescribing standards for living quarters, including provisions pertaining to sanitary conditions, light, air, safety, protection from fire hazards, equipment, operation, qualifications and number of staff, and such other matters as may be appropriate to protect the life and health of the occupants thereof. Standards established by rules and regulations of the Board shall meet or exceed state minimum standards, to wit: standards established by the Department of Health and Rehabilitative Services pursuant to chapter 402, Florida Statutes.

2. The Board may make, promulgate, amend, and repeal such rules and regulations as are necessary:

a. To require facilities regulated hereunder to secure liability insurance and set minimum limits and standards for carriers; and,
b. To establish fees for inspection and licensing under this Act.

No such rules and regulations of the Board shall be adopted or become effective until after a public hearing has been held by the Board pursuant to at least one notice published in a newspaper of general circulation in the County at least ten (10) days prior to the hearing. When approved by the Board and filed with the Clerk of the County Commission, such rules and regulations shall have the force and effect of law. Until the Board adopts rules and regulations, the State standards aforementioned shall apply to all facilities regulated by this Act.

³ March 2, 2010, e-mail from Courtney Shippey, Division of Environmental Public Health, Palm Beach County Health Department.

- a maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.
- a maximum of six preschool children if all are older than 12 months of age.
- a maximum of 10 children if no more than five are preschool age and, of those 5, no more than two are under 12 months of age.

The proposed language of the special act does not contain any limitations based on the ages of children. However, the Palm Beach County Health Department has indicated that the details of caregiver-child ratios will be laid out in their rules and regulations.⁴

The Palm Beach County Rules & Regulations Governing Family Day Care Facilities currently provide that a family day care facility is allowed to provide care for one of the following groups of children, which includes those children under the age of 13 years of age who are related to the caregiver, or who are household members:

- a maximum of four children from birth to 12 months of age for a total of four children.
- a maximum of five children from birth to 12 years of age, for a total of five children, provided that no more than three of the children are from the ages of birth to 12 months of age.⁵
- creates a new category of "large family child care home." This is an occupied residence which has at least two full-time child care personnel on the premises, including the owner or occupant. Such a home must first have operated as a licensed family day care home for two years, with an operator who has had a child development associate credential or its equivalent for one year, before seeking licensure. A large family child care home has a maximum capacity of eight children under the age of two, or a maximum of 12 children with no more than four children under the age of two. These maximums include those children under 13 years of age who are related to the caregiver.

This definition corresponds to the one provided at s. 402.302 (8), F.S. Currently, this type of child care arrangement is not allowed in Palm Beach County. Ultimately, establishment of such facilities will be dependent on local zoning approvals.⁶

- designates one of the private enterprise seats on the Child Care Advisory Council to be filled by a family day care provider. Currently, the CCAC is composed of seven members consisting of the following:
 - two members who represent and operate as a regulated facility as a private enterprise;
 - one member who represents and operates a regulated parochial facility;
 - one member who represents a consumer protection enforcement official;
 - one member for fire protection, engineering or technology;
 - one member who, at the time of appointment, is was a parent of a child in a regulated facility; and
 - one member who represents the Department of Children and Family Services.

⁴ March 4, 2010, e-mail from Courtney Shippey, Division of Environmental Public Health, Palm Beach County Health Department

⁵ http://www.pbchd.com/pdfs/environmental/familydaycare/pbchd_family_day_care-rules-regs.pdf. Regardless of the language of this regulation, it is assumed that it means a maximum of three children from birth to 12 months of age, and other children, for a maximum of five children.

⁶ Id.

There are approximately 330 family day care homes and 420 child care centers in the county. This revision will provide family day care providers with representation on the council.

- adds provisions relating to provisional licenses. This language authorizes the Board to issue provisional licenses for child care facilities, large family child care homes, or family day care homes. A provisional license may not be issued for a period that exceeds six months and may only be renewed once.
- A provisional license cannot be issued unless the child care facility, large family child care home, or family day care home is in compliance with the requirements for screening of child care personnel and the requirements for ensuring the health and safety of children. This language loosely conforms to that contained in s. 402.309, F.S.
- updates other language to conform to new definitions, correct usage, current agency names, and to fix typographical errors.

The act takes effect upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends ch. 59-1698, L.O.F., as amended by ch. 77-620, L.O.F., relating to child care in Palm Beach County.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 15, 2010

WHERE? *The Palm Beach Post*, a daily newspaper published in Palm Beach County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, the bill will result in minimal revenue generation anticipated from annual license fees for an estimated 10 new large family child care facilities. No negative impact is expected.

The Economic Impact Statement also provides:

Family day care homes comprise an important component of the child care and early education industry. These homes provide more than 300 jobs in owner-operated small businesses in Palm Beach County, in addition to tens of thousands of dollars in annual gross receipts, including federal and state funds which add to the economic base of the county. The increased capacity of children in care at these homes will enable these home-based small

businesses to increase their revenue and potentially be more viable and competitive with the larger child care industry.

Child care and early education sets the stage for a strong future economy by preparing young children to develop the attitudes, skills and abilities to be productive workers and citizens.

The availability of affordable and accessible child care and early education in underserved communities allows parents to pursue and maintain employment opportunities and thereby improve their quality of life.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Comments.

This bill is supported by the Palm Beach County Commission, the Palm Beach County Health Department and the Child Care Advisory Council.

The Department of Children and Families has declined to comment on the bill, other than to say that as per their Child Care Program office, the bill is specific to Palm Beach County, and that the content of the bill would not affect the child care programs it regulates.⁷ However, it should be noted that s. 402.306(2), F.S., provides that child care facilities in any county whose standards do not meet or exceed state minimum standards will be subject to licensing by the DCF.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

⁷ February 23, e-mail from Gina Sisk, Department of Children and Families, Legislative Affairs.

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

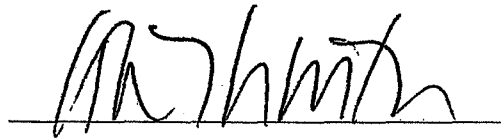
PROOF OF PUBLICATION


STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared **Ellen Sanita**, who on oath says that she is **Call Center Revenue Manager** 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 **Enactment of Legislation** was published in said newspaper in the issues of **January 15, 2010**. 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. Also published in Martin and St. Lucie Counties.



Sworn to and subscribed before 15th day of January, A.D. 2010.
Who is personally known to me.



NOTARY PUBLIC-STATE OF FLORIDA
 **Karen M. McLinton**
Commission #DD832672
Expires: NOV. 15, 2012
BONDED THRU ATLANTIC BONDING CO., INC.

NO. 4997377
PALM BEACH COUNTY
NOTICE OF INTENTION TO SEEK
ENACTMENT OF LEGISLATION
Notice is hereby given that at the ses-
sion of the Legislature of the State of
Florida, which convenes on March 2,
2010, application will be made by Palm
Beach County for the passage of spe-
cial or local legislation, the substance of
which is as follows:
An act relating to child care in Palm
Beach County, amending Chapter
77-620, Special Acts, Laws of Florida,
providing for the licensing of large fam-
ily child care homes; providing for the
increase in capacity of family day care
homes; providing for the deletion of
child boarding homes; providing for the
issuance of provision licenses; and pro-
viding an effective date.
Palm Beach County
Legislative Affairs Department
301 N. Olive Avenue
West Palm Beach, FL 33401
PUB: The Palm Beach Post
January 15, 2010

HOUSE OF REPRESENTATIVES
2010 LOCAL BILL CERTIFICATION FORM

BILL #: 1045
SPONSOR(S): Rep. Mary Brandenburg
RELATING TO: Palm Beach County Child Care Homes
[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.org

I. House local bill 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 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 Committee without a completed, original Local Bill Certification Form.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

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

YES NO

Date hearing held: Friday, December 18, 2009
Location: West Palm Beach, FL

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

YES NO UNANIMOUSLY APPROVED

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 notice requirement been met?

Notice published: YES NO **Date:** January 15, 2010

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

Referendum in lieu of publication: YES NO

Date of Referendum: _____

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

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [] NO [X] NOT APPLICABLE []

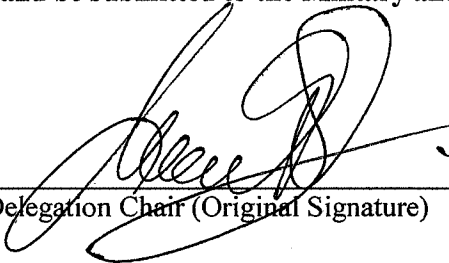
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [] NO [X] NOT APPLICABLE []

If the answer to question (1) or (2) in YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [] NO [] NOT APPLICABLE []

Note: House policy requires that an Economic Impact Statement for Local Bills be prepared at the local level and be submitted to the Military and Local Affairs Policy Committee.



Delegation Chair (Original Signature)

1-27-10

Date

Rep. Maria Sachs
Printed Name of Delegation Chair

HOUSE MILITARY AND LOCAL AFFAIRS POLICY COUNCIL
2010 ECONOMIC IMPACT STATEMENT FORM

House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. 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. Please submit this form to the Military and Local Affairs Policy Committee as soon as possible after the bill is filed.

BILL #: 1045

SPONSOR(S): Rep. Mary Brandenburg

RELATING TO: Palm Beach County – Child Care Home Licensing
[Indicate Area Affected (City, County, Special District) and Subject]

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

	<u>FY 10-11</u>	<u>FY 10-11</u>
Expenditures:	None	None

II. ANTICIPATED SOURCE(S) OF FUNDING:

	<u>FY 10-11</u>	<u>FY 10-11</u>
Federal:	N/A	N/A
State:	N/A	N/A
Local:	N/A	N/A

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	<u>FY 10-11</u>	<u>FY 10-11</u>
Revenues:	\$500	\$1000

Minimal revenue generation is anticipated from annual license fees for an estimated ten new Large Family Child Care Facilities.

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

Advantages:

Family Day Care Homes (FDCH) comprise an important component of the child care and early education industry. FDCH provide more than 300 jobs in owner-operated small businesses in Palm Beach County, in addition to tens of thousands of dollars in annual gross receipts, including federal and state funds which add to the economic base of the county. The increased capacity of children in care at the FDCH will enable these home-based small businesses to increase their revenue and potentially be more viable and competitive with the larger child care industry.

Child care and early education sets the stage for a strong future economy by preparing young children to develop the attitudes, skills and abilities to be productive workers and citizens.

The availability of affordable and accessible child care and early education in underserved communities allows parents to pursue and maintain employment opportunities and thereby improve their quality of life.

Disadvantages:

None.

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

No negative impact is expected. Opportunities for establishing viable home-based small businesses will be bolstered, and family child care providers will be better able to compete with the larger child care and early education industry.

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

The above estimates were made based on a review of the records of the funding, operational guidelines and outcomes of the Palm Beach County Child Care Program.

PREPARED BY: John O'Malley 12-9-09
Must be signed by Preparer Date

TITLE: Division Director

REPRESENTING: Palm Beach County Health Department

PHONE: (561) 837-5921

E-MAIL ADDRESS: john_o'malley@doh.state.fl.us

1 A bill to be entitled
 2 An act relating to Palm Beach County; amending chapter 59-
 3 1698, Laws of Florida, as amended; revising and providing
 4 definitions; providing requirements for the operation and
 5 licensing of large family child care homes; providing for
 6 the issuance of provisional licenses to child care
 7 facilities, large family child care homes, and family day
 8 care homes; updating obsolete language; revising
 9 requirements for Child Care Advisory Council membership;
 10 providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Chapter 59-1698, Laws of Florida, as amended by
 15 chapter 77-620, Laws of Florida, is amended to read:

16 Section 1. DEFINITIONS. The following words and phrases
 17 shall mean:

18 1.a. Children - Persons related to the operator of a
 19 facility regulated under this act under 13 ~~12~~ years of age, and
 20 all other persons under 18 years of age.

21 ~~b. Child Boarding Homes - Any building or shelter in~~
 22 ~~which, for 24 hours per day, custodial care is rendered to one~~
 23 ~~to five children, inclusive, and which receives a payment, fee,~~
 24 ~~or grant for any of the children receiving care, whether or not~~
 25 ~~operating for profit, subject to the exemptions contained in~~
 26 ~~Section 12 hereof.~~

27 2.e. Family Day Care Home Facilities - An occupied
 28 residence ~~Any building or shelter~~ in which custodial care is

29 rendered to one to six ~~five~~ children, inclusive, ~~for 2-24 hours~~
 30 ~~per day~~ and for which the owner or operator receives a payment,
 31 fee, or grant for any of the children receiving care, whether or
 32 not operating for profit, subject to the exemptions contained in
 33 Section 9 12.

34 3. Large Family Child Care Home - An occupied residence in
 35 which custodial care is regularly provided for children, and for
 36 which the owner or operator receives a payment, fee, or grant
 37 for any of the children receiving care, whether or not operated
 38 for profit, and which has at least two full-time child care
 39 personnel on the premises during the hours of operation. One of
 40 the full-time child care personnel must be the owner or occupant
 41 of the residence. A large family child care home must first have
 42 operated as a licensed family day care home for 2 years, with an
 43 operator who has had a child development associate credential or
 44 its equivalent for 1 year, before seeking licensure as a large
 45 family child care home. A large family child care home shall be
 46 allowed to provide care for one of the following groups of
 47 children, which shall include those children under 13 years of
 48 age who are related to the caregiver:

49 a. A maximum of eight children from birth to 24 months of
 50 age.

51 b. A maximum of 12 children with no more than four
 52 children under 24 months of age.

53 4.d. Child Care Facility Facilities - Any building or
 54 shelter in which custodial care is rendered to six or more
 55 children, and for which the owner or operator receives a
 56 payment, fee, or grant for any of the children receiving care,

57 whether or not operating for profit, or which is held out to the
 58 public to be an establishment which regularly provides child
 59 custodial services.

60 Section 2. PERMIT REQUIRED FOR ESTABLISHMENT, MAINTENANCE
 61 AND OPERATION. It shall be unlawful for any person, firm, or
 62 corporation to establish, maintain, or operate in Palm Beach
 63 County, Florida, a child care facility, large family child care
 64 ~~boarding home,~~ or family day care home facility without first
 65 obtaining a permit therefor from a board, to be designated as
 66 the Child Care Facilities Board, and without permanently posting
 67 such permit in the child care facility, large family child care
 68 ~~boarding home,~~ or family day care home facility. Such Child Care
 69 Facilities Board shall be composed of the Board of County
 70 Commissioners of Palm Beach County, hereafter referred to as the
 71 Board. The Chairman of the Board of County Commissioners of Palm
 72 Beach County shall be the Chairman of the Child Care Facilities
 73 Board, and the Board shall meet at least once every 3 ~~three (3)~~
 74 months at a time and place designated by the Board.

75 Section 3. APPLICATION FOR PERMIT. Application for a
 76 permit to operate a child care facility, large family child care
 77 ~~boarding home,~~ or family day care home facility shall be made to
 78 the Board in writing, and on a form, and under regulations
 79 prescribed by the Board. The application shall state the name
 80 and address of the applicant, his or her occupational history
 81 and qualifications, the type and location of proposed operation,
 82 the number of persons to be accommodated, and such other
 83 information the Board may require.

84 Section 4. ISSUANCE OF LICENSE.

85 1. The Director of the Palm Beach County Health Department
 86 shall be charged with the administrative and financial
 87 responsibility of carrying out the duties of the Board, and the
 88 Director ~~he~~ or his or her representative shall inspect child
 89 care facilities, large family child care ~~boarding~~ homes, and
 90 family day care homes ~~facilities~~ as required by the Board. Said
 91 Board, when satisfied that minimum standards are met, shall
 92 issue a license in writing on a form prescribed by the Board.
 93 Such license shall be valid for a period of 1 ~~one~~ year unless
 94 revoked. It shall not be transferable or assignable.

95 2. The Board may issue a provisional license for child
 96 care facilities, large family child care homes, or family day
 97 care homes. A provisional license shall not be issued for a
 98 period that exceeds 6 months and may only be renewed by the
 99 Board one time for a period not to exceed 6 months.

100 3. A provisional license shall not be issued unless the
 101 child care facility, large family child care home, or family day
 102 care home is in compliance with the requirements for screening
 103 of child care personnel and the requirements for ensuring the
 104 health and safety of the children in care.

105 Section 5. REVOCATION OF LICENSE. The Board may revoke a
 106 license if it finds that the operator has failed to comply with
 107 any provisions of this Act, or of any rule or regulation issued
 108 hereunder.

109 Section 6. MINIMUM STANDARDS, REASONABLE RULES AND
 110 REGULATIONS TO BE PRESCRIBED BY THE BOARD.

111 1. The Board shall make, adopt ~~promulgate~~, amend, and
 112 repeal such rules and regulations as are necessary to protect

HB 1045

2010

113 | the health and safety of persons in child care facilities, large
 114 | family child care ~~boarding~~ homes, or family day care homes
 115 | ~~facilities~~; prescribing standards for living quarters, including
 116 | provisions pertaining to sanitary conditions, light, air,
 117 | safety, protection from fire hazards, equipment, operation,
 118 | qualifications and number of staff, and such other matters as
 119 | may be appropriate to protect the life and health of the
 120 | occupants thereof. Standards established by rules and
 121 | regulations of the Board shall meet or exceed state minimum
 122 | standards, to wit: standards established by the Department of
 123 | Children and Family Health and Rehabilitative Services pursuant
 124 | to chapter 402, Florida Statutes.

125 | 2. The Board may make, adopt ~~promulgate~~, amend, and repeal
 126 | such rules and regulations as are necessary:

127 | a. To require facilities regulated hereunder to secure
 128 | liability insurance and set minimum limits and standards for
 129 | carriers; and,

130 | b. To establish fees for inspection and licensing under
 131 | this Act.

132 |
 133 | No such rules and regulations of the Board shall be adopted or
 134 | become effective until after a public hearing has been held by
 135 | the Board pursuant to at least one notice published in a
 136 | newspaper of general circulation in the County at least 10 ~~ten~~
 137 | ~~(10)~~ days prior to the hearing. When approved by the Board and
 138 | filed with the Clerk of the County Commission, such rules and
 139 | regulations shall have the force and effect of law. Until the
 140 | Board adopts rules and regulations, the state standards

HB 1045

2010

141 | aforementioned shall apply to all facilities regulated by this
 142 | Act.

143 | Section 7. CHILD CARE ADVISORY COUNCIL.

144 | 1. The Board shall appoint a Child Care Advisory Council
 145 | which shall be appointed by the Board of County Commissioners no
 146 | later than 60 ~~sixty~~ ~~(60)~~ days after the effective date of this
 147 | Act. Members of the Council shall serve at the pleasure of the
 148 | Board of County Commissioners. The Council shall be composed of
 149 | seven ~~(7)~~ members consisting of the following:

150 | a. Two ~~(2)~~ members who represent and operate as a private
 151 | enterprise a facility regulated hereunder, one of whom operates
 152 | a family day care home or large family child care home.

153 | b. One ~~(1)~~ member who represents and operates a parochial
 154 | facility regulated hereunder.

155 | c. One ~~(1)~~ member who represents a consumer protection
 156 | enforcement official.

157 | d. One ~~(1)~~ member for fire protection, engineering, or
 158 | technology.

159 | e. One ~~(1)~~ member who, at the time of appointment, is was
 160 | a parent of a child in a facility regulated hereunder.

161 | f. One ~~(1)~~ member who represents the Department of
 162 | Children and Family Health and Rehabilitative Services.

163 | 2. The Council shall advise the Board and make
 164 | recommendations as to the issuance and revocation of licenses
 165 | and as to rules and regulations necessary to protect the health
 166 | and safety of persons in child care facilities, large family
 167 | child care boarding homes, or family day care homes facilities.

168 | Section 8. RIGHT OF ENTRY. Members of the Board and its

169 representatives may enter and inspect child care facilities,
 170 large family child care ~~boarding~~ homes, or family day care homes
 171 ~~facilities~~ at reasonable hours, and may question such persons
 172 and investigate such facts, conditions, and practices or matters
 173 as may be necessary or appropriate to determine whether any
 174 person has violated any provisions of this Act, or of any rule
 175 or regulation issued hereunder.

176 Section 9. EXEMPTIONS. The provisions of this Act shall
 177 not apply to any public or nonpublic school which is in
 178 compliance with the compulsory school attendance law, chapter
 179 232, Florida Statutes, any summer camp having children in full
 180 time residence, summer day camp, or vacation Bible school, or
 181 any foster home, home for mentally retarded or handicapped
 182 children, juvenile detention facility, hospital, or other
 183 similar institution otherwise regulated for health standards by
 184 a governmental agency. However, this section shall not be deemed
 185 to exempt institutions or facilities otherwise ~~other wise~~
 186 regulated by the Department of Children and Family Health and
 187 ~~Rehabilitative~~ Services pursuant to s. 402.301, et seq., Florida
 188 Statutes, as it may from time to time be amended or transferred.

189 Section 10. CIVIL ENFORCEMENT. Any violation of this Act
 190 or the rules and regulations of the Board adopted ~~promulgated~~
 191 pursuant hereto shall be subject to enforcement by the Palm
 192 Beach County Environmental Control Officer and the Palm Beach
 193 County Environmental Control Act, chapter 70-862, Laws of
 194 Florida, as amended, and as it may in the future be amended or
 195 reenacted ~~renacted~~.

196 Section 11. CRIMINAL PENALTY. Any person failing to

197 | comply with the provisions of this Act is guilty of a
 198 | misdemeanor of the second degree punishable as provided by
 199 | general law.

200 | Section 12. ADVERTISING BY FACILITIES. It shall be
 201 | unlawful for any person, persons, associations, partnerships,
 202 | corporations, or institutions to offer or advertise to the
 203 | public, in any way or by any medium whatsoever, large family
 204 | child care ~~boarding~~ home, family day care home, ~~facility~~ or
 205 | child care facility service without ~~unless it has~~ first having
 206 | secured a license under the provisions of this Act. All
 207 | advertisements advertising any such services shall include the
 208 | license number of the license issued pursuant to this Act.

209 | Section 13. SEVERABILITY. If any provision of this Act,
 210 | or the application thereof to any person or circumstances, is
 211 | held invalid, such invalidity shall not affect other provisions
 212 | or applications of this Act which can be given effect without
 213 | the invalid provision or invalid application and to this end the
 214 | provisions of the Act are declared severable.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS



BILL #: HB 1047

City of Clearwater, Pinellas County

SPONSOR(S): Frishe

TIED BILLS:

IDEN./SIM. BILLS: SB 2180

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Military & Local Affairs Policy Committee		Rojas 	Hoagland 
2) Agriculture & Natural Resources Policy Committee			
3) Economic Development & Community Affairs Policy Council			
4)			
5)			

SUMMARY ANALYSIS

The bill allows the City of Clearwater to authorize the use of the filled upland portion of the property for recreational purposes and commercial working waterfronts, with the intent of providing greater access for the public to the navigable waters of the state, and providing access to water-dependent commercial activities.

The bill provides that the submerged portions of the property will continue to be used as provided for in existing law, and that the city will use any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.

The bill also provides that any filled portion of the lands, currently existing as uplands to the west of the east abutment of the west bridge, will be used and developed in accordance with the Florida Coastal Management Program, the Waterfronts Florida Program, the City of Clearwater Comprehensive Plan, the City of Clearwater Code of Ordinances, and other applicable law. The bill also releases these lands from the right of reverter to the extent that the use and development of the property are consistent with the above mentioned programs and regulations.

Changes to the filled land that currently exists as the City of Clearwater Beach Marina must be approved at a referendum if they meet any of the following triggers:

- any lease or license for a new purpose or for a period longer than 30 years, or
- any sale or transfer, other than utility easements, or
- any alterations from existing public land use map designation.

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

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Clearwater Harbor—Memorial Causeway Submerged Lands

The State conveyed submerged lands in 1925 via ch. 11050, L.O.F., to Pinellas County to be surrendered to the City of Clearwater, for the purpose of building the Memorial Causeway.¹ That act provided that the property was to be used exclusively for public purposes by the city, and that it would revert to the State if it was ever used for any other purpose. The act also provided that “the owners (present and future) of the land abutting said land on the north, the City of Clearwater or the County of Pinellas shall have the right to fill said land lying north of said line to be used for public parks and places of recreation only...provided further that should said property ever cease to be used for public parks and places of recreation only, same shall revert to the State.”

Submerged lands to the north of the Memorial Causeway Submerged Lands (which were not included in the special act grant) were later filled, resulting in the “Island Estates” subdivision. Consequently, Island Estates’ most southerly boundary extended along the northerly boundary of the Memorial Causeway Submerged Lands. In 1958, a Deed of Dedication was granted by the Clearwater City Commission and recorded in the public record to “dedicate, grant and convey unto the Public in general,” a portion of the Memorial Causeway Submerged Lands, subject to express provisions in the dedication, and conditions and provisions of law (presumably including the 1925 Special Act). The dedication stated that the land was to be used as a “waterway for boating and boat traffic,” “docks, boat slips or piers” by “lessees, tenants, permittees or assigns.” As a result of this dedication, docks were built within the Memorial Causeway Submerged Lands area for use by Island Estates’ upland owners in 1965.

Pursuant to ch. 86-345, L.O.F, the Legislature released a portion of the property granted by the 1925 special act from the right of reverter retained by the State in order to permit the development and maintenance of a nonprofit marine science center as approved by the city commission and electors of the City of Clearwater.² The act declared that the use of the property as a marine science center was

¹ This land included 500 feet to the north and 700 feet to the south of a centerline, east to west, following the course of the former Memorial Causeway.

² The Clearwater City Commission adopted Ordinance 4028-85, finding that the development and maintenance of the property as a marine science center was in the interest of public health, safety and welfare of the citizens of Clearwater, and authorized the

for a proper public purpose, and conditioned the act upon the city conveying the property to the Clearwater Marine Science Center subject to the restriction that the center devote the property solely to the expansion of its facility, or that such property automatically would revert to the city.

Chapter 2007-312, Laws of Florida

Chapter 2007-312, L.O.F., ratified any use of the property described in the 1925 special act, ch. 11050, L.O.F., and authorized by the City of Clearwater on or before the effective date of the act, whether or not the use was for a public purpose. Also, the act declared that any use of the property described in ch. 86-345, L.O.F., is consistent with the grant made in this earlier act for the purpose of developing and maintaining a marine science center. This provision pertains to uses undertaken on or before the effective date of ch. 2007-312, L.O.F. This ratification preserved the property to the ownership of the Clearwater Marine Science Center.

Additionally, ch. 2007-312, L.O.F., provided that the City of Clearwater could authorize private uses of the submerged property described in ch. 11050, L.O.F., 1925, for which it had received an application no later than December 31, 2006, if such uses are consistent with the laws and rules governing the management of state sovereignty submerged lands by the Board of Trustees of the Internal Improvement Trust Fund. The act provided that a dock or mooring facility for a multifamily dwelling or a dock for a single-family dwelling which is consistent with such laws and rules does not violate this act. The alteration of any existing public land use designation of this property must first be approved by the voters of the City of Clearwater in a "site-specific" referendum. The City of Clearwater is required to use any revenue generated by authorizing private use of the subject submerged land to fund water-related activities for the benefit of the public.

Finally, ch. 2007-312, L.O.F., provided for reversion of the submerged lands granted under the 1925 special act to the State if the Board of Trustees of the Internal Improvement Trust Fund finds that any use, which is authorized by the City of Clearwater and not ratified by the act, is inconsistent with the laws and rules governing the board's management of such lands. This language governs future actions by the city with regard to the submerged land.

The act did not modify or supersede any provision of the City of Clearwater's charter concerning the requirement of a referendum for use of waterfront property that is owned by the city. The city's charter contains numerous provisions relating to the use of real property in ARTICLE II. LEGISLATIVE POWER, Section 2.01. Council; composition; powers.³ Section 2.01(d)(5) provides, in relevant part, that:

no municipal or other public real property constituting the Memorial Causeway or lands immediately contiguous thereto, more particularly described as: That portion of Memorial Causeway (S.R. 60) a 1200-foot-wide right-of-way, lying between the east abutment of the west bridge and the east line of Clearwater Harbor, and the submerged portions of Board of Trustees of the Internal Improvement Trust Fund Deed Numbers 17,500 and 17,502, shall be developed or maintained other than as open space and public utilities together with associated appurtenances, except upon a finding by the council at a duly advertised public hearing that such development is necessary in the interest of the public health, safety and welfare of the citizens of the city and approval of such finding at referendum, conducted subsequent to the public hearing.

Effect of the Bill

The bill allows the City of Clearwater to authorize the use of the filled upland portion of the property described in ch. 11050, L.O.F., 1925, for recreational purposes and commercial working waterfronts as

conveyance of the property to the Clearwater Marine Science Center subject to a right of reverter. The electors of the city approved the action by a special referendum election called for that purpose on October 1, 1985.

³ <http://www.municode.com/resources/gateway.asp?pid=10148&sid=9>.

defined in s. 342.07, F.S., with the intent of providing greater access for the public to the navigable waters of the state, and providing access to water-dependent commercial activities.

The bill provides that the submerged portions of the property granted to the City of Clearwater under ch. 11050, L.O.F., 1925, will continue to be used as provided for in that act, as well as ch. 2007-312, L.O.F., and that the city will use any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.

The bill also provides that any filled portion of the lands granted under ch. 11050, L.O.F., 1925, currently existing as uplands to the west of the east abutment of the west bridge, will be used and developed in accordance with the Florida Coastal Management Program, the Waterfronts Florida Program, the City of Clearwater Comprehensive Plan, the City of Clearwater Code of Ordinances, and other applicable law. The bill also releases these lands from the right of reverter to the extent that the use and development of the property are consistent with the above mentioned programs and regulations.

This bill expressly provides that it does not modify or supersede any provision of the Charter of the City of Clearwater concerning the requirement of a referendum for the use of waterfront property that is owned by the City of Clearwater. Therefore, any lease or license of the filled land that currently exists as the City of Clearwater Beach Marina for a new purpose or for a period longer than 30 years, or any sale or transfer, other than utility easements, must be approved at a referendum. Additionally, if the portion of filled lands comprising the City of Clearwater Beach Marina is altered from existing public land use map designation, the change must first be approved at a referendum.

B. SECTION DIRECTORY:

- Section 1. Authorizes the use of the filled upland portion of the property for recreational purposes and commercial working waterfronts.
- Section 2. Provides that the submerged portions of the property will continue to be used as provided for and that the city will use any revenue generated by public or private use of the submerged land to fund water-related activities for public benefit.
- Section 3. Provides that specified filled portions of the lands be used and developed in accordance with the Florida Coastal Management Program, the Waterfronts Florida Program, the City of Clearwater Comprehensive Plan, the City of Clearwater Code of Ordinances, and other applicable law. Releases lands from the right of reverter to the extent that the use and development of the property are consistent with the above mentioned programs and regulations.
- Section 4. Provides that it does not modify or supersede any provision of the Charter of the City of Clearwater concerning the requirement of a referendum for the use of waterfront property that is owned by the City of Clearwater.
- Section 5. Specifies events that will trigger referendum requirement.
- Section 6. Provides that this act takes effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

January 15, 2010

WHERE?

Gulf Coast Business Review

Clearwater, Pinellas County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

GULF COAST BUSINESS REVIEW

Published Weekly
Clearwater, Pinellas County, Florida

COUNTY OF PINELLAS

S.S.

STATE OF FLORIDA

Before the undersigned authority personally appeared Matt Walsh
who on oath says that he is Publisher of the Gulf Coast Business Review, a weekly
newspaper published at Clearwater in Pinellas County, Florida; that the attached
copy of advertisement,

being a Notice of Legislation
in the matter of Legislation for City of Clearwater amending chapter 11050

in the _____ Court, was published in said newspaper in the
issues of January 15, 2010

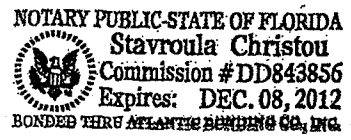
Affiant further says that the said Gulf Coast Business Review is a newspaper
published at Clearwater, Pinellas County, Florida, and that said newspaper has
heretofore been continuously published and has been entered as periodicals matter
at the Post Office in Clearwater in said Pinellas County, Florida, for a period of
one year next preceding the first publication of the attached copy of advertisement;
and affiant further says that he has neither paid nor promised any person, firm or
corporation any discount, rebate, commission or refund for the purpose of securing
his advertisement for publication in said newspaper.

NOTICE OF LEGISLATION
TO WHOM IT MAY CONCERN: Notice is hereby given of the intent
to apply to the 2010 Legislature and any Special or Extended Sessions
for passage of a local bill relating to the City of Clearwater, Pinella
County, amending chapter 11050, Law of Florida (1925) to address the
reverter clause provisions that inherently conflict with the city's work-
ing waterfront and coastal revitalization efforts, providing that certain
leases or licenses and sales or transfer of property must be approved by
a referendum by electors of the City of Clearwater, providing an effec-
tive date: _____
January 15, 2010 10-005

Matt Walsh
Matt Walsh

Sworn to and subscribed before me this
5th day of January A.D. 2010,
by Matt Walsh, who is personally known to me.

Stavroula Christou
Stavroula Christou Notary Public, State of Florida
(SEAL)



HOUSE OF REPRESENTATIVES

2010 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1047
 SPONSOR(S): Representative Jim Frishe & Senator Dennis Jones
 RELATING TO: City of Clearwater Pinellas County, Florida
(Indicate Area Affected (City, County or Special District) and Subject)
 NAME OF DELEGATION: Pinellas Legislative Delegation
 CONTACT PERSON: Senator Arthenia Joyner
 PHONE NO.: (813) 233-4277 E-Mail: Joyner.Arthenia@flsenate.gov

I. House local bill 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) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

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

YES NO

Date hearing held: December 14, 2009

Location: St. Petersburg City Hall - St. Petersburg, FL

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

YES NO

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

Has this constitutional notice requirement been met?

Notice published: YES NO DATE _____

Where? _____ County Pinellas

Referendum in lieu of publication: YES NO

Date of Referendum _____

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

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO NOT APPLICABLE

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [] NO [] NOT APPLICABLE []

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [] NO []

N/A

Note: House policy also requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Military & Local Affairs Policy Committee.

Arthenia L. Joyner

Delegation Chair (Original Signature)

1-13-2010

Date

Senator Arthenia Joyner

Printed Name of Delegation Chair

Economic Impact Statement

HOUSE OF REPRESENTATIVES
2010 ECONOMIC IMPACT STATEMENT FORM

House local bill policy requires that no local bill will be considered by a council or a committee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL whether or not there is an economic impact. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.

BILL #: HB1047
SPONSOR(S): Representative Jim Frishe (District 54) and Senator Dennis Jones (District 13)
RELATING TO: Clearwater, Pinellas County - Clearwater Reverter Clause
[Indicate Area Affected (City, County or Special District) and Subject]

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

	<u>FY 10-11</u>	<u>FY 11-12</u>
Expenditures:	0	0

II. ANTICIPATED SOURCE(S) OF FUNDING:

	<u>FY 10-11</u>	<u>FY 11-12</u>
Federal:	0	0
State:	0	0
Local:	0	0

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	<u>FY 10-11</u>	<u>FY 11-12</u>
Revenues:	0	0

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

Advantages:

N/A

Disadvantages:

N/A

Economic Impact Statement

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: Cynthia E. Goudeau 01/06/2010
[Must be signed by Preparer] Date

TITLE: City Clerk

REPRESENTING: City of Clearwater

PHONE: (727) 562-4093

E-Mail Address: cyndie.goudeau@myclearwater.com

1 A bill to be entitled
 2 An act relating to the City of Clearwater, Pinellas
 3 County; providing for use of specified city-owned property
 4 for recreational and commercial working waterfronts;
 5 providing for use of revenue from specified city-owned
 6 property; providing for development of specified city-
 7 owned property consistent with the Florida Coastal
 8 Management Program, the Waterfronts Florida Program, the
 9 city comprehensive plan and code of ordinances, and other
 10 applicable law; providing for preservation of referendum
 11 requirement of use of certain city-owned property;
 12 requiring a referendum for lease, license, sale, or
 13 transfer of certain land and for any alteration to
 14 existing public land use map designation for such land;
 15 providing an effective date.

16
 17 WHEREAS, the right-of-way for the causeway to Clearwater
 18 Beach known as Memorial Causeway, including certain adjacent
 19 submerged lands, was granted to the City of Clearwater under
 20 chapter 11050, Laws of Florida, 1925, to be owned and maintained
 21 as provided in that act, and

22 WHEREAS, chapter 2007-312, Laws of Florida, ratified
 23 existing uses as consistent with the original grant and
 24 reiterating certain restrictions on such uses, and

25 WHEREAS, the Legislature recognizes an important state
 26 interest in maintaining viable water-dependent support
 27 facilities, as well as providing access to the state's navigable
 28 waters as a vital conduit for commerce, transportation of goods,

HB 1047

2010

29 and maintaining and enhancing the annual \$71 billion economic
 30 impact of tourism and boating, and

31 WHEREAS, the City of Clearwater wishes to address the
 32 physical and economic decline of its existing coastal and
 33 working waterfront areas by revitalizing its waterfront as a
 34 recreational and commercial working waterfront, and

35 WHEREAS, the City of Clearwater has taken the requisite
 36 action to revitalize its coastal and waterfront areas by
 37 implementing sections 197.303-197.3047, Florida Statutes, 2005,
 38 as subsequently amended, through adoption of tax deferrals for
 39 recreational and commercial working waterfront properties and
 40 amending its comprehensive plan, which implements both a future
 41 land use element requiring that redevelopment activities be
 42 sensitive to the city's waterfront and promote public access to
 43 the city's waterfront resources and a coastal management element
 44 encouraging the preservation of recreational and commercial
 45 working waterfronts and marinas and other water-dependent
 46 facilities, and

47 WHEREAS, the city wishes to expand such revitalization
 48 efforts consistent with the Florida Coastal Management Program
 49 and the Waterfronts Florida Program and provide for the limited
 50 elimination of reversion provisions that inherently conflict
 51 with the city's working waterfront and coastal revitalization
 52 efforts contained in the 1925 special act and chapter 2007-312,
 53 Laws of Florida, NOW, THEREFORE,

54
 55 Be It Enacted by the Legislature of the State of Florida:
 56

HB 1047

2010

57 Section 1. The City of Clearwater may authorize the use of
58 the filled upland portion of the property described in chapter
59 11050, Laws of Florida, 1925, for purposes of recreational and
60 commercial working waterfronts as defined in section 342.07,
61 Florida Statutes, thereby providing access for the public to the
62 navigable waters of the state, and providing access to water-
63 dependent commercial activities.

64 Section 2. Submerged portions of the property granted to
65 the City of Clearwater under chapter 11050, Laws of Florida,
66 1925, shall continue to be used as provided for in chapter
67 11050, Laws of Florida, 1925, and chapter 2007-312, Laws of
68 Florida, and the city shall use any revenue generated by public
69 or private use of the submerged land to fund water-related
70 activities for the benefit of the public.

71 Section 3. Any filled portion of the lands granted under
72 chapter 11050, Laws of Florida, 1925, currently existing as
73 uplands to the west of the east abutment of the west bridge,
74 shall be used and developed in accordance with the Florida
75 Coastal Management Program, the Waterfronts Florida Program, the
76 City of Clearwater Comprehensive Plan, the City of Clearwater
77 Code of Ordinances, and other applicable law, and are hereby
78 released from a right of reverter to the extent that the use and
79 development of the property are consistent therewith.

80 Section 4. This act shall not modify or supersede any
81 provision of the Charter of the City of Clearwater concerning
82 the requirement of a referendum for the use of waterfront
83 property that is owned by the City of Clearwater.

HB 1047

2010

84 Section 5. (1) Any lease or license of the land for a new
85 purpose for a period longer than 30 years, or any sale or
86 transfer, other than utility easements, of the land or any
87 portion thereof, with respect to any filled portion of the lands
88 granted under chapter 11050, Laws of Florida, 1925, and chapter
89 2007-312, Laws of Florida, that currently exist as uplands upon
90 which the City of Clearwater Beach Marina exists, must be
91 approved at a referendum by vote of the electors of the City of
92 Clearwater voting in such referendum.

93 (2) Additionally, if that portion of filled lands granted
94 under chapter 11050, Laws of Florida, 1925, and chapter 2007-
95 312, Laws of Florida, that currently exist as uplands upon which
96 the City of Clearwater Beach Marina exists is altered from
97 existing public land use map designation, such change must first
98 be approved at a referendum by vote of the electors of the City
99 of Clearwater voting in such referendum.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1053
SPONSOR(S): Workman
TIED BILLS:

Melbourne-Tillman Water Control District, Brevard County

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Fudge <i>OF</i>	Hoagland <i>HA</i>
2)	Finance & Tax Council			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The Melbourne-Tillman Water Control District was created in 1986 by ch. 86-417, L.O.F. Subsequent amendments followed and were codified by ch. 2001-336, L.O.F. The district was created as a dependent special district to "secure, operate, and maintain an adequate, dependable surface water management system" within the district's boundaries.

The bill amends the boundaries of the district and is effective upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Melbourne-Tillman Water Control District was created in 1986 by ch. 86-417, L.O.F. Subsequent amendments followed¹ and were codified by ch. 2001-336, L.O.F. The district was created as a dependent special district to "secure, operate, and maintain an adequate, dependable surface water management system" within the district's boundaries.² The district is governed by a seven member board of directors, comprised of three members appointed by the Brevard County Board of County Commissioners, three members appointed by the City of Palm Bay City Council, and one member appointed by the City of West Melbourne City Council.³

The district is funded by a non ad valorem user fee applied to each parcel within the district's boundary. The fee is based on an approved rate (approved annually by the district's board and by the Brevard county commission) applied to parcel acreage and land use category as designed by the Brevard county property appraiser. For example, under the current user fee rates, a typical single-family residential lot pays \$19.13 per year - \$19.13 per acre or portion thereof on residential classifications.

District Boundary Modification

Section 298.301, F.S., provides that when a water control district is created, or its authorities or boundaries amended, by special act, lands may be added to or deleted only through legislative modification of the special act.

Effect of Proposed Changes

The bill amends the boundaries of the district by adding two subdivisions: Preserve at Heritage Oaks (41.8 acres±) and Eastwood at Heritage Oaks (39.5 acres±). These subdivisions were accepted into the district for drainage at the request of the developer, RJP Development, on the condition that the developer submits a request to the Legislature to include this area in the district's boundaries. At that time, in 2004, the area was undeveloped. The deed restriction associated with properties within these two subdivisions explains that the "compensation [due to the district] shall be deemed a common operating expense of the [Homeowners] Association and included within its annual assessments unless

¹ Chapters 90-401, 91-341, 92-239, and 94-424, L.O.F.

² Section 3, s. 1, ch. 2001-336, L.O.F.

³ Section 3, s. 2(8), ch 2001-336, L.O.F.

and until the Subdivision is include[d] within the boundaries of [the district] and assessments are thereafter made against the individual lots and owners in the Subdivision by the [district], (which assessments may be made and collected for [the district] through the offices of the Brevard County Property Appraiser and Tax Collector).”

B. SECTION DIRECTORY:

Section 1: Amends district boundary.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? On January 14th, 2010.

WHERE? In *Florida Today*, a newspaper in Brevard County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

In *Hillsborough County v. Tampa Port Authority*,⁴ the court held that the 1970 expansion of the territorial boundaries of the Port District did not create a new district requiring a voter ratification referendum. The 1970 act only expanded territory, not authority.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES



Published Daily

STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared KATHY CICALA who on oath says that she is LEGAL ADVERTISING SPECIALIST

of the FLORIDA TODAY, a newspaper published in Brevard County, Florida;

that the attached copy of advertising being a LEGAL NOTICE

(AD#172346, \$77.26) the matter of _____

MELBOURNE-TILLMAN WCD

the _____ Court _____

NOTICE OF LEGISLATION

2010 LEGISLATURE

as published in the FLORIDA TODAY

in the issues of JANUARY 14TH, 2010

Affiant further says that the said FLORIDA TODAY

is a newspaper in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, regularly as stated above, and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard 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 said newspaper.

Kathy Cicala
(Signature of Affiant)

Sworn to and subscribed before this 15th OF JANUARY, 2010



S. H. WARD
MY COMMISSION # DD 910179
EXPIRES: July 23, 2013
Bonded Thru Budget Notary Services

S. H. Ward
(Signature of Notary Public)

S H WARD
(Name of Notary Typed, Printed or Stamped)

Personally Known X or Produced Identification _____
Type Identification Produced _____

DUPLICATE AFFIDAVIT

AD#172346-01/14/2010
NOTICE OF LEGISLATION
TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2010 Session of the Florida Legislature for passage of an act relating to the Melbourne-Tillman Water Control District, Brevard County, amending ch. 2009-334, Laws of Florida, by amending district boundaries to include the Northwest 1/4 of the Northeast 1/4 of Section 07, Township 28 South, Range 37 East, known as Preserve of Heritage Oaks, as recorded in Plat Book 53, page 29 of the Public Records of Brevard County, Florida and the Southwest 1/4 of the Northeast 1/4, Section 07, Township 28 South, Range 37 East, known as Eastwood One at Heritage Oaks, as recorded in Plat Book 53, page 85, of the Public Records of Brevard County, Florida, providing an effective date.

HOUSE OF REPRESENTATIVES
2010 LOCAL BILL CERTIFICATION FORM

BILL #: 1053

SPONSOR(S): Ritch Workman

RELATING TO: Melbourne-Tillman Water Control District
[Indicate Area Affected (City, County or Special District) and Subject]

NAME OF DELEGATION: Brevard County

CONTACT PERSON: Rob Feltner (Rep. Workman's office)

PHONE NO.: 850-488-9720 **E-Mail:** rob.feltner@myfloridahouse.gov

I. House local bill 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) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

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

YES NO

Date hearing held: November 30, 2009

Location: Brevard County Government Center 2725 Judge Fran Jamieson Way, Melbourne, FL 32940

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

YES NO

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

Has this constitutional notice requirement been met?

Notice published: YES NO **DATE** _____

Where? Melbourne **County** Brevard

Referendum in lieu of publication: YES NO

Date of Referendum _____

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

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO NOT APPLICABLE

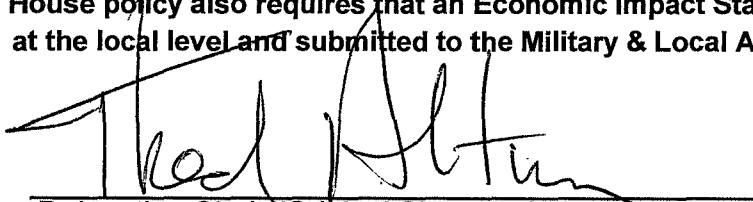
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES NO NOT APPLICABLE

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES NO

Note: House policy also requires that an Economic Impact Statement for local bills be prepared at the local level and submitted to the Military & Local Affairs Policy Committee.


Delegation Chair (Original Signature)

1/14/2010
Date

Sen. Thad Altman

Printed Name of Delegation Chair

Economic Impact Statement

HOUSE OF REPRESENTATIVES
2010 ECONOMIC IMPACT STATEMENT FORM

House local bill policy requires that no local bill will be considered by a council or a committee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL whether or not there is an economic impact. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.

BILL #: HB 1053

SPONSOR(S): Ritch Workman

RELATING TO: Melbourne-Tillman Water Control District
[Indicate Area Affected (City, County or Special District) and Subject]

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

Expenditures:	<u>FY 10-11</u>	<u>FY 11-12</u>
	None	None

II. ANTICIPATED SOURCE(S) OF FUNDING:

	<u>FY 10-11</u>	<u>FY 11-12</u>
Federal:	None	None
State:	None	None
Local:	None	None

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues:	<u>FY 10-11</u>	<u>FY 11-12</u>
	None	None

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

Advantages:

N/A

Disadvantages:

N/A


Economic Impact Statement

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

None

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

No economic impact or changes due to the fact that the fees to be paid under this legislation are already being paid directly by the homeowners association through dues collection ... this legislation places the parcels involved formally within the district boundaries. No economic changes will occur for either the parcel owners or the district.

PREPARED BY:  24 Feb 2010
[Must be signed by Preparer] Date

TITLE: Manager/Engineer

REPRESENTING: Melbourne-Tillman Water Control District

PHONE: 321-723-7233

E-Mail Address: mtwcd@cfl.rr.com

HB 1053

2010

1 A bill to be entitled
 2 An act relating to the Melbourne-Tillman Water Control
 3 District, Brevard County; amending chapter 2001-336, Laws
 4 of Florida, as amended; revising the boundaries of the
 5 district; providing an effective date.

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

8
 9 Section 1. Section 3 of section 3 of chapter 2001-336,
 10 Laws of Florida, as amended by chapter 2003-334, Laws of
 11 Florida, is amended to read:

12 Section 3. Special district.—There is hereby created and
 13 incorporated the Melbourne-Tillman Water Control District, a
 14 dependent special district, for the purpose of constructing,
 15 reconstructing and repairing, maintaining, and operating a
 16 surface water management system. The boundaries of the District
 17 are:

18
 19 All of Township 29 South, Range 36 East, and portions of
 20 Township 29 South, Range 37 East, Township 28 South, Range 36
 21 East and Township 28 South, Range 37 East in Brevard County,
 22 Florida being more particularly described as follows:

23
 24 Township 29 South, Range 37 East:

25
 26 The West 1/2 of Sections 3, 27 and 34, and all of Sections 4
 27 through 9, 16 through 21, and 28 through 33, and the West 1/2 of
 28 the Southwest 1/4 of the Northeast 1/4 of Section 34.

HB 1053

2010

29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56

Township 28 South, Range 36 East:

The South 1/2 of Sections 1 through 5, the Southeast 1/4 of Section 6, and all of Sections 7 through 36.

All of Sections 20 and 29 located within Township 28 South, Range 36 East shall be annexed into the City of Palm Bay.

Township 28 South, Range 37 East:

(a) The Southwest 1/4 of Section 6, the West 1/2 and Southeast 1/4 of Section 7, the West 1/2 of Section 17, the South 1/2 of Section 21, a portion of the Southwest 1/4 of Section 22 described as the West 1/2 of the Northwest 1/4 of the Southwest 1/4, less Parcel 543, the South 1/2 of Section 27, less a portion of the North 1/2 of the South 1/2 described as the area bounded by the west section line, then southerly along the section line to a point 419 feet distant, then easterly to a point along the east section line 450 feet southerly of the midpoint of the east section line, then northerly along the section line to the midpoint of the section line, then westerly to the midpoint of the west section line, the point of beginning, the West 1/2, Northeast 1/4 and a portion of the Southeast 1/4 described as the North 1/2 of the Southeast 1/4 and Lot 4 and the West 1/2 of Lot 3, all within Section 34, the West 1/2 of the Northwest 1/4 and Northwest 1/4 of the Southwest 1/4 of Section 35, and all of Sections 18 through 20, and 28

HB 1053

2010

57 through 33.

58

59 (b) Tracts 1, 2, 3 & 4 of the Garner Acres Plat, a replat of a
60 portion of Central Highlands, as recorded in Plat Book 47, Page
61 13, of the Public Records of Brevard County, Florida, lying in
62 Section 8.

63

64 (c) Tax I.D. Parcels 503, 505, 507 & 508 lying in Section 8.

65

66 (d) Lot 29, Florida Indian River Land Company, as recorded in
67 Plat Book 1, Page 164, of the Public Records of Brevard County,
68 Florida, lying in Section 17.

69

70 (e) The Northwest 1/4 of the Northeast 1/4 of Section 07; known
71 as Preserve at Heritage Oaks as recorded in Plat Book 53, page
72 29, of the Public Records of Brevard County, Florida and the
73 Southwest 1/4 of the Northeast 1/4 of Section 07; known as
74 Eastwood One at Heritage Oaks as recorded in Plat Book 53, page
75 85, of the Public Records of Brevard County, Florida.

76

77 The District shall constitute a dependent special district under
78 the laws of the state.

79

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1215

Broward County

SPONSOR(S): Porth

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Noriega <i>TN</i>	Hoagland <i>JK</i>
2)	Economic Development & Community Affairs Policy Council			
3)				
4)				
5)				

SUMMARY ANALYSIS

This bill allows members of the South Broward Utility Advisory Board appointed by the Town of Southwest Ranches to be water or sewer users within the service area of the former South Broward Utility.

The attached Economic Impact Statement indicates that there is no economic impact as a result of this bill.

This bill has an effective date of upon becoming a law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The South Broward Utility Advisory Board (Board) was created in 1998 (ch. 98-521, L.O.F.) as an advisory board of the City of Sunrise. The purpose of this board was to review water and sewer rates charged for unincorporated areas served by the City of Sunrise, and to advise the City of Sunrise regarding any proposed changes. The area was formerly served by South Broward Utility.

Following the creation of the Board, the Town of Southwest Ranches was created in the unincorporated area of the County. Those residents that lived in the unincorporated area of Broward County now reside in the Town of Southwest Ranches.

In 2008, HB 1063 (ch. 2008-278, L.O.F.) amended the composition of the Board by changing two members appointed by the Broward County Commission to two members appointed by the Town of Southwest Ranches.

The Board currently consists of seven members: two appointed by the City of Sunrise, two appointed by the Town of Davie, one appointed by the City of Pembroke, and two appointed by the Town of Southwest Ranches. Each Board member must be a water and sewer user within the service area of the former South Broward Utility.

In 2009, HB 801 (ch. 2009-254, L.O.F.) sought to change Town of Southwest Ranches appointees from "water and sewer users" to "water or sewer users." However, because this bill also addressed issues related to annexation and deannexation, it was determined that this bill did not meet the single subject rule and was amended to remove the language pertaining to the membership change.

Proposed Changes

This bill addresses the issue that was amended out of HB 801 in 2009. In doing so, this bill revises a Board membership criterion by allowing each Board member appointed by the Town of Southwest Ranches to be a water or sewer user within the service area of the former South Broward Utility.

The Broward County Legislative Delegation has indicated that most of the properties within the Town of Southwest Ranches have wells and septic tanks, and that very few town residents have both municipal

water and sewer service. Because of these reasons, it has been difficult to find residents that qualify to serve as Board members.

B. SECTION DIRECTORY:

Section 1. Requires that each member of the Board appointed by the Town of Southwest Ranches must be a water or sewer user within the service area of the former South Broward Utility.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 18, 2010

WHERE? The *Sun-Sentinel*, a daily newspaper of general circulation published in Broward County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Not applicable.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

The attached Economic Impact Statement indicates that there is no economic impact as a result of this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

SUN-SENTINEL
PUBLISHED DAILY
FORT LAUDERDALE, BROWARD COUNTY, FLORIDA
BOCA RATON, PALM BEACH COUNTY, FLORIDA
MIAMI, MIAMI-DADE COUNTY, FLORIDA

NOTICE OF LEGISLATION
Notice is hereby given that the following Bill will be presented to the 2010 Legislative Session of the Florida Legislature for consideration and enactment.
An act relating to Broward County, Florida; amending Chapter 98-521, Laws of Florida, revising the Town of Southwest Ranches South Broward Utility Advisory Board appointments to be a water or sewer user, and providing an effective date.
BROWARD COUNTY LEGISLATIVE DELEGATION
REPRESENTATIVE ARI PORTH, CHAIR
CONTACT: Sandy Harris
(954) 357-6555
January 18, 2010

STATE OF FLORIDA
COUNTY OF BROWARD/PALM BEACH/MIAMI-DADE

BEFORE THE UNDERSIGNED AUTHORITY, PERSONALLY APPEARED LINDA HALL, WHO, ON OATH, SAYS THAT SHE IS A DULY AUTHORIZED REPRESENTATIVE OF THE CLASSIFIED DEPARTMENT OF THE SUN-SENTINEL, DAILY NEWSPAPER PUBLISHED IN BROWARD/PALM BEACH/MIAMI-DADE COUNTY, FLORIDA, THAT THE ATTACHED COPY OF ADVERTISEMENT, BEING A:

NOTICE OF LEGISLATION

THE MATTER OF:
BROWARD LEGISLATIVE
RE: BROWARD COUNTY AMENDING CHAPTER 98-521 LAWS OF FLORIDA FOR THE TOWN OF SOUTHWEST RANCHES

IN THE CIRCUIT COURT, WAS PUBLISHED IN SAID NEWSPAPER IN THE ISSUES OF:

JANUARY 18, 2010 13837994

AFFIANT FURTHER SAYS THAT THE SAID SUN-SENTINEL IS A NEWSPAPER PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI-DADE COUNTY, FLORIDA, AND THAT THE SAID NEWSPAPER HAS HERETOFORE BEEN CONTINUOUSLY PUBLISHED IN SAID BROWARD/PALM BEACH/MIAMI-DADE COUNTY, FLORIDA, EACH DAY, AND HAS BEEN ENTERED AS SECOND CLASS MATTER AT THE POST OFFICE IN FORT LAUDERDALE, IN SAID BROWARD COUNTY, FLORIDA, FOR A PERIOD OF ONE YEAR NEXT PRECEDING THE FIRST PUBLICATION OF 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 SAID NEWSPAPER.

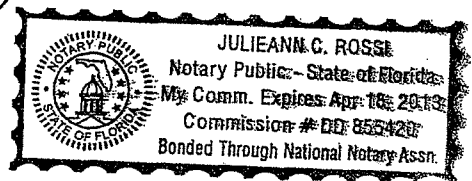
Linda Hall

(SIGNATURE OF LINDA HALL, AFFIANT)

SWORN TO AND SUBSCRIBED BEFORE ME
ON 18 JANUARY 2010, A.D.

Julieann C. Rosse

(SIGNATURE OF NOTARY PUBLIC)



(NAME OF NOTARY, TYPED, PRINTED, OR STAMPED)

PERSONALLY KNOWN (X) OR PRODUCED IDENTIFICATION ()

**HOUSE OF REPRESENTATIVES
2010 LOCAL BILL CERTIFICATION FORM**

BILL #: #1215

SPONSOR(S): Representative Ari Porth

RELATING TO: South Broward Utilities Advisory Board
[Indicate Area Affected (City, County or Special District) and Subject]

NAME OF DELEGATION: Broward

CONTACT PERSON: Sandy Harris

PHONE NO.: 954-260-8894 E-Mail: saharris@broward.org

I. *House local bill 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) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.*

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

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

YES NO

Date hearing held: January 5, 2010

Location: Nova Southeastern University

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

YES NO

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

Has this constitutional notice requirement been met?

Notice published: YES NO DATE January 18, 2010

Where? Sun Sentinel County Broward

Referendum in lieu of publication: YES NO

Date of Referendum _____

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

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO NOT APPLICABLE

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES NO NOT APPLICABLE

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES NO

Note: House policy also requires that an Economic Impact Statement for local bills be prepared at the local level and submitted to the Military & Local Affairs Policy Committee.



Delegation Chair (Original Signature)

2-22-10

Date

Ari Porth

Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES

2010 ECONOMIC IMPACT STATEMENT FORM

House local bill policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. 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. Please submit this form to the Committee on Urban & Local Affairs as soon as possible after the bill is filed.

BILL #: 1215

SPONSOR(S):

RELATING TO: Town of Southwest Ranches
[Indicate Area Affected (City, County or Special District) and Subject]

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

Table with 3 columns: Expenditures, FY 09-10, FY 10-11. Values are -0- for all.

II. ANTICIPATED SOURCE(S) OF FUNDING:

Table with 3 columns: Source (Federal, State, Local), FY 09-10, FY 10-11. Values are -0- for all.

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Table with 3 columns: Revenues, FY 09-10, FY 10-11. Values are -0- for all.

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

Advantages: No economic impact

Disadvantages: No economic impact

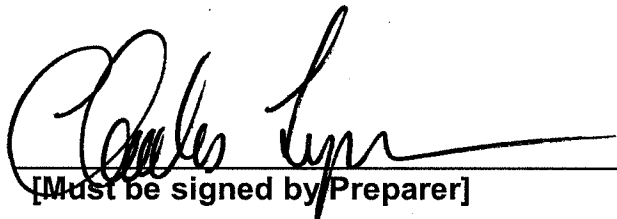
V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

No impact

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

Review of tax roll

PREPARED BY:



[Must be signed by Preparer]

Date

TITLE: Charles Lynn, Town Administrator

REPRESENTING: Town of Southwest Ranches

PHONE: (954) 434-0008

E-Mail Address: clynn@southwestranches.org

HB 1215

2010

1 A bill to be entitled
 2 An act relating to Broward County; amending chapter 98-
 3 521, Laws of Florida, as amended; requiring each member of
 4 the South Broward Utility Advisory Board appointed by the
 5 Town of Southwest Ranches to be a water or sewer user
 6 within the service area of the former South Broward
 7 Utility; providing an effective date.

8
 9 WHEREAS, in 2008, chapter 98-521, Laws of Florida, was
 10 amended to provide the Town of Southwest Ranches ("Ranches")
 11 with two members on the South Broward Utility Advisory Board,
 12 and

13 WHEREAS, currently, the appointed members are required to
 14 be both water and sewer users within the South Broward Utility
 15 service area, and

16 WHEREAS, because most of the properties in the Ranches have
 17 wells and septic systems, very few properties use both water and
 18 sewer, and

19 WHEREAS, to increase the potential field of appointed board
 20 members, the Ranches desires for its appointees to be water or
 21 sewer users, NOW, THEREFORE,

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

24
 25 Section 1. Section 1 of chapter 98-521, Laws of Florida,
 26 as amended by chapter 2008-278, Laws of Florida, is amended to
 27 read:

HB 1215

2010

28 Section 1. There is hereby created the South Broward
 29 Utility Advisory Board, which shall be an advisory board of the
 30 City of Sunrise. The board shall be composed of seven members,
 31 as follows: two members shall be appointed by the City of
 32 Sunrise, two members shall be appointed by the Town of Davie,
 33 one member shall be appointed by the City of Pembroke Pines, and
 34 two members shall be appointed by the Town of Southwest Ranches.
 35 Each member appointed by the Town of Southwest Ranches shall be
 36 a water or sewer user within the service area of the former
 37 South Broward Utility. All other ~~Each~~ appointed ~~members~~ ~~member~~
 38 shall be a water and sewer users ~~user~~ within the service area of
 39 the former South Broward Utility. The term ~~Terms~~ of each member
 40 shall be for 2 years, except that all appointments and retention
 41 of board members shall be at the sole discretion of the
 42 appointing authorities.

43 (1) The responsibility of the board shall be to review and
 44 advise the City of Sunrise regarding any proposed change by the
 45 city to the water and sewer rates charged within the area which
 46 was formerly the South Broward Utility service area. In the
 47 event of a proposed rate change within such area, the South
 48 Broward Utility Advisory Board may require the City of Sunrise
 49 to hire a rate consultant to advise the city regarding such
 50 proposed rate change.

51 (2) Within 30 days following notice of a rate change, the
 52 advisory board shall present a report of its findings to the
 53 Commission of the City of Sunrise. If presented within the 30-
 54 day period, the report shall be considered by the commission

HB 1215

2010

55 | before rates may be altered or changed within the area formerly
56 | served by the South Broward Utility.

57 | (3) The City of Sunrise shall appropriate not more than
58 | \$25,000 annually for a rate consultant for the South Broward
59 | Utility Advisory Board, as provided in subsection (1).

60 | (4) The advisory board shall have no legal standing to
61 | bring any legal action.

62 | (5) The City of Sunrise shall, by ordinance, provide for
63 | such other procedures and regulations which are not in conflict
64 | with this act as are necessary for the continued operation of
65 | the board.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1247

Hillsborough County

SPONSOR(S): Ambler

TIED BILLS:

IDEN./SIM. BILLS: SB 2510

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Noriega <i>TN</i>	Hoagland <i>SHH</i>
2)	Insurance, Business & Financial Affairs Policy Committee			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

SUMMARY ANALYSIS

This bill authorizes the Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation (Division) to issue a special alcoholic beverage license for use within the Children's Museum of Tampa, Inc., (Museum) and on its adjoining grounds.

The bill provides that the Museum must pay the applicable license fee provided in Florida Statutes, and that this license may only be used for special events.

The license authorized by this bill allows the Museum to sell alcoholic beverages for consumption within Museum grounds, but not off the premises. Further, the bill allows the Museum to transfer the license to qualified applicants authorized by contract with the Museum to provide food services on the premises.

According to the Economic Impact Statement, this bill may result in additional state revenues in the form of alcoholic beverage taxes from an increase in sales by the license holder.

This bill has an effective date of upon becoming law.

Pursuant to House Rule 5.5(b), a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. The provisions of House Rule 5.5(b) appear to apply to this bill.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapters 561-568, F.S., comprise Florida's Beverage Law. Section 561.02, F.S., provides that the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation (Division) is responsible for the enforcement of these statutes. The Beverage Law requires the Division to conduct background investigations on potential licensees and requires that licensees meet prescribed standards of moral character. Further, the Beverage Law prohibits certain business practices and relationships. Alcoholic beverage licenses are subject to fines, suspensions and/or revocations for violations of the Beverage Law.

Section 561.17, F.S., requires a business entity or person to be licensed prior to engaging in the business of manufacturing, bottling, distributing, selling, or in any way dealing in the commerce of alcoholic beverages.¹ The sale of alcoholic beverages is generally considered to be a privilege and, as such, licensees² are held to a high standard of accountability.

Unless sold by the package for consumption off the licensed premises, the sale and consumption of alcoholic beverages by the drink is limited to the "licensed premises" of a retail establishment over which the licensee has dominion or control. The Beverage Law does not allow a patron to leave an establishment with an open alcoholic beverage and/or enter another licensed premises with an alcoholic beverage.

Section 565.02(1)(b), F.S., provides that a vendor must pay an annual license fee of \$1,820 if it operates a place of business where consumption on the premises is permitted in a county having a population of over 100,000, according to the latest population estimate prepared pursuant to s. 186.901, F.S.,³ for such county.

¹ According to s. 561.01(4)(a), F.S., "alcoholic beverages" are defined as distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.

² According to s. 561.01(14), F.S., "licensee" is defined as a legal or business entity, person, or persons that hold a license issued by the division and meets the qualifications set forth in s. 561.15, F.S.

³ Section 186.901, F.S., addresses "population census determination."

No alcoholic beverage license is currently issued to the Children's Museum of Tampa, Inc., a not-for-profit corporation.

Over time, similar legislation has been adopted for the following Tampa Bay area locations:

- the Museum of Science and Industry (MOSI);⁴
- the University Area Community Development Corporation (UACDC);⁵
- the Lowry Park Zoo;⁶ and
- the Tampa Bay History Center.⁷

Effect of Proposed Changes

Notwithstanding the limitations contained in the Beverage Law, this bill authorizes the Division to issue a special alcoholic beverage license for use within the Children's Museum of Tampa, Inc., (Museum) and on its adjoining grounds.

The bill provides that the Museum must pay the applicable license fee provided in s. 565.02, F.S., and that this license may only be used for special events.

The license authorized by this bill allows the Museum to sell alcoholic beverages for consumption within Museum grounds, but not off the premises. However, the bill allows alcoholic beverage purchasers to remove an opened, partially consumed container of alcohol from Museum premises.

Further, the bill allows the Museum to transfer the license to qualified applicants authorized by contract with the Museum to provide food services on the premises. However, upon termination of a transferee's authorization or contract, the license automatically reverts to the Museum by operation of law.

According to the University of Florida's Bureau of Economic and Business Research (BEBR), the April 1, 2009, population estimate for Hillsborough County is 1,196,892. Therefore, the license fee of \$1,820 listed in s. 565.02(1)(b), F.S., would apply to the Museum.

According to Museum representatives, the Museum "is now poised to take its next major step, which will result in a 53,000 square foot facility, serving the entire Tampa Bay region, and will be a major component of the community's cultural and educational offerings. In addition, the Museum has several areas inside the facility that have great potential as rental spaces for after-hours events. The ability to rent these areas to interested corporate, private, and not-for-profit groups will allow the Museum to have more earned revenue to implement and enhance program offerings. The ability to serve alcoholic beverages at after-hour events held at the Museum is a key factor to make our venue competitive with the other venue rentals in the Tampa Bay area."

This bill has an effective date of upon becoming law.

B. SECTION DIRECTORY:

Section 1. Authorizes the Division to issue an alcoholic beverage license to the Museum in accordance with s. 561.17, F.S., upon application and payment of the appropriate license fee.

Section 2. Authorizes the sale of alcoholic beverages to be consumed on Museum premises; provides that the license may not permit the sale of alcoholic beverages in sealed

⁴ Chapter 98-449, Laws of Florida.

⁵ Chapter 2003-355, Laws of Florida.

⁶ Chapter 94-464, Laws of Florida.

⁷ Chapter 2007-303, Laws of Florida.

containers for consumption off the premises; allows the removal of an opened, partially consumed container from the premises.

Section 3. Authorizes the transfer of the license and provides for subsequent reversion of the license under certain circumstances.

Section 4. Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 25, 2010.

WHERE? The *Tampa Tribune*, a daily newspaper of general circulation published in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Not applicable.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, this bill may result in additional state revenues in the form of alcoholic beverage taxes from an increase in sales by the license holder. In addition, the Museum would have the potential to increase facility rentals to generate revenue for its community programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

The Division has indicated that the provisions of this bill will result in annual revenues of \$1,820 to the agency. In addition, the Division has indicated that it can handle the provisions of this bill with existing resources.

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.17, F.S.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that the undersigned intends to apply to the Legislature of the State of Florida, at its regular session held in the year 2010 or any subsequent special session for the passage of

An act relating to Hillsborough County; authorizing the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation to issue an alcoholic beverage license to The Children's Museum of Tampa, Inc. use within the museum's building and grounds; providing the license may be used for special events only; providing for payment of the license fee; providing for sale of beverages for consumption within the museum's building and grounds; prohibiting sales for consumption off premise; providing for removal from the premises of partially consumed, open containers; providing an effective date.

DATED at Tampa, Florida, this 25th day of January, 2010.

Rep. Kevin Ambler
3820 Northdale Boulevard
Suite 301-A
Tampa, FL 33624-1865
8241

1/25/10

The Tampa Tribune

Published Daily

Tampa, Hillsborough County, Florida

State of Florida }
County of Hillsborough } SS.

Before the undersigned authority personally appeared C. Pugh, who on oath says that she is the Advertising Billing Analyst of The Tampa Tribune, a daily newspaper published at Tampa in Hillsborough County, Florida; that the attached copy of the

Legal Ads IN THE Tampa Tribune

In the matter of Legal Notices

was published in said newspaper in the issues of

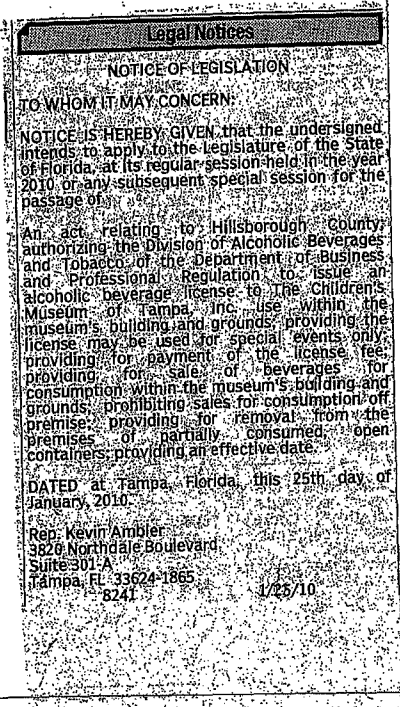
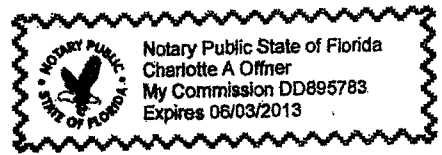
01/25/2010

Affiant further says that the said The Tampa Tribune is a newspaper published at Tampa in said Hillsborough County, Florida, and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each day and has been entered as second class mail matter at the post office in Tampa, in said Hillsborough County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, this advertisement for publication in the said newspaper.

Sworn to and subscribed by me, this 18 day
of Feb, A.D. 2010

Personally Known or Produced Identification
Type of Identification Produced _____

Charlotte A. Offner



HOUSE OF REPRESENTATIVES

2010 LOCAL BILL CERTIFICATION FORM

BILL #: NB 1247 1

SPONSOR(S): Rep. Ambler and Sen. Joyner and Rep. Culp

RELATING TO: Hillsborough County – The Children’s Museum of Tampa, Inc.
[Indicate Area Affected (City, County or Special District) and Subject]

NAME OF DELEGATION: Hillsborough County Legislative Delegation

CONTACT PERSON: Al Najjar

PHONE NO.: (813) 935-8441 E-Mail: _____

I. *House local bill 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) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.*

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES [X] NO []

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

YES [X] NO []

Date hearing held: December 18, 2009

Location: USF, Alumni Center, 4202 E. Fowler Ave., Tampa, FL 33620

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

YES [X] NO []

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

Has this constitutional notice requirement been met?

Notice published: YES [] NO [] DATE _____

Where? _____ County _____

Referendum in lieu of publication: YES [] NO []

Date of Referendum _____

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

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [] NO [] NOT APPLICABLE [X]

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [] NO [] NOT APPLICABLE [X]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [] NO []

Note: House policy also requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Military & Local Affairs Policy Committee.


Delegation Chair (Original Signature)

December 18, 2009
Date

Will Weatherford
Printed Name of Delegation Chair

House Committee on Community Affairs

2009 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 Community Affairs Committee that no bill will be considered by the 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 House Community Affairs Committee as soon as possible after the bill is filed.

BILL#: HB 1247
SPONSOR#: Senator Arthenia Joyner, Representative Kevin Ambler, Representative Faye Culp
RELATING TO: Hillsborough County: Liquor license for The Children's Museum of Tampa, Inc.

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

FY10-11 FY 11-12

Expenditures:

Cost of enacting a local bill.

II. ANTICIPATED SOURCE(S) OF FUNDING:

FY10-11 FY 11-12

Federal: N/A

State: N/A

Local: N/A

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

FY10-11 FY11-12

Revenues:

Additional revenues may accrue to the state in the form of increased alcoholic beverage taxes resulting from increased sales by the license holder.

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

Advantages:

Applicant has the potential to increase rentals for its facility and, therefore, revenue to support its community programs.

Disadvantages: None known.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53

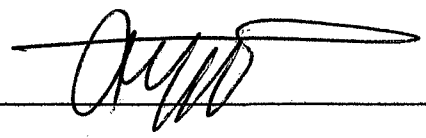
V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None

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

None

PREPARED BY:



Date 11.16.2009

TITLE: President & CEO
REPRESENTING: The Children's Museum of Tampa, Inc.
PHONE: (813) 935-8441

HB 1247

2010

1 A bill to be entitled
 2 An act relating to Hillsborough County; authorizing the
 3 Division of Alcoholic Beverages and Tobacco of the
 4 Department of Business and Professional Regulation to
 5 issue an alcoholic beverage license to the Children's
 6 Museum of Tampa, Inc., to use within the museum's building
 7 and on its grounds; providing that the license may be used
 8 only for special events; providing for payment of the
 9 license fee; providing for sale of beverages for
 10 consumption within the museum's building and on its
 11 grounds; prohibiting sales for consumption off premises;
 12 providing for removal from the premises of partially
 13 consumed, open containers; authorizing transfer and
 14 providing for subsequent reversion of the license under
 15 certain circumstances; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Notwithstanding any other provision of law, the
 20 Division of Alcoholic Beverages and Tobacco of the Department of
 21 Business and Professional Regulation is authorized, upon
 22 application, to issue an alcoholic beverage license in
 23 accordance with section 561.17, Florida Statutes, to the
 24 Children's Museum of Tampa, Inc., (the "museum"), 110 W.
 25 Gasparilla Plaza, Tampa, a not-for-profit corporation, for use
 26 within the building known as the Children's Museum of Tampa,
 27 Inc., and on its adjoining grounds. The museum shall pay the
 28 applicable license fee provided in section 565.02, Florida

HB 1247

2010

29 Statutes. The license may be used only for special events.

30 Section 2. Alcoholic beverages may be sold by the licensee
 31 for consumption within the building and on the grounds of the
 32 museum. The license issued pursuant to this act does not permit
 33 the sale of alcoholic beverages in sealed containers for
 34 consumption outside the building and its grounds. This act does
 35 not prevent a purchaser of such alcoholic beverages from
 36 removing an opened, partially consumed container of alcoholic
 37 beverages from the premises of the museum.

38 Section 3. The museum may transfer the license from time
 39 to time to qualified applicants who are either authorized by or
 40 under contract with the museum to provide food services at the
 41 museum. Upon termination of a transferee's authorization or
 42 contract, the license automatically reverts by operation of law
 43 to the museum.

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

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 1247 (2010)

Amendment No. 1

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 _____

1 Council/Committee hearing bill: Military & Local Affairs Policy
2 Committee

3 Representative(s) Ambler offered the following:

4
5 **Amendment (with title amendment)**

6 Remove lines 34-37 and insert:

7
8 consumption outside the building and its grounds.

9
10
11 -----
12 **T I T L E A M E N D M E N T**

13 Remove lines 12-13 and insert:

14
15 authorizing transfer and

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1249

Lee County Sheriff's Office

SPONSOR(S): Williams

TIED BILLS:

IDEN./SIM. BILLS: SB 2512

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee		Fudge <i>RF</i>	Hoagland <i>PH</i>
2)	Economic Development & Community Affairs Policy Council			
3)				
4)				
5)				

SUMMARY ANALYSIS

HB 1249 revises the civil service act for the Lee County Sheriff's Office. In response to a recent court decision, the bill shifts the burden of proof, from the employee to the sheriff, to show just cause for the disciplinary action under appeal.

The bill also provides that the retirement health insurance benefits currently provided by the Sheriff's Office are not payable to employees hired after October 1, 2010.

The bill provides an effective date of upon becoming law.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida's Sheriffs/Civil Service

Sixty-six of Florida's 67 counties have elected sheriffs as their chief law-enforcement officers. Miami-Dade County has an appointed chief law-enforcement officer whose title is Director of the Miami-Dade Police Department. Sheriffs serve four-year terms,¹ and have county-wide jurisdiction that includes incorporated as well as unincorporated areas.

Section 14 of Art. III of the State Constitution provides:

By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

The powers of the governing body of a county are set forth in s. 125.01, F.S. This power includes the authority, as provided in paragraph (u) of subsection (1) of s.125.01, F.S., to "[c]reate civil service systems and boards." Section 30.53, F.S., provides, in pertinent part, that "[t]he independence of the sheriffs shall be preserved concerning the...selection of personnel, and the hiring, firing, and setting of salaries of such personnel...."

A number of sheriffs have civil service systems established by the Legislature through special act, including: Alachua,² Baker,³ Bay,⁴ Brevard,⁵ Broward,⁶ Charlotte,⁷ Citrus,⁸ Clay,⁹ Columbia,¹⁰

¹ Section 1(d), Art. VIII of the State Constitution.

² Chs. 84-388 and 86-342, L.O.F.

³ Ch. 2006-318, L.O.F.

⁴ Ch. 84-309, L.O.F.

⁵ Ch. 83-373, L.O.F.

⁶ Ch. 93-370, L.O.F.

⁷ Chs. 79-436, 86-349, and 89-508, L.O.F.

⁸ Ch. 2001-296, L.O.F.

⁹ Chs. 89-522 and 93-397, L.O.F.

¹⁰ Ch. 2004-413, L.O.F.

Escambia,¹¹ Flagler,¹² Glades,¹³ Hernando,¹⁴ Indian River,¹⁵ Lake,¹⁶ Lee,¹⁷ Leon,¹⁸ Levy,¹⁹ Madison,²⁰ Manatee,²¹ Marion,²² Martin,²³ Monroe,²⁴ Okaloosa,²⁵ Okeechobee,²⁶ Orange,²⁷ Osceola,²⁸ Palm Beach,²⁹ Pasco,³⁰ Pinellas,³¹ Polk,³² St. Lucie,³³ Santa Rosa,³⁴ Sarasota,³⁵ Seminole,³⁶ and Walton³⁷ counties.

Lee County Sheriff's Office/Civil Service

The civil service system for the Lee County Sheriff's Office was established by the Florida Legislature in 1974 pursuant to ch. 74-522, L.O.F. This special act was subsequently amended in 1987, 1995, 2007 and 2008.

Burden of Proof

In Faulk v. Scott,³⁸ Kimberly Falk appealed her termination from the Lee County Sheriff's Office. The Lee County Sheriff's Office Civil Service Board (Board) affirmed Falk's termination because she had the burden of proof, as the appellant, to establish that her termination was without just cause. The Board based its decision on section 13 of ch. 99-434, L.O.F., which provides that "[t]he sheriff may suspend or dismiss an employee only for just cause. The employee so dismissed or suspended will have fifteen (15) days to file an appeal with the board." The "Board reasoned that, because Falk was appealing her termination, she had the burden of proof as the appellant to establish that her termination was without just cause."³⁹

The Second District Court of Appeal held that the Sheriff had the burden of proof at the hearing before the Board. "Where an agency terminates an employee for certain stated grounds, reason, logic and the law would require that the agency affirmatively carry the burden of proving the essence of its allegations."⁴⁰

¹¹ Ch. 89-492, L.O.F.

¹² Chs. 90-450 and 2000-482, L.O.F.

¹³ Ch. 2003-311, L.O.F.

¹⁴ Ch. 2000-414, L.O.F.

¹⁵ Ch. 2002-355, L.O.F.

¹⁶ Chs. 90-386, 93-358 and 2005-349, L.O.F.

¹⁷ Chs. 74-522, 87-547, 95-514, and 2007-320, L.O.F.

¹⁸ Ch. 83-456, L.O.F.

¹⁹ Ch. 2007-290, L.O.F.

²⁰ Ch. 95-470, L.O.F.

²¹ Ch. 89-472, L.O.F.

²² Ch. 87-457, L.O.F.

²³ Ch. 93-388, L.O.F.

²⁴ Chs. 78-567, 89-410, 89-461, 97-345, and 98-507, L.O.F.

²⁵ Chs. 81-442, 85-472, and 90-492, L.O.F.

²⁶ Ch. 2006-338, L.O.F.

²⁷ Ch. 89-507, L.O.F.

²⁸ Chs. 89-516 and 2000-388, L.O.F.

²⁹ Chs. 93-367, 99-437 and 2004-404, L.O.F.

³⁰ Ch. 90-491, L.O.F.

³¹ Chs. 89-404 and 90-395, L.O.F.

³² Chs. 88-443, 98-516 and 2006-320, L.O.F.

³³ Ch. 89-475, L.O.F.

³⁴ Ch. 2002-385, L.O.F.

³⁵ Ch. 86-344, L.O.F.

³⁶ Ch. 77-653, 80-612, 88-451, and 97-376, L.O.F.

³⁷ Ch. 2007-319, L.O.F.

³⁸ 19 So.3d 1103 (Fla. 2d DCA 2009).

³⁹ Id.

⁴⁰ 19 So.3d at 1104, citing Fla. Dep't of Health & Rehabilitative Serv., Div. of Health v. Career Serv. Comm'n of Dep't of Admin., 289 So.2d 412, 414 (Fla. 4th DCA 1974).

Retirement Health Insurance Benefits

Section 15 of the act provides for retirement health insurance benefits for employees of the sheriff's office who have accumulated 15 or more years of services. The Lee County Sheriff's Office currently pays a portion of the cost of the health and hospitalization insurance premiums for retired employees who have accumulated 15 or more years of service.

Effect of Proposed Changes

The bill amends the act to conform with Falk v. Scott, by placing the burden of proof on the sheriff to prove just cause for the disciplinary action under appeal. The bill also amends the retirement health insurance benefits section so that the health insurance benefit for retirees is not available to employees hired after October 1, 2010.

B. SECTION DIRECTORY:

Section 1: Amends ss. 13 and 15 of ch. 74-522, L.O.F., as amended by chs. 2007-320 and 2008-276, L.O.F., relating to the Lee County Sheriff's Office Civil Service System.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 7, 2010.

WHERE? In the *News-Press*, a daily newspaper published in Lee County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

NEWS-PRESS

Published every morning - Daily and
Sunday

Fort Myers, Florida

Affidavit of Publication

STATE OF FLORIDA
COUNTY OF LEE

Before the undersigned authority, personally appeared

Kathy Allebach

who on oath says that he/she is the

Legal Assistant

of the News-Press, a

daily newspaper, published at Fort Myers, in Lee County,
Florida; that the attached copy of advertisement, being a

Notice of Action

In the matter of

Amendments to Lee County Sheriffs Office

Civil Service Act

In the court was published in said newspaper in the
issues of

January 7, 2010

Affiant further says that the said News-Press is a paper of
general circulation daily in Lee, Charlotte, Collier, Glades
and Hendry Counties and published at Fort Myers, in said Lee
County, Florida and that said newspaper has heretofore been
continuously published in said Lee County, Florida, each day,
and has been entered as a second class mail matter at the post
office in Fort Myers in said Lee County, Florida, for a period of
one year next preceding the first publication of the attached copy
of the advertisement; and affiant further says that he/she has
neither paid nor promised any person, firm or corporation any
discount, rebate, commission or refund for the purpose of
securing this advertisement for publication in the said
newspaper.

Sworn to and subscribed before me this

7th day of January 2010 by

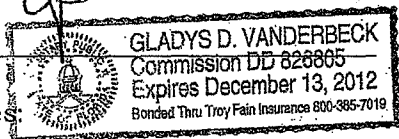
Kathy Allebach

personally known to me or who has produced

as identification, and who did or did not take an
oath.

Notary Public

Print Name



My commission Expires:

NOTICE OF LEGISLATION TO WHOM IT MAY CONCERN: NOTICE IS HEREBY GIVEN that the undersigned intends to apply to the Legislature of the State of Florida at its regular session held in the year 2010 for the passage of A bill to be entitled Amendments to Lee County Sheriffs Office Civil Service Act, 2007-320 and 2008-276, Laws of Florida regarding the Lee County Sheriffs Office Civil Service Board which amends and defines the burden of proof at Civil Service Board hearings and amends the Sheriff's obligation to provide a retirement health subsidy to employees by limiting this benefit to those individuals commencing employment with the Lee County Sheriffs Office prior to October 1, 2010. DATED at Fort Myers, Lee County, Florida this 7th day of January 2010. Robert C. Shearman, Attorney for Lee County Sheriffs Office Civil Service Board, Bar No. 814025, Henderson, Franklin, Starnes & Hill, P.A., 1715 Monroe St., Fort Myers, FL 33901, (239) 344-1346, Phone Jan 7, No. 138245

HOUSE OF REPRESENTATIVES

2010 LOCAL BILL CERTIFICATION FORM

BILL #: 1249

SPONSOR(S): Trudi K Williams

RELATING TO: Lee County Sheriff's Office
[Indicate Area Affected (City, County or Special District) and Subject]

NAME OF DELEGATION: Lee County Legislative Delegation

CONTACT PERSON: Paige Biagi

PHONE NO.: (239) 344-4900 E-Mail: paige.biagi@myfloridahouse.gov

I. House local bill 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) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Military & Local Affairs Policy Committee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES NO

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

YES NO

Date hearing held: 12/15/09

Location: Fort Myers, FL

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

YES NO

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

Has this constitutional notice requirement been met?

Notice published: YES NO DATE 1/7/10

Where? News-Press County Lee

Referendum in lieu of publication: YES NO

Date of Referendum _____

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

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES NO NOT APPLICABLE

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [] NO NOT APPLICABLE []

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [] NO

Note: House policy also requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Military & Local Affairs Policy Committee.



Delegation Chair (Original Signature)

3/1/10

Date

Gary Aubuchon

Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES
2010 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 #: 1249

SPONSOR(S): Representative Trudi Williams (75)

RELATING TO: Lee County

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION AND ENFORCEMENT:

Expenditures: FY10-11 FY11-12

It is not anticipated that the amendments to the Act will result in any additional cost of administration, implementation, and enforcement.

II. ANTICIPATE SOURCE(S) OF FUNDING:

Federal: FY10-11 FY11-12

State:

Local: Lee County Sheriff's Office provides 100% of the funding for operation of the Lee County Sheriff's Office Civil Service Board. Additionally, the Lee County Sheriff's Office provides 100% of the funding for the retirement health insurance benefits provided under the Act.

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues: None FY10-11 FY11-12

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

Advantages: It is not anticipated that the amendment to Section 13 (2) will create any significant economic impact. Further, it is not anticipated that the amendments to Section 15 (5) and (6) will create any significant economic impact for individuals employed by the Lee County Sheriff's Office prior to October 1, 2010.

Disadvantages:

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

It is not anticipated that the amendments to the Act will have any significant impact upon competition and the open market for employment.

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

It is not anticipated that the amendments to the Act will create any significant economic impact on individuals employed by the Lee County Sheriff's Office prior to October 1, 2010.

PREPARED BY:  12-1-09
[Must be signed by Preparer] Date

TITLE: Attorney for Lee County Sheriff's Office Civil Service Board

REPRESENTING: Lee County Sheriff's Office Civil Service Board

PHONE: (239.344.1346)

E-Mail Address: robert.shearman@henlaw.com

HB 1249

2010

1 A bill to be entitled
 2 An act relating to the Lee County Sheriff's Office;
 3 amending chapter 74-522, Laws of Florida, as amended;
 4 providing that the sheriff has the burden of proving just
 5 cause in an appeal of disciplinary action; providing that
 6 certain retirement health insurance benefits shall not be
 7 available to employees commencing employment after a
 8 specified date; providing an effective date.

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

11
 12 Section 1. Subsection (2) of section 13 and subsections
 13 (5) and (6) of section 15 of chapter 74-522, Laws of Florida, as
 14 amended by chapters 2007-320 and 2008-276, Laws of Florida, are
 15 amended to read:

16 Section 13. Discipline; suspensions; dismissal; appeals.-

17 (2) At the hearing, the sheriff ~~employee~~ has the burden of
 18 proving ~~that the Sheriff lacked~~ just cause supported by
 19 competent and substantial evidence for the disciplinary action
 20 under appeal.

21 Section 15. Funding of civil service board and retirement
 22 health insurance benefits.-

23 (5) Retirement health insurance benefits for employees
 24 with 15 or more years of service; employer premium payments.-
 25 Effective October 1, 1986, and thereafter, it is the duty of the
 26 Sheriff of Lee County to provide annually in his or her budget a
 27 sufficient sum of money to pay a portion of the cost of the
 28 health and hospitalization insurance premiums for employees of

HB 1249

2010

29 | the Lee County Sheriff's Office who retire after having
30 | accumulated at least 15 or more years of full-time, active
31 | service with the office. Employer premiums payable under this
32 | provision are limited to major medical and hospitalization
33 | insurance and do not include premiums for dental or vision
34 | insurance. Retirees may purchase, at their expense, individual
35 | or family group dental insurance or vision insurance, or both.
36 | The benefits payable under this subsection shall not be
37 | available to any individual commencing employment with the Lee
38 | County Sheriff's Office on or after October 1, 2010.

39 | (6) Benefits payable under subsection (5).—Benefits
40 | payable under subsection (5) are only available to employees
41 | commencing employment on or after October 1, 1986, and prior to
42 | October 1, 2010, who retire from the Florida Retirement System
43 | and terminate employment after 15 or more years of service with
44 | the Lee County Sheriff's Office. A member of the Florida
45 | Retirement System employed prior to October 1, 2009, who has
46 | been a full-time member of the Lee County Sheriff's Office for
47 | the 10 years immediately preceding his or her retirement may
48 | claim up to 5 years of previous service with another Florida
49 | Retirement System employer subject to verification by the
50 | Division of Retirement of the Department of Management Services
51 | to meet the 15-year requirement as provided for in subsection
52 | (5). Persons hired by the Lee County Sheriff's Office on or
53 | after October 1, 2009, are not eligible to claim additional
54 | years of service from previous Florida Retirement System
55 | employers to qualify for employer-paid health and

HB 1249

2010

56 | hospitalization insurance benefits as provided for in subsection
57 | (5).

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

