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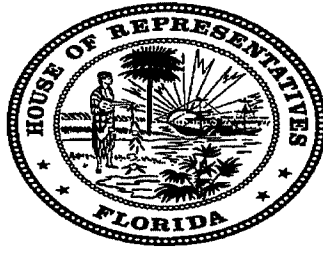
# Finance and Tax Committee

Tuesday, April 12, 2011

9:00 a.m.

Morris Hall

MEETING PACKET



## Finance and Tax Committee

### AGENDA

April 12, 2011

9:00 a.m. – 12:00 p.m.

Morris Hall

- I. Call to Order/Roll Call
- II. **Consideration of the following bill(s):**
  - HB 243 Tangible Personal Property Taxation by Workman
  - HB 287 Economic Development by Eisnaugle
  - CS/HJR 789 Homestead Exemption/Senior Citizens by Community & Military Affairs Subcommittee, Nuñez
  - CS/HB 1141 Ad Valorem Tax Exemption for Deployed Servicemembers by Community & Military Affairs Subcommittee, Steube
  - CS/HB 1145 Greyhound Racing by Business & Consumer Affairs Subcommittee, Young
  - HB 1351 South Broward Drainage District, Broward County by Jenne
- III. Closing Remarks and Adjournment





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 243 Tangible Personal Property Taxation

SPONSOR(S): Workman

TIED BILLS: IDEN./SIM. BILLS: SB 384

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	15 Y, 0 N	Livingston	Creamer
2) Finance & Tax Committee		Aldridge 	Langston 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill authorizes a person who engages in the business of leasing or renting heavy equipment to collect a "recovery fee" on the rental of heavy equipment "for the purpose of recovering the tangible personal property tax imposed on heavy equipment... ."

The bill provides that the recovery fee must be based on the estimated pro rata annual tangible personal property (TPP) tax to be imposed on the equipment. The recovery fees collected may not exceed the TPP tax levied on the equipment and any amounts collected in excess of the taxes levied must be reimbursed to the customer(s) on a pro rata basis "at a location described in the short-term rental agreement or another location specified by the lessee."

The bill specifies that in order to collect and retain the recovery fee, the rental transaction must be a "short-term rental agreement" and the recovery fee must be disclosed in the rental agreement. The bill defines "short-term rental agreement" to mean "only a lease or rental agreement entered into for a term of less than 365 days or an at-will contract that does not specify the length of time of the contract. The term does not include any extension or renewal of a lease contract with an original term of 1 year or more."

The bill defines the term "heavy equipment."

The bill is not anticipated to have a revenue impact on state or local governments.

The effective date of the bill is July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present situation

Florida law provides for ad valorem taxation of real and tangible personal property by local governments, including school districts and special districts authorized to levy ad valorem taxes (property taxes).

Tangible personal property (TPP) is defined to mean all goods, chattels, and other articles of value (not including vehicular items) capable of manual possession and whose chief value is intrinsic to the article itself.<sup>1</sup> Inventory and household goods are expressly excluded from this definition.

TPP is subject to property taxes. Owners of TPP subject to property tax are required to file a return indicating the value of the TPP subject to tax by April 1 of each year.<sup>2</sup>

The amount of tax owed by the owner of TPP is determined by multiplying the value of the TPP by the sum of the millage rates (tax rates)<sup>3</sup> imposed by all the taxing authorities authorized to levy property taxes where the property is physically present on January 1.<sup>4</sup> Special rules apply to TPP that may be in different locations throughout the year. Generally, the location for tax purposes is where the property is kept for use or storage or where it is consistently returned for use and storage.<sup>5</sup>

Currently, there is no legislatively created provision that expressly grants authority to persons in the business of renting or leasing heavy equipment to charge a fee designed specifically to recover its annual tangible personal property taxes paid upon its heavy equipment from its customers.

#### Effect of proposed changes

The bill authorizes a person who engages in the business of leasing or renting heavy equipment to collect a "recovery fee" on the rental of heavy equipment "for the purpose of recovering the tangible personal property tax imposed on heavy equipment... ."

The bill provides that the recovery fee must be based on the estimated pro rata annual TPP tax to be imposed on the equipment. The recovery fees collected may not exceed the TPP tax levied on the equipment and any amounts collected in excess of the taxes levied must be reimbursed to the customer(s) on a pro rata basis "at a location described in the short-term rental agreement or another location specified by the lessee.

The bill specifies that in order to collect and retain the recovery fee, the rental transaction must be a "short-term rental agreement" and the recovery fee must be disclosed in the rental agreement. The bill defines "short-term rental agreement" to mean "only a lease or rental agreement entered into for a term of less than 365 days or an at-will contract that does not specify the length of time of the contract. The term does not include any extension or renewal of a lease contract with an original term of 1 year or more."

The bill provides a definition of the term "heavy equipment" to mean "industrial or construction equipment including, but is not limited to, equipment described in the North American Industry Classification System (NAICS) code 532412..." NAICS code 532412, states:

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<sup>1</sup> Section 192.001(11)(d), F.S.

<sup>2</sup> Sections 193.052 and 193.062, F.S.

<sup>3</sup> Property tax rates are expressed in terms of mills. One mill can also be expressed as 1/1000, .001, or .1 percent. For example, if the sum of the rates imposed by all taxing authorities is 20 mills, the taxpayer will pay a tax equal 2% of the TPP's value.

<sup>4</sup> Section 193.032, F.S., sets for the rules for determining the "situs," or location of property for tax purposes.

<sup>5</sup> Id.

## **532412 Construction, Transportation, Mining, and Forestry Machinery and Equipment Rental and Leasing**

This industry comprises establishments primarily engaged in renting or leasing one or more of the following without operators: heavy construction, off-highway transportation, mining, and forestry machinery and equipment. Establishments in this industry may rent or lease products, such as aircraft, railroad cars, steamships, tugboats, bulldozers, earthmoving equipment, well-drilling machinery and equipment, or cranes.<sup>6</sup>

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

Section 1. Creates a provision of general law to authorize heavy equipment rental companies to charge and collect a fee to recover annual tangible personal property taxes imposed on heavy equipment.

Section 2. Provides an effective date of July 1, 2011.

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

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

1. Revenues:

None anticipated.

2. Expenditures:

None anticipated.

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

1. Revenues:

None anticipated.

2. Expenditures:

None anticipated.

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

None.

#### **FISCAL COMMENTS:**

None.

## **III. COMMENTS**

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

1. Applicability of Municipality/County Mandates Provision:

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

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<sup>6</sup> <http://www.naicscodes.com/Search/MoreNAICSDetail.asp?N=532412>, last viewed March 20, 2011.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

HB 243

2011

1                   A bill to be entitled  
 2           An act relating to tangible personal property taxation;  
 3           providing definitions; authorizing collection of a  
 4           tangible personal property tax recovery fee by a person  
 5           engaging in the business of renting or leasing heavy  
 6           equipment; providing requirements for collection,  
 7           retention, and reimbursement of the recovery fee;  
 8           providing an effective date.

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

11  
 12           Section 1. Heavy equipment rental; tangible personal  
 13 property tax recovery fee.-

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

15           (a) "Heavy equipment" means industrial or construction  
 16 equipment, including, but not limited to, equipment described in  
 17 the North American Industry Classification System (NAICS) Code  
 18 532412 as published in 2007 by the Office of Management and  
 19 Budget within the Executive Office of the President of the  
 20 United States.

21           (b) "Lessee" means the person who rents or leases the  
 22 heavy equipment.

23           (c) "Short-term rental agreement" means a lease or rental  
 24 agreement with a term of less than 365 days or an at-will  
 25 contract that does not specify a term; however, "short-term  
 26 rental agreement" does not include any extension or renewal of a  
 27 lease or rental agreement with an original term of 365 days or  
 28 more.



29           (2) For the purpose of recovering the tangible personal  
 30 property tax imposed on heavy equipment, a person engaging in  
 31 the business of leasing or renting heavy equipment may collect a  
 32 recovery fee in an amount equal to the estimated pro rata annual  
 33 tangible personal property tax that will be imposed. The  
 34 recovery fee may be collected and retained after payment of the  
 35 tax only if:

36           (a) The heavy equipment is subject to a short-term rental  
 37 agreement that discloses the amount and purpose for the  
 38 collection of the recovery fee; and

39           (b) Within 45 days after initial payment of the tax or  
 40 receipt of any refund of the initial payment, the person  
 41 engaging in the business of renting or leasing the heavy  
 42 equipment reimburses the lessee for any amount collected in  
 43 excess of the tax at a location described in the short-term  
 44 rental agreement or another location specified by the lessee.  
 45 The person engaging in the business of renting or leasing heavy  
 46 equipment:

47           1. Shall prorate reimbursements of the tax if more than  
 48 one person rented or leased the equipment during the applicable  
 49 period; and



50           2. May not seek any additional recoupment of the tax if  
 51 the actual tax paid is more than the amount collected.

52           Section 2. This act shall take effect July 1, 2011.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 287 Economic Development  
**SPONSOR(S):** Eisnaugle  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 506

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 0 N	Tecler	Kruse
2) Finance & Tax Committee		Wilson 	Langston 
3) Economic Affairs Committee			

**SUMMARY ANALYSIS**

In 1980, the Florida electorate approved a constitutional amendment that allows local governments to grant economic development ad valorem tax exemptions (exemptions) following voter referendums, to new or expanding businesses. Authority to issue these exemptions are valid for ten years and may be renewed through a succeeding referendum. Exemptions are issued by ordinance at the discretion of the board of county commissioners or a municipal governing authority.

HB 287 amends business eligibility requirements for these exemptions, revising the process by which local governments can issue exemptions for economic development purposes, and removes outdated limitations. The bill authorizes counties and municipalities that have already held or are in the process of holding referendums to issue exemptions under any future revision to the law without holding additional referendums.

The bill does not have an impact on state revenue, but may have a negative indeterminate impact on local government revenue if a local governments choose to provide these additional exemptions.

This bill shall take effect July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Issue Background**

##### **Property Tax Assessments**

Unless an exception or exemption is provided, all real and personal property in Florida is subject to ad valorem taxes (taxes based on the value of that property). As prescribed by the Florida Constitution, counties, municipalities, and other local governmental entities have the exclusive right to assess ad valorem taxes on real estate and tangible personal property.<sup>1</sup>

There are a number of ad valorem tax exemptions permitted under Article VII, sections 3 and 6, of the State Constitution. These include but are not limited to exemptions for charitable, religious, or literary properties, homesteads, tangible personal property, and for economic development purposes.<sup>2</sup> In addition, ch. 196, F.S., establishes other ad valorem tax exemptions not found in the State Constitution but enacted through general law.

For ad valorem tax purposes, the State Constitution requires property to be assessed at just value. Property appraisers determine a property's just valuation using certain requirements provided under s. 193.011, F.S. In addition to these requirements, the State Constitution establishes caps for millage rates<sup>3</sup> and limits for certain classes of property, and the amount by which the assessed value may increase in a given year.<sup>4</sup> After calculating the assessed value of the property, the appraiser subtracts the value of any exemptions to determine the taxable value. Generally, tax on real and tangible personal property is assessed annually on January 1<sup>st</sup>. Property owners receive their tax bills in November and payment is due by March 31<sup>st</sup> of the following year.

##### **Ad Valorem Tax Exemptions for Economic Development**

In 1980, the Florida electorate approved a state constitutional amendment that empowers local governments to grant economic development ad valorem tax exemptions (exemptions) to new or expanding businesses.<sup>5</sup> The amendment was adopted during a time of economic weakness and high unemployment. The purpose of the amendment was to provide county and municipal governments with an additional tool that would encourage job growth and counteract recessionary pressures in local economies. In order to implement the constitutional amendment, statutory provisions were created to define the eligibility requirements for new or expanding businesses and to provide a process by which local governments can issue exemptions for economic development purposes.<sup>6</sup>

##### **Eligibility**

Eligibility is established under current law through the definitions for qualified "new business" and qualified "expansion of an existing business".

In general, an eligible new business is defined as a:

- Manufacturer that creates 10 or more jobs in Florida;
- Business that creates 25 or more jobs and has a sales factor of less than .50 (the business derives less than half of its total sales from Florida);
- Corporation newly domiciled in Florida that opens an office with at least 50 employees;

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<sup>1</sup> Fla. Const. VII.

<sup>2</sup> The definitions and enabling language for these exemptions are contained in ch. 196, F.S.

<sup>3</sup> Fla. Const. art. VII, s. 9.

<sup>4</sup> Fla. Const. art. VII, s. 4.

<sup>5</sup> Senate Joint Resolution No. 9-E was adopted as Article VII, section 3(c) of the Florida Constitution.

<sup>6</sup> Section 196.012(15-16), F.S., defines "new business" and "expansion of new business". Section 196.1995, F.S. establishes requirements for the issuance of ad valorem tax exemptions for economic development purposes.

- Business that begins operations in an enterprise zone or brownfield area; and a
- Business situated on property annexed into a municipality and that, at the time of annexation, is receiving an ad valorem tax exemption from the county under s.196.1995, F.S.

An eligible expansion of an existing business is generally defined as a:

- Manufacturer that creates 10 or more jobs in Florida;
- Business that creates 25 or more jobs and has a sales factor of less than .50 (the business derives less than half of its total sales from Florida) provided that the business increases net employment or output by at least 10 percent at the expanding facility; and a
- Business that expands operations in an enterprise zone or brownfield area.

### Referendum Process

The State Constitution allows a county or municipality to hold a referendum to determine if such county or municipality will have the authority to issue exemptions.<sup>7</sup> A referendum on the question is required if one of the following occurs:

- The board of county commissioners or municipal governing authority votes to hold the referendum; or
- The board of county commissioners or municipal governing authority receives a petition signed by 10 percent of the registered electors that calls to hold the referendum.<sup>8</sup>

A county or municipal referendum on this issue must use the specific ballot question that is provided in s. 196.1995 (2), F.S. However, if the board of county commissioners or municipal governing authority votes to limit the ballot question to an enterprise zone or a brownfield area,<sup>9</sup> then a specific ballot question provided in s. 196.1995(3), F.S., is used. A referendum may be called only once in any 12-month period.<sup>10</sup> Once approved, the authority to grant exemptions is valid for ten years and may be renewed through a succeeding referendum.<sup>11</sup>

### Issuing an Exemption

In any county or municipality that is authorized by its electors to grant exemptions for economic development purposes, the state Constitution requires the issuance of the exemption to be done by ordinance.<sup>12</sup> Prior to the board of county commissioners or municipal governing authority approving an exemption by ordinance, the property appraiser must provide the board or governing authority a fiscal analysis that includes the following: the total revenue from all ad valorem tax sources, the total revenue lost due to previously granted exemptions, and the fiscal impact of the proposed ordinance.<sup>13</sup> In addition, the appraiser must determine that the applicant has met all eligibility requirements.<sup>14</sup>

An ordinance granting an exemption must be adopted in the same manner as any other ordinance and include the name and location of the business, the expiration date of the exemption, and the findings of the property appraiser.<sup>15</sup>

The board of county commissioners or municipal governing authority, at its discretion,<sup>16</sup> by ordinance may exempt ad valorem taxes for new or expanding businesses. For a new business, up to 100 percent of the assessed value of the following is exempt<sup>17</sup>:

- Improvements to real property made by or for the use of the new business; and
- Tangible personal property of the new business.

<sup>7</sup> Fla. Const. art. VII, s. 3(c).

<sup>8</sup> Section 196.1995(1)(a)(b), F.S.

<sup>9</sup> Section 196.1995(3), F.S.

<sup>10</sup> Section 196.1995(4), F.S.

<sup>11</sup> Fla. Const. art. VII, s. 3(c) and s. 196.1995(7), F.S.

<sup>12</sup> Fla. Const. art. VII, s. 3(c).

<sup>13</sup> Section 196.1995 (9)(a-c), F.S.

<sup>14</sup> Section 196.1995 (9)(d), F.S.

<sup>15</sup> Section 196.1995 (10), F.S.

<sup>16</sup> Opinions issued by the Office of the Attorney General indicate that counties and municipalities have broad discretion in approving or not approving an applicant. See: Advisory Legal Opinions AGO 81-46 and AGO 84-89.

<sup>17</sup> Section 196.1995(5), F.S.

For the expansion of existing business, up to 100 percent of the assessed value of the following is exempt:<sup>18</sup>

- Improvements to real property made to facilitate the expansion of an existing business; and
- Total net increase in all tangible personal property acquired to facilitate an expansion.

The exemption does not apply to taxes levied for the payment of bonds or taxes authorized by referendum.<sup>19</sup>

**Application for an Exemption**

An applicant must submit a written application to the board of county commissioners or municipal governing authority in the year the ad valorem tax exemption is desired to take effect. Section 196.1995(8), F.S., requires the following: the name and location of the business, a description and construction date of improvements to real property, a description and purchase date of eligible tangible personal property, proof of eligibility as defined by s. 196.012(15-16), F.S., and any other information deemed necessary by the Department of Revenue(Department).

**Exemption Use**

According to the Department, 15 counties are currently offering exemptions totaling approximately \$747.7 million. In addition, the Department indicated that 33 cities throughout the state are currently offering \$154.9 million in exemptions.

Location plays a role in the use of exemptions. According to county economic development officials in Florida’s panhandle, exemptions are more attractive in this part of the state due to the proximity to Alabama<sup>20</sup> and Georgia<sup>21</sup> where similar exemptions are offered. This may, in part, account for the high concentration of use in the northern part of the state.

Economic development ad valorem tax exemptions issued by county governments in 2010:

<b>2010</b>	
<b>County</b>	<b>Exemptions</b>
Bay	\$232,133,541.00
Brevard	\$28,762,380.00
Calhoun	\$517,421.00
Dade	\$67,568,325.00
Escambia	\$279,392,755.00
Gulf	\$362,894.00
Hardee	\$27,542,457.00
Hendry	\$2,246,960.00
Jackson	\$49,419,465.00
Liberty	\$30,932,427.00
Madison	\$598,608.00
Palm Beach	\$7,424,114.00
St. Lucie	\$17,756,979.00
Santa Rosa	\$2,613,424.00
Washington	\$441,581.00
<b>Statewide</b>	<b>\$747,713,331.00</b>
Includes exemptions under ss.196.1995, F.S.	

<sup>18</sup> Section 196.1995(5), F.S.

<sup>19</sup> Fla. Const. art. VII, ss. 9(b) and 12.

<sup>20</sup> Alabama Taxes and Incentives. Economic Development Partnership of Alabama, July 2010. On file with House Economic Development and Tourism Subcommittee.

<sup>21</sup> Georgia Department of Revenue. <https://etax.dor.ga.gov/> (last visited March 1, 2011). See: “freeport exemption” and “bond lease transaction.”

Economic development ad valorem tax exemptions issued by municipal governments in 2010:

2010		
County	City	Exemptions
Bay	Lynn Haven	\$3,807,978.00
	Panama City	\$43,122,287.00
Brevard	Cocoa	\$308,770.00
	Melbourne	\$14,238,900.00
	Palm Bay	\$1,580,720.00
	Rockledge	\$1,024,310.00
	Titusville	\$227,960.00
Dade	Hialeah	\$4,694,901.00
	Miami	\$31,283,502.00
	Miami Beach	\$7,284,508.00
	Miami Gardens	\$3,609,474.00
	Miami Springs	\$1,184,696.00
	Palmetto Bay	\$146,580.00
Escambia	Pensacola	\$8,091,198.00
Hendry	Clewiston	\$503,640.00
	La Belle	\$193,900.00
Hernando	Brooksville	\$4,552,157.00
Holmes	Bonifay	\$277,180.00
Lee	Fort Myers	\$1,293,033.00
Leon	Tallahassee	\$2,221,482.00
Osceola	Kissimmee	\$333,600.00
Palm Beach	Pahokee	\$103,870.00
St. Lucie	Fort Pierce	\$820,100.00
	Port St. Lucie	\$9,432,416.00
Sarasota	Sarasota	\$252,400.00
Taylor	Perry	\$287,880.00
Volusia	Daytona Beach	\$9,279,779.00
	Deland	\$680,296.00
	Holy Hill	\$778,086.00
	Orange City	\$1,492,211.00
	Ormond Beach	\$1,525,775.00
	South Daytona	\$293,751.00
Washington	Sunny Hills	\$16,000.00
<b>Statewide</b>		<b>\$154,943,340.00</b>
Includes exemptions under ss.196.1995, F.S., and s.196.095, F.S.		

**Changes Made By the Bill**

This bill makes several changes to the requirements for qualifying and issuing exemptions. Under the proposed changes in this bill, eligibility is expanded, potentially allowing more business types and non-profit organizations to qualify for exemptions. Second, the proposed changes will provide local governments more discretion in selecting and approving exemptions. Third, the bill establishes several accountability measures, including authorizing local governments to establish binding contracts with approved applicants that set the terms for qualifying and maintaining an exemption.

**Eligibility**

The bill revises the definitions for “new business” and “expansion of existing business” by making eligibility requirements more flexible and removing outdated limitations. Eligibility requirements that limit exemptions to manufacturing businesses or to businesses that provide a certain level of employment, sales factor, or output are eliminated. The board of county commissioners or municipal governing authority will have the option to incentivize any new or expanding business or non-profit organization that creates new full-time jobs or demonstrates a net increase in full-time jobs.

#### Enterprise Zones and Brownfields

The bill removes references to business activity in an enterprise zone or brownfield area from s. 196.012(15), F.S., and s. 196.012(16), F.S. The revised definitions for “new business” and “expansion of existing business” encompass business activities in and outside an enterprise zone or brownfield area. This change will not prevent business activity in an enterprise zone or brownfield area from being eligible for an exemption. Further, this revision will not preclude the board of county commissioners or municipal governing authority from restricting exemptions to an enterprise zone or brownfield area as prescribed in s. 196.1995(3), F.S.

#### **Referendum Process**

Under current law, if initiated by petition, a call for a referendum on whether a county should have the authority to issue exemptions requires the signature of 10 percent of the registered electors. The bill amends s. 196.1995(1) (b), F.S., authorizing charter counties to set the threshold for meeting the signature requirement at the percentage established in the charter. The percentage established in the county charter will be considered valid even if such percentage is less than 10 percent. Also, under the provisions of the bill, a county or municipality that previously held or is in the process of holding a referendum to issue exemptions under this section is not required to hold a new referendum or revise the ballot question if a future Legislature amends this section of law.

#### Ballot Questions

The bill revises the statutorily required ballot questions in s. 196.1995(2-3), F.S., to clarify to the voter that any exemptions issued under s. 196.1995, F.S., are expected to create new, full-time jobs, and have been evaluated as being of economic interest to the community.

#### **Issuing an Exemption**

In order to strengthen accountability, the bill modifies the application and approval process and authorizes counties and municipalities to establish binding contracts with approved applicants.

#### Application for Exemption

The bill amends 196.1995(8), F.S., providing that an application include the following: the expected number of new jobs, the average and median wage of such jobs, whether the jobs are full-time or part-time, and the expected time schedule for job creation. The Department has indicated that Form DR-418 will need to be revised. This online form can be revised at no cost to the Department.

#### Approval Process

The bill amends s. 196.1995(10), F.S., establishing minimum economic criteria that must be considered by the board of county commissioners or a municipal governing authority to before issuing an exemption. In general, the minimum economic criteria are the following:

- The total number of jobs created by the applicant;
- The average and median wage of the new jobs;
- Capital investment made by the applicant;
- Whether the business or operation is an industry targeted by the locality;
- The environmental impact of the proposed business or operation; and
- Extent to which the applicant intends to source supplies and materials from the local area.

Further, the bill clarifies that an exemption may not to exceed ten years and that it is the intent of the Legislature to vest counties and municipalities with as much discretion as legally permissible in determining whether to approve or not approve an exemption.

#### Contract Agreement



The bill creates s. 196.1995(12), F.S., which authorizes the board of county commissioners or a municipal governing authority to enter into a written tax agreement with approved applicants. The written tax agreement may contain performance criteria and an option to revoke the exemption if the applicant fails to meet expectations established s. 196.1995(8), F.S. However, the written agreement must require the applicant to report, before the exemption expires, the number of full-time jobs created and their average and median wage.

The bill provides an effective date of July 1, 2011.

**B. SECTION DIRECTORY:**

Section 1. Amends 196.012, F.S., revising the definitions of "new business" and "expansion of an existing business."

Section 2. Amends 196.1995, F.S., revising the referendum process and ballot questions; providing requirements for issuing an exemption; creating an option for a written tax agreement.

Section 3. Providing 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:

On February 16, 2011, the Revenue Estimating Conference adopted that this bill will have a negative indeterminate impact on local government revenues if local governments choose to offer additional economic development ad valorem tax exemptions.

2. Expenditures:

None.

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

Eligibility standards provided in this bill may allow more businesses and non-profit organizations to benefit from exemptions. As a result, a previously ineligible business or non-profit organization may become qualified and lower the liability for ad valorem taxes. The exemption is administered and approved at the local level; therefore, the direct impact of this bill will vary greatly depending on the specific county or municipality.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Article VII, section 3(c) of the State Constitution authorizes a county or municipality to hold a referendum to determine if such county or municipality will have the authority to issue ad valorem tax exemptions for an economic development purpose. Under the provisions of the bill, a county or municipality that previously held or is in the process of holding a referendum to issue exemptions under this section is not required to hold a new referendum or revise the ballot question if a future Legislature amends this section of law.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
2       An act relating to economic development; amending s.  
3       196.012, F.S.; revising the definitions of the terms "new  
4       business" and "expansion of an existing business";  
5       amending s. 196.1995, F.S.; authorizing the board of  
6       county commissioners of a charter county to call and hold  
7       a referendum to determine whether to grant economic  
8       development ad valorem tax exemptions; revising the  
9       language of ballot questions relating to the authority to  
10      grant economic development tax exemptions; providing for  
11      application of a provision limiting the calling of another  
12      referendum within a certain time period; specifying  
13      additional information that must be included in a written  
14      application requesting adoption of an ordinance granting  
15      an economic development ad valorem tax exemption;  
16      specifying factors for a board of county commissioners or  
17      governing authority of a municipality to consider when  
18      deciding whether to approve or reject applications for  
19      economic development tax exemptions; providing legislative  
20      intent; limiting the allowable duration of an economic  
21      development tax exemption granted by a county or municipal  
22      ordinance; authorizing written tax exemption agreements  
23      consistent with this act upon approval of a tax exemption  
24      application; specifying that the written tax agreement  
25      must require the applicant to report certain information  
26      at a specific time before expiration of the exemption;  
27      authorizing the board of county commissioners or the  
28      governing authority of the municipality to revoke, in

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29 whole or in part, the exemption under certain  
 30 circumstances; providing an effective date.

31

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

33

34 Section 1. Subsections (15) and (16) of section 196.012,  
 35 Florida Statutes, are amended to read:

36 196.012 Definitions.—For the purpose of this chapter, the  
 37 following terms are defined as follows, except where the context  
 38 clearly indicates otherwise:

39 (15) "New business" means:

40 (a) ~~1.~~ A business or nonprofit organization starting  
 41 operations in the state that will create new, full-time jobs  
 42 that the board of county commissioners or the governing  
 43 authority of a municipality has determined are jobs that the  
 44 board or governing authority wishes to incentivize through ad  
 45 valorem tax exemptions granted in accordance with the  
 46 requirements of s. 196.1995; or establishing 10 or more jobs to  
 47 employ 10 or more full-time employees in this state, which  
 48 manufactures, processes, compounds, fabricates, or produces for  
 49 sale items of tangible personal property at a fixed location and  
 50 which comprises an industrial or manufacturing plant;

51 ~~2.~~ A business establishing 25 or more jobs to employ 25 or  
 52 more full-time employees in this state, the sales factor of  
 53 which, as defined by s. 220.15(5), for the facility with respect  
 54 to which it requests an economic development ad valorem tax  
 55 exemption is less than 0.50 for each year the exemption is  
 56 claimed; or

57 ~~3. An office space in this state owned and used by a~~  
 58 ~~corporation newly domiciled in this state; provided such office~~  
 59 ~~space houses 50 or more full-time employees of such corporation;~~  
 60 ~~provided that such business or office first begins operation on~~  
 61 ~~a site clearly separate from any other commercial or industrial~~  
 62 ~~operation owned by the same business.~~

63 ~~(b) Any business located in an enterprise zone or~~  
 64 ~~brownfield area that first begins operation on a site clearly~~  
 65 ~~separate from any other commercial or industrial operation owned~~  
 66 ~~by the same business.~~

67 ~~(b)(e)~~ A business that is situated on property annexed  
 68 into a municipality and that, at the time of the annexation, is  
 69 receiving an economic development ad valorem tax exemption from  
 70 the county under s. 196.1995.

71 (16) "Expansion of an existing business" means the  
 72 expansion of an existing business or nonprofit organization,  
 73 other than its relocation to another community, that results in  
 74 a net increase of new, full-time jobs that the board or  
 75 governing authority wishes to incentivize through ad valorem tax  
 76 exemptions granted in accordance with the requirements of s.  
 77 196.1995.

78 ~~(a)1. A business establishing 10 or more jobs to employ 10~~  
 79 ~~or more full-time employees in this state, which manufactures,~~  
 80 ~~processes, compounds, fabricates, or produces for sale items of~~  
 81 ~~tangible personal property at a fixed location and which~~  
 82 ~~comprises an industrial or manufacturing plant; or~~

83 ~~2. A business establishing 25 or more jobs to employ 25 or~~  
 84 ~~more full-time employees in this state, the sales factor of~~

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85 ~~which, as defined by s. 220.15(5), for the facility with respect~~  
 86 ~~to which it requests an economic development ad valorem tax~~  
 87 ~~exemption is less than 0.50 for each year the exemption is~~  
 88 ~~claimed; provided that such business increases operations on a~~  
 89 ~~site colocated with a commercial or industrial operation owned~~  
 90 ~~by the same business, resulting in a net increase in employment~~  
 91 ~~of not less than 10 percent or an increase in productive output~~  
 92 ~~of not less than 10 percent.~~

93 ~~(b) Any business located in an enterprise zone or~~  
 94 ~~brownfield area that increases operations on a site colocated~~  
 95 ~~with a commercial or industrial operation owned by the same~~  
 96 ~~business.~~

97 Section 2. Section 196.1995, Florida Statutes, is amended  
 98 to read:

99 196.1995 Economic development ad valorem tax exemption.-

100 (1) The board of county commissioners of any county or the  
 101 governing authority of any municipality shall call a referendum  
 102 within its total jurisdiction to determine whether its  
 103 respective jurisdiction may grant economic development ad  
 104 valorem tax exemptions under s. 3, Art. VII of the State  
 105 Constitution if:

106 (a) The board of county commissioners of the county or the  
 107 governing authority of the municipality votes to hold such  
 108 referendum; ~~or~~

109 (b) The board of county commissioners of the county or the  
 110 governing authority of the municipality receives a petition  
 111 signed by 10 percent of the registered electors of its  
 112 respective jurisdiction, which petition calls for the holding of

113 | such referendum; or

114 |       (c) The board of county commissioners of a charter county  
 115 | receives a petition or initiative signed by the required  
 116 | percentage of registered electors in accordance with the  
 117 | procedures established in the county's charter for the enactment  
 118 | of ordinances or for approval of amendments of the charter,  
 119 | including a county with a charter requiring signatures from less  
 120 | than 10 percent of its registered electors, which petition or  
 121 | initiative calls for the holding of such referendum.

122 |       (2) The ballot question in such referendum shall be in  
 123 | substantially the following form:

124 |

125 | Shall the board of county commissioners of this county (or the  
 126 | governing authority of this municipality, or both) be authorized  
 127 | to grant, pursuant to s. 3, Art. VII of the State Constitution,  
 128 | property tax exemptions to new businesses and expansions of  
 129 | existing businesses that are expected to create new, full-time  
 130 | jobs and have been evaluated as being of economic interest to  
 131 | the community?

132 |

133 |       .... Yes—For authority to grant exemptions.

134 |       .... No—Against authority to grant exemptions.

135 |

136 |       (3) The board of county commissioners or the governing  
 137 | authority of the municipality that calls a referendum within its  
 138 | total jurisdiction to determine whether its respective  
 139 | jurisdiction may grant economic development ad valorem tax  
 140 | exemptions may vote to limit the effect of the referendum to

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141 authority to grant economic development tax exemptions for new  
 142 businesses and expansions of existing businesses located in an  
 143 enterprise zone or a brownfield area, as defined in s.  
 144 376.79(4). If an area nominated to be an enterprise zone  
 145 pursuant to s. 290.0055 has not yet been designated pursuant to  
 146 s. 290.0065, the board of county commissioners or the governing  
 147 authority of the municipality may call such referendum prior to  
 148 such designation; however, the authority to grant economic  
 149 development ad valorem tax exemptions does not apply until such  
 150 area is designated pursuant to s. 290.0065. The ballot question  
 151 in such referendum shall be in substantially the following form  
 152 and shall be used in lieu of the ballot question prescribed in  
 153 subsection (2):

154  
 155 Shall the board of county commissioners of this county (or the  
 156 governing authority of this municipality, or both) be authorized  
 157 to grant, pursuant to s. 3, Art. VII of the State Constitution,  
 158 property tax exemptions for new businesses and expansions of  
 159 existing businesses that ~~which~~ are located in an enterprise zone  
 160 or a brownfield area, are expected to create new, full-time  
 161 jobs, and have been evaluated as being of economic interest to  
 162 the community?

- 163  
 164 . . . .Yes-For authority to grant exemptions.  
 165 . . . .No-Against authority to grant exemptions.

166  
 167 (4) A referendum pursuant to this section may be called  
 168 only once in any 12-month period. If a referendum is called or



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169 | held on or before the effective date of any amendment to this  
170 | section, the board of county commissioners does not need to call  
171 | or hold another referendum.

172 | (5) Upon a majority vote in favor of such authority, the  
173 | board of county commissioners or the governing authority of the  
174 | municipality, at its discretion, by ordinance may exempt from ad  
175 | valorem taxation up to 100 percent of the assessed value of all  
176 | improvements to real property made by or for the use of a new  
177 | business and of all tangible personal property of such new  
178 | business, or up to 100 percent of the assessed value of all  
179 | added improvements to real property made to facilitate the  
180 | expansion of an existing business and of the net increase in all  
181 | tangible personal property acquired to facilitate such expansion  
182 | of an existing business, provided that the improvements to real  
183 | property are made or the tangible personal property is added or  
184 | increased on or after the day the ordinance is adopted. However,  
185 | if the authority to grant exemptions is approved in a referendum  
186 | in which the ballot question contained in subsection (3) appears  
187 | on the ballot, the authority of the board of county  
188 | commissioners or the governing authority of the municipality to  
189 | grant exemptions is limited solely to new businesses and  
190 | expansions of existing businesses that are located in an  
191 | enterprise zone or brownfield area. Property acquired to replace  
192 | existing property shall not be considered to facilitate a  
193 | business expansion. The exemption applies only to taxes levied  
194 | by the respective unit of government granting the exemption. The  
195 | exemption does not apply, however, to taxes levied for the  
196 | payment of bonds or to taxes authorized by a vote of the

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197 electors pursuant to s. 9(b) or s. 12, Art. VII of the State  
 198 Constitution. Any such exemption shall remain in effect for up  
 199 to 10 years with respect to any particular facility, regardless  
 200 of any change in the authority of the county or municipality to  
 201 grant such exemptions. The exemption shall not be prolonged or  
 202 extended by granting exemptions from additional taxes or by  
 203 virtue of any reorganization or sale of the business receiving  
 204 the exemption.

205 (6) With respect to a new business as defined by s.  
 206 196.012(15) (b) ~~(e)~~, the municipality annexing the property on  
 207 which the business is situated may grant an economic development  
 208 ad valorem tax exemption under this section to that business for  
 209 a period that will expire upon the expiration of the exemption  
 210 granted by the county. If the county renews the exemption under  
 211 subsection (7), the municipality may also extend its exemption.  
 212 A municipal economic development ad valorem tax exemption  
 213 granted under this subsection may not extend beyond the duration  
 214 of the county exemption.

215 (7) The authority to grant exemptions under this section  
 216 expires 10 years after the date such authority was approved in  
 217 an election, but such authority may be renewed for subsequent  
 218 10-year periods if each 10-year renewal is approved in a  
 219 referendum called and held pursuant to this section.

220 (8) Any person, firm, or corporation which desires an  
 221 economic development ad valorem tax exemption shall, in the year  
 222 the exemption is desired to take effect, file a written  
 223 application on a form prescribed by the department with the  
 224 board of county commissioners or the governing authority of the

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225 | municipality, or both. The application shall request the  
226 | adoption of an ordinance granting the applicant an exemption  
227 | pursuant to this section and shall include the following  
228 | information:

229 |       (a) The name and location of the new business or the  
230 | expansion of an existing business;

231 |       (b) A description of the improvements to real property for  
232 | which an exemption is requested and the date of commencement of  
233 | construction of such improvements;

234 |       (c) A description of the tangible personal property for  
235 | which an exemption is requested and the dates when such property  
236 | was or is to be purchased;

237 |       (d) Proof, to the satisfaction of the board of county  
238 | commissioners or the governing authority of the municipality,  
239 | that the applicant is a new business or an expansion of an  
240 | existing business, as defined in s. 196.012(15) or (16);

241 |       (e) The number of jobs the applicant expects to create  
242 | along with the average and median wage of the jobs and whether  
243 | the jobs are full-time or part-time;

244 |       (f) The expected time schedule for job creation; and

245 |       (g)~~(e)~~ Other information deemed necessary by the  
246 | department.

247 |       (9) Before it takes action on the application, the board  
248 | of county commissioners or the governing authority of the  
249 | municipality shall deliver a copy of the application to the  
250 | property appraiser of the county. After careful consideration,  
251 | the property appraiser shall report the following information to  
252 | the board of county commissioners or the governing authority of

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253 the municipality:

254 (a) The total revenue available to the county or  
255 municipality for the current fiscal year from ad valorem tax  
256 sources, or an estimate of such revenue if the actual total  
257 revenue available cannot be determined;

258 (b) Any revenue lost to the county or municipality for the  
259 current fiscal year by virtue of exemptions previously granted  
260 under this section, or an estimate of such revenue if the actual  
261 revenue lost cannot be determined;

262 (c) An estimate of the revenue which would be lost to the  
263 county or municipality during the current fiscal year if the  
264 exemption applied for were granted had the property for which  
265 the exemption is requested otherwise been subject to taxation;  
266 and

267 (d) A determination as to whether the property for which  
268 an exemption is requested is to be incorporated into a new  
269 business or the expansion of an existing business, as defined in  
270 s. 196.012(15) or (16), or into neither, which determination the  
271 property appraiser shall also affix to the face of the  
272 application. Upon the request of the property appraiser, the  
273 department shall provide to him or her such information as it  
274 may have available to assist in making such determination.

275 (10) The board of county commissioners or the governing  
276 authority of the municipality may consider any economically  
277 related characteristics or criteria deemed necessary or  
278 appropriate when exercising its discretion whether to approve or  
279 reject an application for an exemption but, at a minimum, must  
280 consider the following:

- 281 |       (a) Total number of new jobs to be created by the
- 282 | applicant.
- 283 |       (b) Average wage and median wage of the new jobs.
- 284 |       (c) Capital investment to be made by the applicant.
- 285 |       (d) Whether the business or operation qualifies as an
- 286 | industry that the board of county commissioners or the governing
- 287 | authority of the municipality may target.
- 288 |       (e) Environmental impact of the proposed business or
- 289 | operation.
- 290 |       (f) Extent to which the applicant intends to source its
- 291 | supplies and materials within the applicable jurisdiction.

292 |

293 | The Legislature intends to vest counties and municipalities with

294 | as much discretion as legally permissible to determine which new

295 | jobs should be incentivized through the granting of ad valorem

296 | tax exemptions under this section.

297 |       ~~(11)~~~~(10)~~ An ordinance granting an exemption under this

298 | section shall be adopted in the same manner as any other

299 | ordinance of the county or municipality and shall include the

300 | following:

301 |       (a) The name and address of the new business or expansion

302 | of an existing business to which the exemption is granted;

303 |       (b) The total amount of revenue available to the county or

304 | municipality from ad valorem tax sources for the current fiscal

305 | year, the total amount of revenue lost to the county or

306 | municipality for the current fiscal year by virtue of economic

307 | development ad valorem tax exemptions currently in effect, and

308 | the estimated revenue loss to the county or municipality for the

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309 current fiscal year attributable to the exemption of the  
310 business named in the ordinance;

311 (c) The period of time, not to exceed 10 years, for which  
312 the exemption will remain in effect and the expiration date of  
313 the exemption; and

314 (d) A finding that the business named in the ordinance  
315 meets the requirements of s. 196.012(15) or (16).

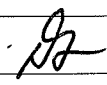
316 (12) Upon approval of an application for a tax exemption  
317 under this section, the board of county commissioners or the  
318 governing authority of the municipality and the applicant may  
319 enter into a written tax exemption agreement, which may include  
320 performance criteria and must be consistent with the  
321 requirements of this section or other applicable laws. The  
322 agreement must require the applicant to report at a specific  
323 time before the expiration of the exemption the actual number of  
324 new, full-time jobs created and their actual average and median  
325 wage. The agreement may provide the board of county  
326 commissioners or the governing authority of the municipality  
327 with authority to revoke, in whole or in part, the exemption if  
328 the applicant fails to meet the expectations and representations  
329 described in subsection (8).

330 Section 3. This act shall take effect July 1, 2011.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HJR 789 Homestead Exemption/Senior Citizens  
**SPONSOR(S):** Community & Military Affairs Subcommittee, Nuñez and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SJR 808

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	11 Y, 0 N, As CS	Morton	Hoagland
2) Finance & Tax Committee		Aldridge	Langston 
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The joint resolution proposes an amendment to the state constitution that would allow counties and municipalities to limit ad valorem tax assessments to the previous year's assessed value of homestead property that is subject to the current local option low-income senior exemption.

To be eligible for this limitation, the just value of the property cannot exceed 150% of the average just value of residential property within the county. The joint resolution provides that a state agency designated by law will calculate the average just value of residential property based on the final tax roll for each county annually.

To the extent that county and city governments choose the option offered by this constitutional amendment, their property tax bases will be lower than would otherwise be the case.

The joint resolution would have a nonrecurring fiscal impact on the state for the cost of advertising the proposed amendment.

To be placed on the ballot the joint resolution must be approved by three-fifths of the membership of each house.



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### *Property Taxation in Florida*

Local governments, including counties, school districts and municipalities have the constitutional ability to levy ad valorem – or property – taxes. Special districts may also be given this ability by law.<sup>1</sup> Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

Ad valorem taxes are capped by the state constitution as follows:<sup>2</sup>

- Ten mills for county purposes.
- Ten mills for municipal purposes.
- Ten mills for school purposes.
- A millage fixed by law for a county furnishing municipal services.
- A millage authorized by law and approved by voters for special districts.

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations. Millage rates vary among local governments and are fixed by ordinance or resolution of the taxing authority's governing body.<sup>3</sup>

Regardless of the body imposing the taxes, two county constitutional officers have primary responsibility for the administration and collection of ad valorem taxes. The county property appraiser calculates the fair market value, assessed value and the value of applicable exemptions of the property. The tax collector collects all ad valorem taxes levied by the county, school district, municipalities, and any special taxing districts within the county and distributes the taxes to each taxing authority.<sup>4</sup>

The Department of Revenue supervises the assessment and valuation of property so that all property is placed on the tax rolls and valued according to its just valuation.<sup>5</sup> Additionally, the DOR prescribes and furnishes all forms as well as prescribes rules and regulations to be used by property appraisers, tax collectors, clerks of circuit court, and value adjustment boards in administering and collecting ad valorem taxes.<sup>6</sup>

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.<sup>7</sup> However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit and does not bear upon a variation in rates between taxing units.<sup>8</sup>

The Florida Constitution grants property tax relief in the form of certain valuation differentials,<sup>9</sup> assessment limitations,<sup>10</sup> and exemptions,<sup>11</sup> including the homestead exemptions.

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<sup>1</sup> Section 9, Art. VII, Fla. Const.

<sup>2</sup> A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of taxable value.

<sup>3</sup> Section 200.001(7), F.S.

<sup>4</sup> Section 197.383, F.S.

<sup>5</sup> Section 195.002, F.S.

<sup>6</sup> Chapter 195, F.S.

<sup>7</sup> Article VII, s. 2, Fla. Const.

<sup>8</sup> See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. Dist. Ct. App. 4th Dist. 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

<sup>9</sup> Article VII, s. 4 of the Florida Constitution, authorizes valuation differentials, which are based on character or use of property.

## *Homestead Exemption*

The Homestead Exemption provides an exemption from all ad valorem taxes on the first \$25,000 of assessed value for owners of homestead property, provided that the tax roll in their county has been approved.<sup>12</sup> An additional \$25,000 exemption is provided for assessed values between \$50,000 and \$75,000; however, this exemption does not apply to school taxes.<sup>13</sup>

## *Low-Income Seniors*

Counties and cities may allow an additional homestead exemption of up to \$50,000 for anyone 65 years or older whose household income does not exceed \$20,000, adjusted annually by the percentage change in the average cost-of-living index.<sup>14</sup> The exemption only applies to taxes levied by the county or city enacting the exemption.<sup>15</sup>

Under the Homestead Property Tax Deferral Act, any homesteader 65 years or older who would qualify for the exemption would also qualify to defer all ad valorem taxes.<sup>16</sup> All senior homesteaders may defer the portion of their tax levy exceeding 3-percent of household income, so long as tax deferrals and other liens do not exceed 85-percent of assessed value and the primary mortgage does not exceed 70 percent. Deferred tax and interest up to 7 percent are due when the property is sold, property insurance is not maintained, or the property ceases to qualify for homestead exemption.

## Proposed Changes

The joint resolution proposes an amendment to the state constitution that would allow counties and municipalities to limit ad valorem tax assessments to the previous year's assessed value of homestead property qualifying for the low-income senior exemption.

To be eligible for the limitation on assessment, the following conditions must be met:

- The property qualifies for the low-income senior exemption, which requires:
  - The county or municipality has granted the exemption by ordinance
  - The person has title to the property and maintains his or her permanent residence thereon
  - The owner is 65 or older
  - The owner's annual household income is less than \$26,203<sup>17</sup>.
- The just value of the property is no more than 150% of the average just value of residential property within the county.

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<sup>10</sup> Article VII, s. 4(c) of the Florida Constitution, authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the "Granny Flats" assessment limitation.

<sup>11</sup> Article VII, s. 3 of the Florida Constitution, provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

<sup>12</sup> Section 6, Art. VII, Fla. Const.

<sup>13</sup> *Id.* See also Am. C.S. for S.J.R. 2-D, 2007.

<sup>14</sup> Section 6, Art. VII, Fla. Const. See also s. 196.075, F.S.

<sup>15</sup> Section 196.075(4), F.S.

<sup>16</sup> Section 197.243, F.S.

<sup>17</sup> <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited April 9, 2011)

The joint resolution provides that a state agency designated by law will calculate the average just value of residential property based on the final tax roll for each county annually.

**B. SECTION DIRECTORY:**

Not applicable to joint resolutions.

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

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

1. Revenues:

None

2. Expenditures:

The Division of Elections is required to publish the proposed constitutional amendment twice in a newspaper of general circulation in each county. The Division estimates the cost of advertising the proposed constitutional amendment would be \$113,463.66.<sup>18</sup>

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

1. Revenues:

The Revenue Estimating Conference has not evaluated the potential impact of this resolution, should it pass. However, the amendment, if passed, would only affect a county or municipality that chose to impose the cap on assessed value for its assessment.

2. Expenditures:

None

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

The resolution could reduce property taxes on certain qualifying seniors. Such a reduction in the property tax base could result in a corresponding shift in property tax burden to other property tax owners.

**D. FISCAL COMMENTS:**

The resolution would have a nonrecurring fiscal impact on the state for the cost of advertising the proposed amendment.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The mandates provision is not applicable to Joint Resolutions.

2. Other:

*Legislative Proposed Amendments*

Article XI, s. 1 of the Florida Constitution, provides the Legislature the authority to propose amendments to the constitution by joint resolution approved by three-fifths of the membership of

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<sup>18</sup> Department of State, *House Joint Resolution 789 (2011) Fiscal Analysis* (February 2, 2011).

each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

**B. RULE-MAKING AUTHORITY:**

None.

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

*Method of Implementation*

The constitutional amendment proposed by the joint resolution states that a county or municipality "may choose" to limit the assessed value, but does not specify how this choice would be implemented. Similar provisions in the state constitution state the method of implementation as "by ordinance" or "in the manner prescribed by general law."

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 1, 2011, the Community & Military Affairs Subcommittee adopted a strike-all amendment and reported the joint resolution favorably as a committee substitute.

The joint resolution, as filed, differed from the committee substitute, in that, as filed, the resolution would have allowed counties to exempt homestead property of senior citizens meeting certain age and income requirements from increases in the combined amount of ad valorem taxes levied by the county, school district, municipalities, water management district and any other special district in the county.

The analysis is updated to reflect the above changes.

House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution to authorize counties and municipalities to freeze the assessed value of the homesteads of certain low-income senior citizens.

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

That the following amendment to Section 4 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for

29 | taxation at a specified percentage of its value, may be  
 30 | classified for tax purposes, or may be exempted from taxation.

31 | (d) All persons entitled to a homestead exemption under  
 32 | Section 6 of this Article shall have their homestead assessed at  
 33 | just value as of January 1 of the year following the effective  
 34 | date of this amendment. This assessment shall change only as  
 35 | provided in this subsection.

36 | (1) Except as provided in paragraph (2), assessments  
 37 | subject to this subsection shall be changed annually on January  
 38 | 1 ~~1st~~ of each year; but those changes in assessments shall not  
 39 | exceed the lower of the following:

40 | a. Three percent ~~(3%)~~ of the assessment for the prior  
 41 | year.

42 | b. The percent change in the Consumer Price Index for all  
 43 | urban consumers, U.S. City Average, all items 1967=100, or  
 44 | successor reports for the preceding calendar year as initially  
 45 | reported by the United States Department of Labor, Bureau of  
 46 | Labor Statistics.

47 | (2) An assessment subject to the additional homestead tax  
 48 | exemption under Section 6(d) shall be changed annually on  
 49 | January 1 of each year. However, a county or municipality may  
 50 | choose to limit its assessment of the value of the property  
 51 | subject to the additional exemption to the assessed value of the  
 52 | property in the prior year if the just value of the property is  
 53 | equal to or less than one hundred fifty percent of the average  
 54 | just value of residential property within the county. The state  
 55 | agency designated by law shall calculate the average just value  
 56 | of residential property within each county and supply that

57 information to each property appraiser. The calculation shall be  
 58 based on the final tax roll of each county for the prior year.

59 ~~(3)(2)~~ No assessment shall exceed just value.

60 ~~(4)(3)~~ After any change of ownership, as provided by  
 61 general law, homestead property shall be assessed at just value  
 62 as of January 1 of the following year, unless the provisions of  
 63 paragraph ~~(9)~~ ~~(8)~~ apply. Thereafter, the homestead shall be  
 64 assessed as provided in this subsection.

65 ~~(5)(4)~~ New homestead property shall be assessed at just  
 66 value as of January 1 ~~1st~~ of the year following the  
 67 establishment of the homestead, unless the provisions of  
 68 paragraph ~~(9)~~ ~~(8)~~ apply. That assessment shall only change as  
 69 provided in this subsection.

70 ~~(6)(5)~~ Changes, additions, reductions, or improvements to  
 71 homestead property shall be assessed as provided for by general  
 72 law; provided, however, after the adjustment for any change,  
 73 addition, reduction, or improvement, the property shall be  
 74 assessed as provided in this subsection.

75 ~~(7)(6)~~ In the event of a termination of homestead status,  
 76 the property shall be assessed as provided by general law.

77 ~~(8)(7)~~ The provisions of this amendment are severable. If  
 78 any of the provisions of this amendment shall be held  
 79 unconstitutional by any court of competent jurisdiction, the  
 80 decision of such court shall not affect or impair any remaining  
 81 provisions of this amendment.

82 ~~(9)(8)~~a. A person who establishes a new homestead as of  
 83 January 1, 2009, or January 1 of any subsequent year and who has  
 84 received a homestead exemption pursuant to Section 6 of this

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85 Article as of January 1 of either of the two years immediately  
 86 preceding the establishment of the new homestead is entitled to  
 87 have the new homestead assessed at less than just value. If this  
 88 revision is approved in January of 2008, a person who  
 89 establishes a new homestead as of January 1, 2008, is entitled  
 90 to have the new homestead assessed at less than just value only  
 91 if that person received a homestead exemption on January 1,  
 92 2007. The assessed value of the newly established homestead  
 93 shall be determined as follows:

94 1. If the just value of the new homestead is greater than  
 95 or equal to the just value of the prior homestead as of January  
 96 1 of the year in which the prior homestead was abandoned, the  
 97 assessed value of the new homestead shall be the just value of  
 98 the new homestead minus an amount equal to the lesser of  
 99 \$500,000 or the difference between the just value and the  
 100 assessed value of the prior homestead as of January 1 of the  
 101 year in which the prior homestead was abandoned. Thereafter, the  
 102 homestead shall be assessed as provided in this subsection.

103 2. If the just value of the new homestead is less than the  
 104 just value of the prior homestead as of January 1 of the year in  
 105 which the prior homestead was abandoned, the assessed value of  
 106 the new homestead shall be equal to the just value of the new  
 107 homestead divided by the just value of the prior homestead and  
 108 multiplied by the assessed value of the prior homestead.  
 109 However, if the difference between the just value of the new  
 110 homestead and the assessed value of the new homestead calculated  
 111 pursuant to this sub-subparagraph is greater than \$500,000, the  
 112 assessed value of the new homestead shall be increased so that



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113 | the difference between the just value and the assessed value  
 114 | equals \$500,000. Thereafter, the homestead shall be assessed as  
 115 | provided in this subsection.

116 |         b. By general law and subject to conditions specified  
 117 | therein, the Legislature shall provide for application of this  
 118 | paragraph to property owned by more than one person.

119 |         (e) The legislature may, by general law, for assessment  
 120 | purposes and subject to the provisions of this subsection, allow  
 121 | counties and municipalities to authorize by ordinance that  
 122 | historic property may be assessed solely on the basis of  
 123 | character or use. Such character or use assessment shall apply  
 124 | only to the jurisdiction adopting the ordinance. The  
 125 | requirements for eligible properties must be specified by  
 126 | general law.

127 |         (f) A county may, in the manner prescribed by general law,  
 128 | provide for a reduction in the assessed value of homestead  
 129 | property to the extent of any increase in the assessed value of  
 130 | that property which results from the construction or  
 131 | reconstruction of the property for the purpose of providing  
 132 | living quarters for one or more natural or adoptive grandparents  
 133 | or parents of the owner of the property or of the owner's spouse  
 134 | if at least one of the grandparents or parents for whom the  
 135 | living quarters are provided is 62 years of age or older. Such a  
 136 | reduction may not exceed the lesser of the following:

137 |             (1) The increase in assessed value resulting from  
 138 | construction or reconstruction of the property.

139 |             (2) Twenty percent of the total assessed value of the  
 140 | property as improved.

141 (g) For all levies other than school district levies,  
 142 assessments of residential real property, as defined by general  
 143 law, which contains nine units or fewer and which is not subject  
 144 to the assessment limitations set forth in subsections (a)  
 145 through (d) shall change only as provided in this subsection.

146 (1) Assessments subject to this subsection shall be  
 147 changed annually on the date of assessment provided by law; but  
 148 those changes in assessments shall not exceed ten percent (10%)  
 149 of the assessment for the prior year.

150 (2) No assessment shall exceed just value.

151 (3) After a change of ownership or control, as defined by  
 152 general law, including any change of ownership of a legal entity  
 153 that owns the property, such property shall be assessed at just  
 154 value as of the next assessment date. Thereafter, such property  
 155 shall be assessed as provided in this subsection.

156 (4) Changes, additions, reductions, or improvements to  
 157 such property shall be assessed as provided for by general law;  
 158 however, after the adjustment for any change, addition,  
 159 reduction, or improvement, the property shall be assessed as  
 160 provided in this subsection.

161 (h) For all levies other than school district levies,  
 162 assessments of real property that is not subject to the  
 163 assessment limitations set forth in subsections (a) through (d)  
 164 and (g) shall change only as provided in this subsection.

165 (1) Assessments subject to this subsection shall be  
 166 changed annually on the date of assessment provided by law; but  
 167 those changes in assessments shall not exceed ten percent (10%)  
 168 of the assessment for the prior year.

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169 (2) No assessment shall exceed just value.

170 (3) The legislature must provide that such property shall  
 171 be assessed at just value as of the next assessment date after a  
 172 qualifying improvement, as defined by general law, is made to  
 173 such property. Thereafter, such property shall be assessed as  
 174 provided in this subsection.

175 (4) The legislature may provide that such property shall  
 176 be assessed at just value as of the next assessment date after a  
 177 change of ownership or control, as defined by general law,  
 178 including any change of ownership of the legal entity that owns  
 179 the property. Thereafter, such property shall be assessed as  
 180 provided in this subsection.

181 (5) Changes, additions, reductions, or improvements to  
 182 such property shall be assessed as provided for by general law;  
 183 however, after the adjustment for any change, addition,  
 184 reduction, or improvement, the property shall be assessed as  
 185 provided in this subsection.

186 (i) The legislature, by general law and subject to  
 187 conditions specified therein, may prohibit the consideration of  
 188 the following in the determination of the assessed value of real  
 189 property used for residential purposes:

190 (1) Any change or improvement made for the purpose of  
 191 improving the property's resistance to wind damage.

192 (2) The installation of a renewable energy source device.

193 (j)(1) The assessment of the following working waterfront  
 194 properties shall be based upon the current use of the property:

195 a. Land used predominantly for commercial fishing  
 196 purposes.

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197 |       b. Land that is accessible to the public and used for  
198 | vessel launches into waters that are navigable.

199 |       c. Marinas and drystacks that are open to the public.

200 |       d. Water-dependent marine manufacturing facilities,  
201 | commercial fishing facilities, and marine vessel construction  
202 | and repair facilities and their support activities.

203 |       (2) The assessment benefit provided by this subsection is  
204 | subject to conditions and limitations and reasonable definitions  
205 | as specified by the legislature by general law.

206 |       BE IT FURTHER RESOLVED that the following statement be  
207 | placed on the ballot:

208 |                                   CONSTITUTIONAL AMENDMENT

209 |                                   ARTICLE VII, SECTION 4

210 |       ASSESSMENT OF HOMESTEAD PROPERTY OWNED BY LOW-INCOME SENIOR  
211 | CITIZENS.—Currently, counties and municipalities may grant an  
212 | additional homestead exemption to a person who is 65 years of  
213 | age or older and who has a household income of \$20,000 or less.  
214 | This proposed amendment to the State Constitution authorizes  
215 | counties and municipalities to grant another ad valorem tax  
216 | benefit to those individuals. Specifically, the amendment  
217 | authorizes counties and municipalities to freeze the assessed  
218 | value of the homesteads of persons receiving the additional  
219 | exemption at the assessed value of the property in the previous  
220 | year if the just value of the property is equal to or less than  
221 | 150 percent of the average just value of residential property in  
222 | the county. As such, if authorized by a county or municipality,  
223 | these individuals will not be required to pay more ad valorem

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224 | taxes than they paid in the previous year as the result of an  
225 | increase in the value of their homesteads.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1141 Ad Valorem Tax Exemption for Deployed Servicemembers

**SPONSOR(S):** Community & Military Affairs; Steube and others

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	15 Y, 0 N, As CS	Tait	Hoagland
2) Finance & Tax Committee		Aldridge 	Langston 
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

In 2009, the Florida Legislature approved the placement of an amendment to Article VII, Section 3 of the Florida Constitution on the 2010 general election ballot (Amendment 2). The passage of Amendment 2 requires the Legislature to provide an additional homestead property tax exemption for members of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard who receive a homestead exemption and were deployed in the previous year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The exempt amount is based upon the number of days in the previous calendar year that the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. Amendment 2 also provided an effective date of January 1, 2011. On November 2, 2010, 77.82% of voters in Florida approved Amendment 2.

HB 1141 implements Amendment 2, now Article VII, Section 3(g) of the Florida Constitution, providing a partial ad valorem tax exemption on homestead property for Florida military personnel who are deployed outside the United States.

In addition, the bill:

- Designates military operations that qualify a servicemember for the tax exemption;
- Requires the Florida Department of Military Affairs to annually submit a report to the Legislature of all known and unclassified military operations outside the United States;
- Provides procedures for property appraisers to apply or deny the partial ad valorem tax exemption;
- Requires a person appealing a denial of the exemption to file the appeal on or before the 30<sup>th</sup> day following the mailing of the denial notice by the property appraiser;
- Requires a servicemember applying for the tax exemption to provide proof of eligibility; and
- Authorizes the Department of Revenue to adopt emergency rules to administer the provisions of this act.

The Revenue Estimating Conference (REC) has not reviewed the CS/HB 1141. The REC did estimate the impact of the original version of the bill. Because the impact depends on the Legislature designating the military operations for which the new exemption can be granted, the REC gave the original bill a negative indeterminate impact. However, the bill now designates three operations, so the impact is no longer indeterminate. From the earlier REC analysis, in an average year, the provisions of the bill can be expected to reduce local government property tax taxable values. **At current millage rates**, local government revenues would be reduced by \$2.8 million in FY 2011-12.

The bill takes effect upon becoming a law and first applies to ad valorem tax rolls for 2011.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1141b.FTC

DATE: 4/10/2011

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### CURRENT SITUATION

##### **Property Taxes in Florida**

The ad valorem tax or “property tax” is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>1</sup> The “taxable value” of real and tangible personal property is the fair market value, or “just value,” of the real and tangible personal property adjusted for any exclusions, differentials, or exemptions allowed by the constitution or the statutes.<sup>2</sup> Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by the following March 31.

Property taxes are the largest single tax revenue source for local governments in Florida, with approximately \$25.1 billion levied in fiscal year 2010-11.<sup>3</sup>

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>4</sup> In addition, the Florida Constitution strictly limits the Legislature’s authority to provide exemptions or adjustments to fair market value.<sup>5</sup> However, the Florida Constitution provides for property tax relief in the form of certain valuation differentials, assessment limitations, and exemptions.<sup>6</sup>

##### **Property Tax Benefits Available to Veterans**

Chapter 196, F.S., provides the following homestead exemptions that may apply to military service veterans:

- for certain permanently and totally disabled veterans and for surviving spouses of veterans;<sup>7</sup>
- for disabled veterans confined to wheelchairs;<sup>8</sup>
- for totally and permanently disabled persons;<sup>9</sup> and
- for certain disabled ex-servicemembers or surviving spouses.<sup>10</sup>

In addition, current law provides an ad valorem tax discount for veterans who are age 65 or older who are partially or totally permanently disabled. This discount applies if the disability was combat related, the veteran was a Florida resident at the time of entering the military service of the United States, and the veteran was honorably discharged upon separation from military service.<sup>11</sup>

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

<sup>2</sup> Sections 192.001(2) and (16), F.S., define the terms “assessed value” and “taxable value.” “Assessed value” is generally synonymous with “just value” unless a constitutional exception such as Save Our Homes applies to reduce the assessed value of the property. “Taxable value” is the assessed value minus any applicable exemptions such as the \$25,000 homestead exemption. “Just value” is the estimated fair market value of the property.

<sup>3</sup> 2011 Florida Tax Handbook. Available at: <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2011.pdf>

<sup>4</sup> Section 1(a), Article VII, Florida Constitution.

<sup>5</sup> Section 4, Article VII, Florida Constitution.

<sup>6</sup> Valuation differentials, assessment limitations, and exemptions are authorized in Article VII, Florida Constitution.

<sup>7</sup> Section 196.081, F.S.

<sup>8</sup> Section 196.091, F.S.

<sup>9</sup> Section 196.101, F.S.

<sup>10</sup> Section 196.24, F.S.

<sup>11</sup> Section 196.082, F.S.



No special tax relief is provided to military personnel deployed on active duty for military operations outside the United States.

### **Deployed Military Personnel**

The number of deployed military personnel is in constant flux. According to data provided by the Florida Department of Military Affairs, approximately 5,082 military personnel who claim Florida as their home of record<sup>12</sup> were deployed overseas on active duty in support of Operation New Dawn, Operation Enduring Freedom, or Operation Noble Eagle as of January 31, 2011.

<b><u>Branch of Service</u></b>	<b><u>Number of Military Personnel</u></b>
Army	211
Navy	1,343
Air Force	1,712
Marine Corps	79
Army Reserve	521
Florida National Guard	656
Marine Corps Reserve	320
Navy Reserve	67
Air Force Reserve	98
Coast Guard	55
Coast Guard Reserve	20
<b><u>TOTAL:</u></b>	<b>5,082</b>

### **Amendment 2 (2010)**

In 2009, the Florida Legislature approved the placement of an amendment to Article VII, Section 3 of the Florida Constitution on the 2010 general election ballot (Amendment 2). The passage of Amendment 2 requires the Legislature to provide an additional homestead property tax exemption for members of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard who receive a homestead exemption and were deployed in the previous year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The exempt amount is based upon the number of days in the previous calendar year that the person was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. Amendment 2 also provided an effective date of January 1, 2011.

On November 2, 2010, 77.8% of voters in Florida approved Amendment 2.<sup>13</sup>

### **EFFECT OF THE BILL**

<sup>12</sup> Claiming Florida as a home of record is not an indicator of the number of servicemembers who actually own homestead property in Florida.

<sup>13</sup> Data from the Division of Elections within the Florida Department of State. Available at <http://election.dos.state.fl.us/initiatives/initdetail.asp?account=10&seqnum=72> (last accessed March 26, 2011).

HB 1141 implements Amendment 2 (now Article VII, Section 3(g) of the Florida Constitution), and creates s. 196.173, F.S. This new section of statute provides direction for the implementation of the additional homestead property tax exemption by law for members of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard who receive a homestead exemption and were deployed in the previous year on active duty outside the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature.

The amount of the exemption is equal to the taxable value of the homestead of the servicemember on January 1 of the year in which the exemption is sought multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year and divided by the number of days in that year.

For the purposes of s. 196.173, F.S., the bill defines the term "servicemember" to mean a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard.

### **Designation of Approved Military Operations**

The bill designates that servicemembers who were deployed during the preceding calendar year on active duty outside the continental United States, Alaska, or Hawaii in support of Operation Enduring Freedom, Operation Iraqi Freedom and Operation New Dawn are eligible for the exemption. The bill also provides the start dates for the three operations and the end date for Operation Iraqi Freedom.

### **Department of Military Affairs Report on Military Operations from the Preceding Calendar Year**

By January 15 of each year, the Department of Military Affairs is required to submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.

The report is to include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The date each military operation commenced; and
- The date each military operation terminated, unless the operation is ongoing.

### **Procedures to Claim the Exemption**

A servicemember who seeks to claim the additional tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment. The application must be prescribed by the Department of Revenue and furnished by the property appraiser.

The servicemember must provide:

- Proof that the servicemember participated in a qualifying deployment;
- The dates of the qualifying deployment; and
- Other information necessary to verify eligibility for and the amount of the exemption.

The property appraiser must approve or deny a servicemember's application for the exemption within 30 days after receipt of the application or within 30 days after receiving notice of the designation of qualifying deployments by the Legislature, whichever is later. If a servicemember's application for the exemption is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision.

The bill amends s. 194.011, F.S., requiring a person appealing the denial of a deployed servicemember exemption to the value adjustment board to file the appeal on or before the 30<sup>th</sup> day following the mailing of the denial notice by the property appraiser.

The bill also amends s. 196.011, F.S., requiring the application form for the deployed servicemember tax exemption to meet certain conditions in order to be considered a complete application. These conditions include a requirement that a servicemember must include his or her social security number, as well as his or her spouse's social security number, on the application form for the exemption.

### **Rulemaking Authority**

The bill grants the Department of Revenue the authority to adopt emergency rules pursuant to ss. 120.536(1) and 120.54, F.S., to administer the provisions of the act. The emergency rules are to remain in effect for 6 months after the rules are adopted, and the rules may be renewed during the pendency of procedures to adopt permanent rules.

### **Special Provisions Relating to Deployment that Occurred During the 2010 Year**

Section 5 of the bill relates to implementing the tax exemption for the 2010 calendar year. The exemption will be applied to the ad valorem tax rolls for 2011.

Eligible servicemembers will have until June 1, 2011, to file a claim for an additional tax exemption for a qualifying deployment during the 2010 calendar year. If a servicemember fails to meet the June 1 deadline and subsequently submits an application to the property appraiser, the property appraiser may grant the tax exemption if the property appraiser determines the failure to meet the application deadline occurred due to extenuating circumstances. If the property appraiser determines that extenuating circumstances did not prevent an applicant from meeting the deadline and denies the application, the applicant may file a petition with the value adjustment board.

The bill takes effect upon becoming law, and first applies to ad valorem tax rolls for 2011.

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

- Section 1:** Creates s. 196.173, F.S., to codify an amendment to Article VII, Section 3 of the Florida Constitution, relating to an additional ad valorem tax exemption for homestead property owned by a servicemember deployed overseas in support of a military operation designated by the Legislature in the previous year.
- Section 2:** Amends s. 194.011, F.S., requiring a person appealing the denial of a deployed servicemember exemption to the value adjustment board to file the appeal on or before the 30<sup>th</sup> day following the mailing of the denial notice by the property appraiser.
- Section 3:** Amends s. 196.011, F.S., requiring the application form for the deployed servicemember tax exemption to meet certain conditions in order to be considered a complete application.
- Section 4:** Authorizes the Department of Revenue to adopt emergency rules to administer the provisions of this act.
- Section 5:** Establishes June 1, 2011, as the deadline for an eligible servicemember to file a claim for an additional tax exemption for a qualifying deployment during the 2010 calendar year, provides for extenuating circumstances and appeal process.
- Section 6:** Provides an effective date of upon becoming a law, and first applies to ad valorem tax rolls for 2011.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

See FISCAL COMMENTS.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference (REC) has not reviewed the CS/HB 1141. The REC did estimate the impact of the original version of the bill. Because the impact depends on the Legislature designating the military operations for which the new exemption can be granted, the REC gave the original bill a negative indeterminate impact. However, the bill now designates three operations, so the impact is no longer indeterminate. From the earlier REC analysis, in an average year, the provisions of the bill can be expected to reduce local government property tax taxable values. **At current millage rates**, local government revenues would be reduced by \$2.8 million in FY 2011-12.

2. Expenditures:

See FISCAL COMMENTS.

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

Military personnel eligible for the exemption will see a reduction in property taxes.

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

### D. FISCAL COMMENTS:

Both the Department of Revenue and the Department of Military Affairs will have to assign personnel to fulfill the requirements of this bill; however, they did not specify if they will be able to meet the requirements within existing resources or if they will need additional funding for personnel expenses.

In addition, the bill creates additional duties for county property appraisers. They must approve or deny a servicemember's application for the exemption within 30 days after receipt of the application or within 30 days after receiving notice of the designation of qualifying deployments by the Legislature, whichever is later. Also, if a servicemember's application for the exemption is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Section 18(b), Article VII, of the Florida Constitution requires any general law that reduces a local government's authority to raise revenues in the aggregate, to be passed by a two-thirds vote of the membership of each house of the Legislature. Although the bill reduces the tax base and revenue-raising authority of counties and municipalities, the mandates provision does not apply to bills implementing constitutional provisions.

2. Other:

The bill implements the provisions of Amendment 2 on the 2010 general election ballot, which provides a homestead ad valorem tax credit for military personnel deployed overseas in support of a military operation designated by the Legislature in the previous year.

**B. RULE-MAKING AUTHORITY:**

The bill grants the Department of Revenue the authority to adopt emergency rules pursuant to ss. 120.536(1) and 120.54, F.S., to administer the provisions of the act. The emergency rules are to remain in effect for 6 months after the rules are adopted, and the rules may be renewed during the pendency of procedures to adopt permanent rules.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 29, 2011, the Community & Military Affairs Subcommittee adopted a strike all amendment to the bill, which was reported favorably as a Committee Substitute.

The amendment reorganized the newly created s. 196.173, F.S. It also removed portions of the required report on military operations from the Department of Military Affairs, the requirement that DMA submit a report on military operations for the 2010 calendar year and the requirement that the Legislature designate approved military operations through concurrent resolutions. It also added a subsection to s. 196.173, F.S., designating Operation Enduring Freedom, Operation Iraqi Freedom and Operation New Dawn as approved military operations for the exemption.

This analysis reflects the amendment adopted by the Community & Military Affairs Subcommittee.

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A bill to be entitled

An act relating to an ad valorem tax exemption for deployed servicemembers; creating s. 196.173, F.S.; providing for certain servicemembers who receive a homestead exemption and who are deployed in certain military operations to receive an additional ad valorem tax exemption; designating military operations to receive the additional ad valorem tax exemption; requiring the Department of Revenue to notify property appraisers and tax collectors of the designated military operations; requiring the Department of Military Affairs to submit a report annually of military operations to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature; specifying the calculation to be used in determining the exemption amount; requiring that a servicemember apply to the property appraiser to receive the exemption in the year following the year of a qualifying deployment; providing for the application forms to be prescribed by the Department of Revenue and furnished to an applicant by the property appraiser; requiring that a property appraiser consider applications for an exemption within a certain time; providing a definition; amending s. 194.011, F.S.; requiring a person appealing the denial of a deployed service member exemption to the value adjustment board to file the appeal within a certain time; amending s. 196.011, F.S.; providing requirements for the forms used for claims for the exemption for deployed

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29 | servicemembers; authorizing the Department of Revenue to  
 30 | adopt emergency rules; providing for application of the  
 31 | act to qualifying deployments in the 2010 calendar year;  
 32 | providing for the act to apply to tax rolls beginning in  
 33 | 2011; providing an effective date.

34 |  
 35 | Be It Enacted by the Legislature of the State of Florida:

36 |  
 37 | Section 1. Section 196.173, Florida Statutes, is created  
 38 | to read:

39 | 196.173 Exemption for deployed servicemembers.-

40 | (1) A servicemember who receives a homestead exemption may  
 41 | receive an additional ad valorem tax exemption on that homestead  
 42 | property as provided in this section.

43 | (2) The exemption is available to servicemembers who were  
 44 | deployed during the preceding calendar year on active duty  
 45 | outside the continental United States, Alaska, or Hawaii in  
 46 | support of:

47 | (a) Operation Enduring Freedom, which began on October 7,  
 48 | 2010;

49 | (b) Operation Iraqi Freedom, which began on March 19,  
 50 | 2003, and ended on August 31, 2010; or

51 | (c) Operation New Dawn, which began on September 1, 2010.

52 |  
 53 | The Department of Revenue shall notify all property appraisers  
 54 | and tax collectors in this state of the designated military  
 55 | operations.

56 | (3) By January 15 of each year, the Department of Military

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57 Affairs shall submit to the President of the Senate, the Speaker  
58 of the House of Representatives, and the tax committees of each  
59 house of the Legislature a report of all known and unclassified  
60 military operations outside the continental United States,  
61 Alaska, or Hawaii for which servicemembers based in the  
62 continental United States have been deployed during the previous  
63 calendar year. The report must include:

64 (a) The official and common names of the military  
65 operations;

66 (b) The general location and purpose of each military  
67 operation;

68 (c) The date each military operation commenced; and

69 (d) The date each military operation terminated, unless  
70 the operation is ongoing.

71 (4) The amount of the exemption is equal to the taxable  
72 value of the homestead of the servicemember on January 1 of the  
73 year in which the exemption is sought multiplied by the number  
74 of days that the servicemember was on a qualifying deployment in  
75 the preceding calendar year and divided by the number of days in  
76 that year.

77 (5) An eligible servicemember who seeks to claim the  
78 additional tax exemption as provided in this section must file  
79 an application for exemption with the property appraiser on or  
80 before March 1 of the year following the year of the qualifying  
81 deployment. The application for the exemption must be made on a  
82 form prescribed by the department and furnished by the property  
83 appraiser. The form must require a servicemember to include or  
84 attach proof of a qualifying deployment, the dates of that



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85 deployment, and other information necessary to verify  
86 eligibility for and the amount of the exemption.

87 (6) The property appraiser shall consider each application  
88 for a deployed servicemember exemption within 30 days after  
89 receipt or within 30 days after receiving notice of the  
90 designation of qualifying deployments by the Legislature,  
91 whichever is later. A property appraiser who finds that the  
92 taxpayer is entitled to the exemption shall approve the  
93 application and file the application in the permanent records. A  
94 property appraiser who finds that the taxpayer is not entitled  
95 to the exemption shall send a notice of disapproval no later  
96 than July 1, citing the reason for disapproval. The original  
97 notice of disapproval shall be sent to the taxpayer and shall  
98 advise the taxpayer of the right to appeal the decision to the  
99 value adjustment board and shall inform the taxpayer of the  
100 procedure for filing such an appeal.

101 (7) As used in this section, the term "servicemember"  
102 means a member or former member of any branch of the United  
103 States military or military reserves, the United States Coast  
104 Guard or its reserves, or the Florida National Guard.

105 Section 2. Paragraph (d) of subsection (3) of section  
106 194.011, Florida Statutes, is amended to read:

107 194.011 Assessment notice; objections to assessments.—

108 (3) A petition to the value adjustment board must be in  
109 substantially the form prescribed by the department.

110 Notwithstanding s. 195.022, a county officer may not refuse to  
111 accept a form provided by the department for this purpose if the  
112 taxpayer chooses to use it. A petition to the value adjustment

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113 board shall describe the property by parcel number and shall be  
 114 filed as follows:

115 (d) The petition may be filed, as to valuation issues, at  
 116 any time during the taxable year on or before the 25th day  
 117 following the mailing of notice by the property appraiser as  
 118 provided in subsection (1). With respect to an issue involving  
 119 the denial of an exemption, an agricultural or high-water  
 120 recharge classification application, an application for  
 121 classification as historic property used for commercial or  
 122 certain nonprofit purposes, or a deferral, the petition must be  
 123 filed at any time during the taxable year on or before the 30th  
 124 day following the mailing of the notice by the property  
 125 appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173,  
 126 or s. 196.193 or notice by the tax collector under s. 197.253.

127 Section 3. Paragraph (b) of subsection (1) of section  
 128 196.011, Florida Statutes, is amended to read:

129 196.011 Annual application required for exemption.-

130 (1)

131 (b) The form to apply for an exemption under s. 196.031,  
 132 s. 196.081, s. 196.091, s. 196.101, s. 196.173, or s. 196.202  
 133 must include a space for the applicant to list the social  
 134 security number of the applicant and of the applicant's spouse,  
 135 if any. If an applicant files a timely and otherwise complete  
 136 application, and omits the required social security numbers, the  
 137 application is incomplete. In that event, the property appraiser  
 138 shall contact the applicant, who may refile a complete  
 139 application by April 1. Failure to file a complete application  
 140 by that date constitutes a waiver of the exemption privilege for

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141 that year, except as provided in subsection (7) or subsection  
142 (8).

143 Section 4. The Department of Revenue is authorized, and  
144 all conditions are deemed met, to adopt emergency rules pursuant  
145 to ss. 120.536(1) and 120.54, Florida Statutes, to administer  
146 the provisions of this act. The emergency rules shall remain in  
147 effect for 6 months after the rules are adopted and the rules  
148 may be renewed during the pendency of procedures to adopt  
149 permanent rules addressing the subject of the emergency rules.

150 Section 5. Notwithstanding the application deadline in s.  
151 196.173(5), Florida Statutes, the deadline for an eligible  
152 servicemember to file a claim for an additional ad valorem tax  
153 exemption for a qualifying deployment during the 2010 calendar  
154 year is June 1, 2011. Any applicant who seeks to claim the  
155 additional exemption and who fails to file an application by  
156 June 1 must file an application for the exemption with the  
157 property appraiser on or before the 25th day following the  
158 mailing by the property appraiser of the notices required under  
159 s. 194.011(1), Florida Statutes. Upon receipt of sufficient  
160 evidence, as determined by the property appraiser, demonstrating  
161 the applicant was unable to apply for the exemption in a timely  
162 manner or otherwise demonstrating extenuating circumstances  
163 judged by the property appraiser to warrant granting the  
164 exemption, the property appraiser may grant the exemption. If  
165 the applicant fails to produce sufficient evidence demonstrating  
166 the applicant was unable to apply for the exemption in a timely  
167 manner or otherwise demonstrating extenuating circumstances as  
168 judged by the property appraiser, the applicant may file,

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169 pursuant to s. 194.011(3), Florida Statutes, a petition with the  
170 value adjustment board requesting that the exemption be granted.  
171 Such petition must be filed during the taxable year on or before  
172 the 25th day following the mailing of the notice by the property  
173 appraiser as provided in s. 194.011(1), Florida Statutes.  
174 Notwithstanding the provisions of s. 194.013, Florida Statutes,  
175 the applicant must pay a nonrefundable fee of \$15 upon filing  
176 the petition. Upon reviewing the petition, if the applicant is  
177 qualified to receive the exemption and demonstrates particular  
178 extenuating circumstances judged by the value adjustment board  
179 to warrant granting the exemption, the value adjustment board  
180 may grant the exemption for the current year.

181 Section 6. This act shall take effect upon becoming a law,  
182 and first applies to ad valorem tax rolls for 2011.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1145 Greyhound Racing

SPONSOR(S): Business & Consumer Affairs Subcommittee, Young and others

TIED BILLS: IDEN./SIM. BILLS: CS/SB 1594

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	14 Y, 1 N, As CS	Morton	Creamer
2) Finance & Tax Committee		Wilson <i>ww</i>	Langston <i>DL</i>
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The CS/HB 1145 removes the requirement for greyhound permitholders to conduct live greyhound races. It also removes live racing as a prerequisite to intertrack wager, cardroom and slot machine licensure and amends tax rates on greyhound permitholders.

The Revenue Estimating conference has not estimated CS/HB 1145. However, the conference did estimate similar provisions in CS/SB 1594. From that analysis staff estimates CS/HB 1145 will have a negative recurring impact on state General Revenue of at least \$1.4 million beginning in fiscal year 2011-12.

The bill has an effective date of July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

'Pari-mutuel wagering' refers to a method of wagering in which winners divide the total amount bet in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes.<sup>1</sup> In Florida, pari-mutuel wagering is authorized for jai alai, greyhound racing and various forms of horseracing.

Pari-mutuel activities are limited to operators who have received a permit from the Division of Pari-mutuel Wagering (Division) within the Department of Business and Professional Regulation (Department), which authorizes them to conduct the type of activity listed (i.e. greyhound racing) at the location listed.<sup>2</sup> Permitholders apply for licenses annually to conduct pari-mutuel activities,<sup>3</sup> cardrooms<sup>4</sup> and slot machines.<sup>5</sup>

Greyhound racing was authorized in Florida in 1931. Greyhounds race around an oval track, typically chasing a lure, which is usually a mechanical hare or rabbit. There are 21 pari-mutuel wagering permits authorizing greyhound racing. Of these, one (in Key West) is inactive, having not run live racing since 1991. The permitholders run races at 16 greyhound tracks located throughout the state.<sup>6</sup> There are currently 14 cardrooms operated by greyhound permitholders, two of which offer slot machines.

Greyhound permitholders apply annually for a license to conduct live performances. A performance consists of at least 8 live races. A full schedule of live racing is at least 100 live performances.<sup>7</sup>

Certain greyhound permitholders can run their live races at a leased facility and use their prelease facility to operate intertrack wagering and cardrooms.<sup>8</sup> Currently, four greyhound permitholders are conducting their live race meet at leased facilities.<sup>9</sup>

Florida is considered the nation's leader in greyhound racing. However, over the last ten years, the state's pari-mutuel wagering industry in general has experienced a 43.6 percent decline in handle, and total state revenue has decreased 54.6 percent; along with a 9.3 percent decrease in the number of racing days.<sup>10</sup> For greyhound racing in particular:

	FY 1999/2000	FY 2009/2010
Total Handle	\$633,230,507	\$291,794,434
Total State Revenue	\$40,179,142	\$5,206,187
Live Performances	4,239	3,857
Racing Days	3,058	2,974

<sup>1</sup> Section 550.002(22), F.S.

<sup>2</sup> Section 550.054, F.S.

<sup>3</sup> Section 550.0115, F.S.

<sup>4</sup> Section 849.086, F.S.

<sup>5</sup> Section 551.104, F.S.

<sup>6</sup> Visit <http://www.myfloridalicense.com/dbpr/pmw/documents/FACILITIESMAP.pdf> for a map of the facilities.

<sup>7</sup> Section 550.002(11), F.S.

<sup>8</sup> Section 550.475, F.S., authorizes leasing at facilities operating under the same class of permit within 35 miles.

<sup>9</sup> Tampa Greyhound leases the track at Derby Lane (St. Petersburg); St. Johns Kennel Club leases the track at Orange Park Kennel Club; Palm Beach Greyhound Racing (formerly Palm Beach Jai Alai) leases the track at Palm Beach Kennel Club; and West Volusia Racing (formerly Volusia Jai Alai) leases the track at Daytona Beach Kennel Club.

<sup>10</sup> Annual Reports of the Division of Pari-mutuel Wagering, available at <http://www.myfloridalicense.com/dbpr/pmw/PMW-Publications.html>.

## Other Gambling Activities

Gambling is generally prohibited in Florida, but exceptions exist for pari-mutuel wagering permitholders who conduct full schedules of live racing and meet other requirements.

Wagering on races hosted at remote tracks is called intertrack (when both tracks are in Florida) or simulcast (when one track is out of state) wagering. In-state 'host tracks' conduct live or receive broadcasts of simulcast races that are then broadcast to 'guest tracks,' which accept wagers. To conduct intertrack or simulcast wagering, permitholders must conduct a full schedule of live racing and meet other requirements.<sup>11</sup>

Cardrooms were authorized at pari-mutuel facilities in 1996.<sup>12</sup> Cardrooms can only be offered at a location where the permitholder is authorized to conduct pari-mutuel activities (which includes wagering on intertrack, simulcast or live performances). To be eligible for a cardroom license, permitholders must conduct at least 90% of the performances conducted the year they applied for the initial cardroom license or the prior year, if the permitholder ran a full schedule of live performances. There are cardrooms at 14 greyhound facilities.<sup>13</sup>

Greyhound Facilities	Initial Year Licensed	Min. Performances
Bayard Raceways <sup>14</sup>	03/04	100
Bet Miami (H& T Gaming) <sup>14</sup>	96/97	100
Daytona Beach Kennel Club <sup>14</sup>	96/97	100
Jacksonville Kennel Club <sup>14</sup>	08/09	100
Jefferson County Kennel Club	03/04	217
Mardi Gras <sup>14</sup>	96/97	100
Melbourne Greyhound Park	04/05	93
Naples-Ft Myers Greyhound	97/98	394
Orange Park Kennel Club <sup>14</sup>	07/08	100
Palm Beach Kennel Club <sup>14</sup>	96/97	100
Palm Beach Racing <sup>14</sup>	10/11	100
Pensacola Greyhound	09/10	160
Sarasota Kennel Club	06/07	188
St. Petersburg Kennel Club <sup>14</sup>	96/97	100
Tampa Greyhound <sup>14</sup>	96/97	100
Washington Co. Kennel Club	96/97	167
West Flagler	96/97	163
West Volusia <sup>14</sup>	10/11	100

Slot machines were authorized at certain Miami-Dade County and Broward County pari-mutuel facilities by constitutional amendment in 2004 and statute in 2010.<sup>15</sup> For initial licensure to conduct slot machines, permitholders must have conducted a full schedule of live racing for two consecutive calendar years immediately preceding its application.<sup>16</sup> To continue to offer slot machines, permitholders must conduct a full schedule of live racing.<sup>17</sup> Slot machines are offered at two greyhound facilities.<sup>18</sup>

<sup>11</sup> See s. 550.615, F.S.

<sup>12</sup> Section 20, Chapter 96-364, L.O.F.

<sup>13</sup> Daytona Beach Kennel Club, Derby Lane (St. Petersburg), Ebro Greyhound Park, Flagler Greyhound Track (Miami), Jefferson County Kennel Club, Mardi Gras Racetrack (Hollywood), Melbourne Greyhound Park, Naples/Ft. Myers Greyhound Track, Orange Park Kennel Club, Palm Beach Kennel Club, Pensacola Greyhound Track, Sarasota Kennel Club, St. Johns Kennel Club, and Tampa Greyhound Track.

<sup>14</sup> Permitholder is one of several permits operating at a facility, so is only required to operate a full schedule of live racing (100) for each permit. See 849.086(5)(b), F.S.

<sup>15</sup> Section 23, Art. X, Fla. Const.; s. 551.102(4).

<sup>16</sup> Section 551.102, F.S.

<sup>17</sup> Section 551.104(1)(c), F.S.

<sup>18</sup> Flagler Greyhound Track (Miami) and Mardi Gras Racetrack (Hollywood).



## *Purses*

Purse awards, a race's cash prizes, are paid directly to dog owners. Greyhound permitholders are required to pay minimum purse payments.<sup>19</sup> They must also supplement purses with 75 percent of the daily license fees paid during the 1994-1995 fiscal year. Those conducting at least three live performances during a week must pay purses on wagers they accept as guest tracks on intertrack and simulcast greyhound races. Greyhound permitholders also pay one-third of any tax reduction on live and simulcast handle as purses.

In addition to paying purses on pari-mutuel activity, greyhound permitholders operating cardrooms must pay 4 percent of the cardroom's monthly gross receipts to supplement greyhound purses.<sup>20</sup>

## *Taxation*

Greyhound permitholders pay an \$80 daily license fee on each live and simulcast race, capped at \$500 per day. They also pay taxes on admissions, live, simulcast, intertrack, and intertrack simulcast races.

Each greyhound permitholder that conducts a full schedule of live races is eligible for various annual tax credits and exemptions:

Tax credit	\$360,000 except for Washington County Kennel Club, Pensacola Greyhound and Jefferson County Kennel Club, which receive \$500,000
Daily license fee credit	Number of live races times the \$80 daily license fee per race
Escheated ticket credit	100% of actual amount remitted to the state in the previous year

Unused tax credits, with the exception of the escheated ticket credits, are transferrable once per state fiscal year to other permitholders which act as host tracks.

## Proposed Changes

The CS/HB 1145 removes the requirement to perform live greyhound racing in order to qualify for other licenses, including those authorizing intertrack wagering, cardrooms and slot machines. It also allows all permitholders to amend their license application until August 31, 2011.

## *Intertrack Wagering*

The bill adds two classes of greyhound permitholder to those eligible to conduct intertrack wagering:

- Those who have conducted live racing in each of the immediately preceding 10 years.
- Those who have converted jai alai permits.

The bill removes restrictions on greyhound permitholders conducting intertrack wagering, to:

- Allow such a permitholder to accept wagers on live greyhound signals without written consent of any operating greyhound permitholder within its market area.
- Allow such a permitholder operating in a county where there are only two permits, one for dogracing and one for jai alai, to accept wagers during times when the permitholder is not conducting live races or games without written consent of the other permitholder who is conducting live races or games.
- Allows any such permitholder, instead of only those in certain areas, who leases the facility of another to conduct its race meet to conduct intertrack wagering at its prelease facility.

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<sup>19</sup> Section 550.09514, F.S.

<sup>20</sup> Section 849.086(13)(d)1., F.S.

*Cardrooms*

The bill requires the Division issue a cardroom license to a greyhound permitholder who has conducted live racing during each of the 10 years immediately preceding application or a greyhound permitholder with a permit converted from a jai alai permit under s. 550.054(14), without regard to whether the permitholder is licensed to conduct live racing or has conducted live racing.

The bill removes any requirement for a greyhound permitholder to have a license for or to have actually conducted live performances in order to maintain or renew a cardroom license.

*Purses*

The bill removes the requirement for greyhound permitholders to pay purses if they do not offer live racing. If greyhound permitholders not offering live racing offer intertrack wagering, they would have to pay 3% of the intertrack handle to the host track for purses at the host track.

*Taxes*

The bill allows for the transfer of tax credits at any time, instead of once each fiscal year. However, the \$360,000 or \$500,000 tax credit is not transferrable if the greyhound permitholder did not conduct 100 live performances of at least 8 races.

The bill also amends taxes on greyhound permitholders as follows:

Taxed Activity	Current Tax Rate	Proposed Tax Rate
Live/On-track or Simulcast	5.5% tax on handle	3.45% tax on handle
Intertrack/Intertrack simulcast	5.5% tax on intertrack & simulcast handle	3.45% tax on handle
	0.5% of intertrack/simulcast handle if guest located outside market area of host and within market area of thoroughbred track conducting live meet	1.5% tax on handle if host & guest tracks are greyhound permitholders
	3.9% of intertrack/simulcast handle for permitholder located in an area where there are only 3 permitholders in 3 contiguous counties	3.45% tax on handle
	3.9% of intertrack/simulcast handle for permitholders located in the same market area specified in 550.615(9)	
7.6% of intertrack handle from charity performance at guest track within host's market area	No Change	

**B. SECTION DIRECTORY:**

Section 1 amends s. 550.022, F.S., to amend the definition of "full schedule of live racing or games."

Section 2 amends s. 550.01215(1), F.S., to allow an amendment for the 2011-12 fiscal year to be filed by August 31, 2011.

Section 3 amends Sect. 550.054(14), F.S., to remove the requirement that a permit converted from jai alai to greyhound conduct a full schedule of live racing.

Section 4 amends s. 550.0951, F.S., to amend taxes and the transfer of tax credits.

Section 5 amends s. 550.09514, F.S., to amend purse requirements.

Section 6 amends s. 550.26165, F.S., to correct a cross reference.

Section 7 amends s. 550.615, F.S., to allow greyhound permitholder that do not conduct a full schedule of live racing to receive intertrack wagering broadcasts.

Section 8 amends s. 550.6305, F.S., to incorporate changes.

Section 9 amends s. 551.104, F.S., to remove live racing as a prerequisite to slot machine licenses.

Section 10 amends s. 551.114, F.S., to incorporate changes.

Section 11 amends s. 849.086, F.S., to remove live racing as a prerequisite for cardroom licenses.

Section 12 provides an effective date of July 1, 2011.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating conference has not estimated CS/HB 1145. However, the conference did estimate similar provisions in CS/SB 1594. From that analysis staff estimates CS/HB 1145 will have a negative recurring impact on state General Revenue of at least \$1.4 million beginning in fiscal year 2011-12.

#### 2. Expenditures:

See FISCAL COMMENTS.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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

Greyhound permitholders would no longer be required to conduct live racing. The reduction or elimination of live racing could reduce overhead costs.

To the extent that live racing is decreased or eliminated, greyhound breeders, owners and trainers could see a decrease in demand for racing greyhounds and an associated decrease in revenues.

### FISCAL COMMENTS:

Also, The Division reports:

"To ensure that integrity of the racing and protect the welfare of the greyhounds, the Division collects specimens from a sample of the contestants. The specimens are subsequently sent to the Racing Lab at the University of Florida to test for impermissible substances. This workload requirement is directly dependent on the amount of live racing being conducted. To the extent that greyhound tracks reduce or eliminate live greyhound racing, the Division would realize a corresponding decrease in the need for OPS funds necessary to employ staff to collect such specimens. The amount is indeterminate at this time and would not likely be realized until Fiscal Year 2011-12 when the full impact on greyhound racing can be certain."<sup>21</sup>

<sup>21</sup> The Department of Business & Professional Regulation – HB 1145 – 2011 Legislative Analysis Form. (last visited on 4/8/2011) On file with the Finance & Tax Committee.

### **III. COMMENTS**

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

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

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

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 22, 2011, the Business & Consumer Affairs Subcommittee adopted one amendment to the bill and reported the bill favorably as a Committee Substitute. The amendment required a greyhound permitholder to either have conducted live racing in each of the ten preceding fiscal years or to have converted the permit from a jai alai permit in order to qualify for intertrack wagering without being licensed to conduct live racing.

The analysis is updated to reflect the above changes.

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A bill to be entitled  
 An act relating to greyhound racing; amending s. 550.002, F.S., which defines the term "full schedule of live racing or games"; providing that a greyhound permitholder shall not be required to conduct a minimum number of live performances; amending s. 550.01215, F.S.; revising requirements for an application for a license to conduct performances; extending the period of time allowed to amend certain applications; amending s. 550.054, F.S.; removing a requirement for holders of certain converted permits to conduct a full schedule of live racing to qualify for certain tax credits; amending s. 550.0951, F.S.; revising provisions for transfer by a permitholder of a tax exemption or license fee credit to a greyhound permitholder; revising the tax on handle for dogracing and intertrack wagering; amending s. 550.09514, F.S.; revising purse requirements for greyhound racing and provisions for payment of purses; amending s. 550.615, F.S.; revising provisions for intertrack wagering; amending ss. 550.26165 and 550.6305, F.S.; conforming cross-references to changes made by the act; amending s. 551.104, F.S.; revising a condition of licensure for the conduct of slot machine gaming; amending s. 551.114, F.S.; revising requirements for designated slot machine gaming areas; amending s. 849.086, F.S.; revising requirements for initial and renewal issuance of a cardroom license to a greyhound permitholder; providing that neither a corresponding pari-mutuel license application nor a minimum number of live

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29 | performances is required for a greyhound permitholder to  
 30 | maintain or renew a cardroom license; providing an  
 31 | effective date.

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

35 | Section 1. Subsection (11) of section 550.002, Florida  
 36 | Statutes, is amended to read:

37 | 550.002 Definitions.—As used in this chapter, the term:

38 | (11) "Full schedule of live racing or games" means, for a  
 39 | greyhound or jai alai permitholder, the conduct of a combination  
 40 | of at least 100 live evening or matinee performances during the  
 41 | preceding year; for a permitholder who has a converted permit or  
 42 | filed an application on or before June 1, 1990, for a converted  
 43 | permit, the conduct of a combination of at least 100 live  
 44 | evening and matinee wagering performances during either of the 2  
 45 | preceding years; for a jai alai permitholder who does not  
 46 | operate slot machines in its pari-mutuel facility, who has  
 47 | conducted at least 100 live performances per year for at least  
 48 | 10 years after December 31, 1992, and whose handle on live jai  
 49 | alai games conducted at its pari-mutuel facility has been less  
 50 | than \$4 million per state fiscal year for at least 2 consecutive  
 51 | years after June 30, 1992, the conduct of a combination of at  
 52 | least 40 live evening or matinee performances during the  
 53 | preceding year; for a jai alai permitholder who operates slot  
 54 | machines in its pari-mutuel facility, the conduct of a  
 55 | combination of at least 150 performances during the preceding  
 56 | year; for a harness permitholder, the conduct of at least 100

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57 | live regular wagering performances during the preceding year;  
58 | for a quarter horse permitholder at its facility unless an  
59 | alternative schedule of at least 20 live regular wagering  
60 | performances is agreed upon by the permitholder and either the  
61 | Florida Quarter Horse Racing Association or the horsemen's  
62 | association representing the majority of the quarter horse  
63 | owners and trainers at the facility and filed with the division  
64 | along with its annual date application, in the 2010-2011 fiscal  
65 | year, the conduct of at least 20 regular wagering performances,  
66 | in the 2011-2012 and 2012-2013 fiscal years, the conduct of at  
67 | least 30 live regular wagering performances, and for every  
68 | fiscal year after the 2012-2013 fiscal year, the conduct of at  
69 | least 40 live regular wagering performances; for a quarter horse  
70 | permitholder leasing another licensed racetrack, the conduct of  
71 | 160 events at the leased facility; and for a thoroughbred  
72 | permitholder, the conduct of at least 40 live regular wagering  
73 | performances during the preceding year. For a permitholder which  
74 | is restricted by statute to certain operating periods within the  
75 | year when other members of its same class of permit are  
76 | authorized to operate throughout the year, the specified number  
77 | of live performances which constitute a full schedule of live  
78 | racing or games shall be adjusted pro rata in accordance with  
79 | the relationship between its authorized operating period and the  
80 | full calendar year and the resulting specified number of live  
81 | performances shall constitute the full schedule of live games  
82 | for such permitholder and all other permitholders of the same  
83 | class within 100 air miles of such permitholder. A live  
84 | performance must consist of no fewer than eight races or games

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85 | conducted live for each of a minimum of three performances each  
86 | week at the permitholder's licensed facility under a single  
87 | admission charge. Notwithstanding any other provision of law,  
88 | beginning with the 2011-2012 fiscal year, there shall be no  
89 | minimum requirement of live performances for greyhound  
90 | permitholders.

91 | Section 2. Subsection (1) of section 550.01215, Florida  
92 | Statutes, is amended to read:

93 | 550.01215 License application; periods of operation; bond,  
94 | conversion of permit.—

95 | (1) Each permitholder shall annually, during the period  
96 | between December 15 and January 4, file in writing with the  
97 | division its application for a license to conduct pari-mutuel  
98 | wagering activities ~~performances~~ during the next state fiscal  
99 | year. Each application requesting live performances, if any,  
100 | shall specify the number, dates, and starting times of all  
101 | performances which the permitholder intends to conduct. It shall  
102 | also specify which performances will be conducted as charity or  
103 | scholarship performances. In addition, each application for a  
104 | license shall include, for each permitholder which elects to  
105 | operate a cardroom, the dates and periods of operation the  
106 | permitholder intends to operate the cardroom or, for each  
107 | thoroughbred permitholder which elects to receive or rebroadcast  
108 | out-of-state races after 7 p.m., the dates for all performances  
109 | which the permitholder intends to conduct. Permitholders may  
110 | ~~shall be entitled to~~ amend their applications through February  
111 | 28 or, for applications relating to the 2011-2012 fiscal year,  
112 | through August 31, 2011.



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113 Section 3. Paragraph (b) of subsection (14) of section  
114 550.054, Florida Statutes, is amended to read:

115 550.054 Application for permit to conduct pari-mutuel  
116 wagering.—

117 (14)

118 (b) The division, upon application from the holder of a  
119 jai alai permit meeting all conditions of this section, shall  
120 convert the permit and shall issue to the permitholder a permit  
121 to conduct greyhound racing. ~~A permitholder of a permit~~  
122 ~~converted under this section shall be required to apply for and~~  
123 ~~conduct a full schedule of live racing each fiscal year to be~~  
124 ~~eligible for any tax credit provided by this chapter.~~ The holder  
125 of a permit converted pursuant to this subsection or any holder  
126 of a permit to conduct greyhound racing located in a county in  
127 which it is the only permit issued pursuant to this section who  
128 operates at a leased facility pursuant to s. 550.475 may move  
129 the location for which the permit has been issued to another  
130 location within a 30-mile radius of the location fixed in the  
131 permit issued in that county, provided the move does not cross  
132 the county boundary and such location is approved under the  
133 zoning regulations of the county or municipality in which the  
134 permit is located, and upon such relocation may use the permit  
135 for the conduct of pari-mutuel wagering and the operation of a  
136 cardroom. The provisions of s. 550.6305(9)(d) and (f) shall  
137 apply to any permit converted under this subsection and shall  
138 continue to apply to any permit which was previously included  
139 under and subject to such provisions before a conversion  
140 pursuant to this section occurred.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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141 Section 4. Paragraph (b) of subsection (1) and paragraphs  
 142 (b) and (c) of subsection (3) of section 550.0951, Florida  
 143 Statutes, are amended to read:

144 550.0951 Payment of daily license fee and taxes;  
 145 penalties.—

146 (1)

147 (b) Each permitholder that cannot utilize the full amount  
 148 of the exemption of \$360,000 or \$500,000 provided in s.  
 149 550.0951(1) or the daily license fee credit provided in this  
 150 section may, at any time after notifying the division in  
 151 writing, ~~elect once per state fiscal year~~ on a form provided by  
 152 the division, ~~to~~ transfer such exemption or credit or any  
 153 portion thereof to any greyhound permitholder which acts as a  
 154 host track to such permitholder for the purpose of intertrack  
 155 wagering. Once an election to transfer such exemption or credit  
 156 is filed with the division, it shall not be rescinded. The  
 157 division shall disapprove the transfer when the amount of the  
 158 exemption or credit or portion thereof is unavailable to the  
 159 transferring permitholder for any reason, including being  
 160 unavailable because the transferring permitholder did not  
 161 conduct at least 100 live performances of at least eight races  
 162 during the fiscal year, or when the permitholder who is entitled  
 163 to transfer the exemption or credit or who is entitled to  
 164 receive the exemption or credit owes taxes to the state pursuant  
 165 to a deficiency letter or administrative complaint issued by the  
 166 division. Upon approval of the transfer by the division, the  
 167 transferred tax exemption or credit shall be effective for the  
 168 first performance of the next payment period as specified in

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169 subsection (5). The exemption or credit transferred to such host  
 170 track may be applied by such host track against any taxes  
 171 imposed by this chapter or daily license fees imposed by this  
 172 chapter. The greyhound permitholder host track to which such  
 173 exemption or credit is transferred shall reimburse such  
 174 permitholder the exact monetary value of such transferred  
 175 exemption or credit as actually applied against the taxes and  
 176 daily license fees of the host track. The division shall ensure  
 177 that all transfers of exemption or credit are made in accordance  
 178 with this subsection and shall have the authority to adopt rules  
 179 to ensure the implementation of this section.

180 (3) TAX ON HANDLE.—Each permitholder shall pay a tax on  
 181 contributions to pari-mutuel pools, the aggregate of which is  
 182 hereinafter referred to as "handle," on races or games conducted  
 183 by the permitholder. The tax is imposed daily and is based on  
 184 the total contributions to all pari-mutuel pools conducted  
 185 during the daily performance. If a permitholder conducts more  
 186 than one performance daily, the tax is imposed on each  
 187 performance separately.

188 (b)1. The tax on handle for dogracing is 3.45 ~~5.5~~ percent  
 189 of the handle, except that for live charity performances held  
 190 pursuant to s. 550.0351, and for intertrack wagering on such  
 191 charity performances at a guest greyhound track within the  
 192 market area of the host, the tax is 7.6 percent of the handle.

193 2. The tax on handle for jai alai is 7.1 percent of the  
 194 handle.

195 (c)1. The tax on handle for intertrack wagering is 2.0  
 196 percent of the handle if the host track is a horse track, 3.3

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197 | percent if the host track is a harness track, 3.45 ~~5.5~~ percent  
198 | if the host track is a dog track, and 7.1 percent if the host  
199 | track is a jai alai fronton. The tax on handle for intertrack  
200 | wagering is 0.5 percent if the host track and the guest track  
201 | are thoroughbred permitholders or at facilities other than dog  
202 | tracks if the guest track is located outside the market area of  
203 | the host track and within the market area of a thoroughbred  
204 | permitholder currently conducting a live race meet. The tax on  
205 | handle for intertrack wagering is 1.5 percent if the host track  
206 | and the guest track are greyhound permitholders and the guest  
207 | track is located outside the market area of the host track and  
208 | within the market area of a thoroughbred permitholder currently  
209 | conducting a live race meet. The tax on handle for intertrack  
210 | wagering on rebroadcasts of simulcast thoroughbred horseraces is  
211 | 2.4 percent of the handle and 1.5 percent of the handle for  
212 | intertrack wagering on rebroadcasts of simulcast harness  
213 | horseraces. The tax shall be deposited into the Pari-mutuel  
214 | Wagering Trust Fund.

215 |       2. The tax on handle for intertrack wagers is accepted by  
216 | ~~any dog track located in an area of the state in which there are~~  
217 | ~~only three permitholders, all of which are greyhound~~  
218 | ~~permitholders, located in three contiguous counties, from any~~  
219 | ~~greyhound permitholder also located within such area or any dog~~  
220 | ~~track or jai alai fronton located as specified in s. 550.615(6)~~  
221 | ~~or (9), on races or games received from the same class of~~  
222 | ~~permitholder located within the same market area is 3.9 percent~~  
223 | ~~if the host facility is a greyhound permitholder and, if the~~  
224 | ~~host facility is a jai alai permitholder, the rate shall be 6.1~~

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225 | percent if the host facility is a jai alai permitholder, except  
 226 | that it shall be 2.3 percent on handle at such time as the total  
 227 | tax on intertrack handle paid to the division by the  
 228 | permitholder during the current state fiscal year exceeds the  
 229 | total tax on intertrack handle paid to the division by the  
 230 | permitholder during the 1992-1993 state fiscal year.

231 | Section 5. Paragraphs (b), (c), and (e) of subsection (2)  
 232 | of section 550.09514, Florida Statutes, are amended to read:

233 | 550.09514 Greyhound dogracing taxes; purse requirements.-

234 | (2)

235 | (b) Except as otherwise set forth herein, in addition to  
 236 | the minimum purse percentage required by paragraph (a), each  
 237 | permitholder conducting live racing during a fiscal year shall  
 238 | pay as purses an annual amount equal to 75 percent of the daily  
 239 | license fees paid by each permitholder for the 1994-1995 fiscal  
 240 | year. This purse supplement shall be disbursed weekly during the  
 241 | permitholder's race meet in an amount determined by dividing the  
 242 | annual purse supplement by the number of performances approved  
 243 | for the permitholder pursuant to its annual license and  
 244 | multiplying that amount by the number of performances conducted  
 245 | each week. ~~For the greyhound permitholders in the county where~~  
 246 | ~~there are two greyhound permitholders located as specified in s.~~  
 247 | ~~550.615(6), such permitholders shall pay in the aggregate an~~  
 248 | ~~amount equal to 75 percent of the daily license fees paid by~~  
 249 | ~~such permitholders for the 1994-1995 fiscal year. These~~  
 250 | ~~permitholders shall be jointly and severally liable for such~~  
 251 | ~~purse payments.~~ The additional purses provided by this paragraph  
 252 | must be used exclusively for purses other than stakes. The

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253 | division shall conduct audits necessary to ensure compliance  
254 | with this section.

255 |       (c)1. Each greyhound permitholder when conducting at least  
256 | three live performances during any week shall pay purses in that  
257 | week on wagers it accepts as a guest track on intertrack and  
258 | simulcast greyhound races at the same rate as it pays on live  
259 | races. Each greyhound permitholder when conducting at least  
260 | three live performances during any week shall pay purses in that  
261 | week, at the same rate as it pays on live races, on wagers  
262 | accepted on greyhound races at a guest track which is not  
263 | conducting live racing and is located within the same market  
264 | area as the greyhound permitholder conducting at least three  
265 | live performances during any week.

266 |       2. Each host greyhound permitholder shall pay purses on  
267 | its simulcast and intertrack broadcasts of greyhound races to  
268 | guest facilities that are located outside its market area in an  
269 | amount equal to one quarter of an amount determined by  
270 | subtracting the transmission costs of sending the simulcast or  
271 | intertrack broadcasts from an amount determined by adding the  
272 | fees received for greyhound simulcast races plus 3 percent of  
273 | the greyhound intertrack handle at guest facilities that are  
274 | located outside the market area of the host and that paid  
275 | contractual fees to the host for such broadcasts of greyhound  
276 | races. For guest greyhound permitholders not conducting live  
277 | racing during a fiscal year and not subject to the purse  
278 | requirements of subparagraph 1., 3 percent of the greyhound  
279 | intertrack handle shall be paid to the host greyhound  
280 | permitholder for payment of purses at the host track.

281 (e) In addition to the purse requirements of paragraphs  
 282 (a)-(c), each greyhound permitholder shall pay as purses an  
 283 amount equal to one-third of the amount of the tax reduction on  
 284 live and simulcast handle applicable to such permitholder as a  
 285 result of the reductions in tax rates provided by ~~this act~~  
 286 ~~through the~~ amendments to s. 550.0951(3). With respect to  
 287 intertrack wagering when the host and guest tracks are greyhound  
 288 permitholders not within the same market area, an amount equal  
 289 to the tax reduction applicable to the guest track handle as a  
 290 result of any reductions ~~the reduction~~ in tax rates ~~rate~~  
 291 provided by ~~this act through the~~ amendment to s. 550.0951(3),  
 292 other than revisions to s. 550.0951(3)(c)1. and 2. made after  
 293 December 31, 2010, shall be distributed to the guest track, ~~one-~~  
 294 ~~third of which amount shall be paid as purses at the guest~~  
 295 ~~track.~~ However, if the guest track is a greyhound permitholder  
 296 within the market area of the host or if the guest track is not  
 297 a greyhound permitholder, an amount equal to such tax reduction  
 298 applicable to the guest track handle shall be retained by the  
 299 host track, one-third of which amount shall be paid as purses at  
 300 the host track. These purse funds shall be disbursed in the week  
 301 received if the permitholder conducts at least one live  
 302 performance during that week. If the permitholder does not  
 303 conduct at least one live performance during the week in which  
 304 the purse funds are received, the purse funds shall be disbursed  
 305 weekly during the permitholder's next race meet in an amount  
 306 determined by dividing the purse amount by the number of  
 307 performances approved for the permitholder pursuant to its  
 308 annual license, and multiplying that amount by the number of

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309 | performances conducted each week. The division shall conduct  
 310 | audits necessary to ensure compliance with this paragraph.

311 | Section 6. Subsection (1) of section 550.26165, Florida  
 312 | Statutes, is amended to read:

313 | 550.26165 Breeders' awards.—

314 | (1) The purpose of this section is to encourage the  
 315 | agricultural activity of breeding and training racehorses in  
 316 | this state. Moneys dedicated in this chapter for use as  
 317 | breeders' awards and stallion awards are to be used for awards  
 318 | to breeders of registered Florida-bred horses winning horseraces  
 319 | and for similar awards to the owners of stallions who sired  
 320 | Florida-bred horses winning stakes races, if the stallions are  
 321 | registered as Florida stallions standing in this state. Such  
 322 | awards shall be given at a uniform rate to all winners of the  
 323 | awards, shall not be greater than 20 percent of the announced  
 324 | gross purse, and shall not be less than 15 percent of the  
 325 | announced gross purse if funds are available. In addition, no  
 326 | less than 17 percent nor more than 40 percent, as determined by  
 327 | the Florida Thoroughbred Breeders' Association, of the moneys  
 328 | dedicated in this chapter for use as breeders' awards and  
 329 | stallion awards for thoroughbreds shall be returned pro rata to  
 330 | the permitholders that generated the moneys for special racing  
 331 | awards to be distributed by the permitholders to owners of  
 332 | thoroughbred horses participating in prescribed thoroughbred  
 333 | stakes races, nonstakes races, or both, all in accordance with a  
 334 | written agreement establishing the rate, procedure, and  
 335 | eligibility requirements for such awards entered into by the  
 336 | permitholder, the Florida Thoroughbred Breeders' Association,



337 and the Florida Horsemen's Benevolent and Protective  
 338 Association, Inc., except that the plan for the distribution by  
 339 any permitholder located in the area described in s.  
 340 550.615(8)~~(9)~~ shall be agreed upon by that permitholder, the  
 341 Florida Thoroughbred Breeders' Association, and the association  
 342 representing a majority of the thoroughbred racehorse owners and  
 343 trainers at that location. Awards for thoroughbred races are to  
 344 be paid through the Florida Thoroughbred Breeders' Association,  
 345 and awards for standardbred races are to be paid through the  
 346 Florida Standardbred Breeders and Owners Association. Among  
 347 other sources specified in this chapter, moneys for thoroughbred  
 348 breeders' awards will come from the 0.955 percent of handle for  
 349 thoroughbred races conducted, received, broadcast, or simulcast  
 350 under this chapter as provided in s. 550.2625(3). The moneys for  
 351 quarter horse and harness breeders' awards will come from the  
 352 breaks and uncashed tickets on live quarter horse and harness  
 353 racing performances and 1 percent of handle on intertrack  
 354 wagering. The funds for these breeders' awards shall be paid to  
 355 the respective breeders' associations by the permitholders  
 356 conducting the races.

357 Section 7. Section 550.615, Florida Statutes, is amended  
 358 to read:

359 550.615 Intertrack wagering.—

360 (1) Any horserace permitholder licensed under this chapter  
 361 which has conducted a full schedule of live racing may, at any  
 362 time, receive broadcasts of horseraces and accept wagers on  
 363 horseraces conducted by horserace permitholders licensed under  
 364 this chapter at its facility.

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365 (2) A ~~Any~~ track or fronton licensed under this chapter  
366 that conducted a full schedule of live racing or games ~~which~~ in  
367 the preceding year, any greyhound permitholder that has held an  
368 annual license to conduct pari-mutuel wagering activities in  
369 each of the preceding 10 years, or any greyhound permitholder  
370 converted pursuant to s. 550.054(14) ~~conducted a full schedule~~  
371 ~~of live racing~~ is qualified to, at any time, receive broadcasts  
372 of any class of pari-mutuel race or game and accept wagers on  
373 such races or games conducted by any class of permitholders  
374 licensed under this chapter.

375 (3) If a permitholder elects to broadcast its signal to  
376 any permitholder in this state, any permitholder that is  
377 eligible to conduct intertrack wagering under the provisions of  
378 ss. 550.615-550.6345 is entitled to receive the broadcast and  
379 conduct intertrack wagering under this section; provided,  
380 however, that the host track may require a guest track within 25  
381 miles of another permitholder to receive in any week at least 60  
382 percent of the live races that the host track is making  
383 available on the days that the guest track is otherwise  
384 operating live races or games. A host track may require a guest  
385 track not operating live races or games and within 25 miles of  
386 another permitholder to accept within any week at least 60  
387 percent of the live races that the host track is making  
388 available. A person may not restrain or attempt to restrain any  
389 permitholder that is otherwise authorized to conduct intertrack  
390 wagering from receiving the signal of any other permitholder or  
391 sending its signal to any permitholder.

392 (4) In no event shall any intertrack wager be accepted on

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393 | the same class of live races or games of any permitholder  
394 | without the written consent of such operating permitholders  
395 | conducting the same class of live races or games if the guest  
396 | track is within the market area of such operating permitholder.  
397 | A greyhound permitholder that accepts intertrack wagers on live  
398 | greyhound signals is not required to obtain the written consent  
399 | required by this subsection from any operating greyhound  
400 | permitholder within its market area.

401 | (5) No permitholder within the market area of the host  
402 | track shall take an intertrack wager on the host track without  
403 | the consent of the host track.

404 | (6) Notwithstanding the provisions of subsection (3), in  
405 | any area of the state where there are three or more horserace  
406 | permitholders within 25 miles of each other, intertrack wagering  
407 | between permitholders in said area of the state shall only be  
408 | authorized under the following conditions: Any permitholder,  
409 | other than a thoroughbred permitholder, may accept intertrack  
410 | wagers on races or games conducted live by a permitholder of the  
411 | same class or any harness permitholder located within such area  
412 | and any harness permitholder may accept wagers on games  
413 | conducted live by any jai alai permitholder located within its  
414 | market area and from a jai alai permitholder located within the  
415 | area specified in this subsection when no jai alai permitholder  
416 | located within its market area is conducting live jai alai  
417 | performances; any greyhound or jai alai permitholder may receive  
418 | broadcasts of and accept wagers on any permitholder of the other  
419 | class provided that a permitholder, other than the host track,  
420 | of such other class is not operating a contemporaneous live

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421 performance within the market area.

422 ~~(7) In any county of the state where there are only two~~  
423 ~~permits, one for dogracing and one for jai alai, no intertrack~~  
424 ~~wager may be taken during the period of time when a permitholder~~  
425 ~~is not licensed to conduct live races or games without the~~  
426 ~~written consent of the other permitholder that is conducting~~  
427 ~~live races or games. However, if neither permitholder is~~  
428 ~~conducting live races or games, either permitholder may accept~~  
429 ~~intertrack wagers on horseraces or on the same class of races or~~  
430 ~~games, or on both horseraces and the same class of races or~~  
431 ~~games as is authorized by its permit.~~

432 ~~(7)(8)~~ (8) In any three contiguous counties of the state where  
433 there are only three permitholders, all of which are greyhound  
434 permitholders, If any greyhound permitholder leases the facility  
435 of another greyhound permitholder for the purpose of conducting  
436 all or any portion of ~~the conduct of its live~~ race meet pursuant  
437 to s. 550.475, such lessee may conduct intertrack wagering at  
438 its pre-lease permitted facility throughout the entire year,  
439 including while its race live meet is being conducted at the  
440 leased facility, ~~if such permitholder has conducted a full~~  
441 ~~schedule of live racing during the preceding fiscal year at its~~  
442 ~~pre-lease permitted facility or at a leased facility, or~~  
443 ~~combination thereof.~~

444 ~~(8)(9)~~ (8) In any two contiguous counties of the state in  
445 which there are located only four active permits, one for  
446 thoroughbred horse racing, two for greyhound dogracing, and one  
447 for jai alai games, no intertrack wager may be accepted on the  
448 same class of live races or games of any permitholder without

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449 the written consent of such operating permitholders conducting  
450 the same class of live races or games if the guest track is  
451 within the market area of such operating permitholder.

452 (9)~~(10)~~ All costs of receiving the transmission of the  
453 broadcasts shall be borne by the guest track; and all costs of  
454 sending the broadcasts shall be borne by the host track.

455 Section 8. Paragraph (g) of subsection (9) of section  
456 550.6305, Florida Statutes, is amended to read:

457 550.6305 Intertrack wagering; guest track payments;  
458 accounting rules.—

459 (9) A host track that has contracted with an out-of-state  
460 horse track to broadcast live races conducted at such out-of-  
461 state horse track pursuant to s. 550.3551(5) may broadcast such  
462 out-of-state races to any guest track and accept wagers thereon  
463 in the same manner as is provided in s. 550.3551.

464 (g)1. Any thoroughbred permitholder which accepts wagers  
465 on a simulcast signal must make the signal available to any  
466 permitholder that is eligible to conduct intertrack wagering  
467 under the provisions of ss. 550.615-550.6345.

468 2. Any thoroughbred permitholder which accepts wagers on a  
469 simulcast signal received after 6 p.m. must make such signal  
470 available to any permitholder that is eligible to conduct  
471 intertrack wagering under the provisions of ss. 550.615-  
472 550.6345, including any permitholder located as specified in s.  
473 550.615(6). Such guest permitholders are authorized to accept  
474 wagers on such simulcast signal, notwithstanding any other  
475 provision of this chapter to the contrary.

476 3. Any thoroughbred permitholder which accepts wagers on a

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477 simulcast signal received after 6 p.m. must make such signal  
 478 available to any permitholder that is eligible to conduct  
 479 intertrack wagering under the provisions of ss. 550.615-  
 480 550.6345, including any permitholder located as specified in s.  
 481 550.615(8)~~(9)~~. Such guest permitholders are authorized to accept  
 482 wagers on such simulcast signals for a number of performances  
 483 not to exceed that which constitutes a full schedule of live  
 484 races for a quarter horse permitholder pursuant to s.  
 485 550.002(11), notwithstanding any other provision of this chapter  
 486 to the contrary, except that the restrictions provided in s.  
 487 550.615(8)~~(9)~~(a) apply to wagers on such simulcast signals.

488  
 489 No thoroughbred permitholder shall be required to continue to  
 490 rebroadcast a simulcast signal to any in-state permitholder if  
 491 the average per performance gross receipts returned to the host  
 492 permitholder over the preceding 30-day period were less than  
 493 \$100. Subject to the provisions of s. 550.615(4), as a condition  
 494 of receiving rebroadcasts of thoroughbred simulcast signals  
 495 under this paragraph, a guest permitholder must accept  
 496 intertrack wagers on all live races conducted by all then-  
 497 operating thoroughbred permitholders.

498 Section 9. Paragraph (c) of subsection (4) of section  
 499 551.104, Florida Statutes, is amended to read:

500 551.104 License to conduct slot machine gaming.—

501 (4) As a condition of licensure and to maintain continued  
 502 authority for the conduct of slot machine gaming, the slot  
 503 machine licensee shall:

504 (c) Conduct no fewer than a full schedule of live racing

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505 or games as defined in s. 550.002(11), except for holders of  
 506 greyhound permits, which have no live racing requirement. A  
 507 permitholder's responsibility to conduct such number of live  
 508 races or games shall be reduced by the number of races or games  
 509 that could not be conducted due to the direct result of fire,  
 510 war, hurricane, or other disaster or event beyond the control of  
 511 the permitholder.

512 Section 10. Subsections (2) and (4) of section 551.114,  
 513 Florida Statutes, are amended to read:

514 551.114 Slot machine gaming areas.—

515 (2) The slot machine licensee shall display pari-mutuel  
 516 races or games within the designated slot machine gaming areas  
 517 and offer patrons within the designated slot machine gaming  
 518 areas the ability to engage in pari-mutuel wagering on any live,  
 519 intertrack, and simulcast races conducted or offered to patrons  
 520 of the licensed facility.

521 (4) Designated slot machine gaming areas may be located  
 522 within the current live gaming facility or in an existing  
 523 building that must be contiguous and connected to the live  
 524 gaming facility, if applicable. If a designated slot machine  
 525 gaming area is to be located in a building that is to be  
 526 constructed, that new building must be contiguous and connected  
 527 to the live gaming facility.

528 Section 11. Paragraphs (a) and (b) of subsection (5) and  
 529 paragraph (d) of subsection (13) of section 849.086, Florida  
 530 Statutes, are amended to read:

531 849.086 Cardrooms authorized.—

532 (5) LICENSE REQUIRED; APPLICATION; FEES.—No person may

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533 | operate a cardroom in this state unless such person holds a  
534 | valid cardroom license issued pursuant to this section.

535 |       (a) Only those persons holding a valid cardroom license  
536 | issued by the division may operate a cardroom. A cardroom  
537 | license may only be issued to a licensed pari-mutuel  
538 | permitholder and an authorized cardroom may only be operated at  
539 | the same facility at which the permitholder is authorized under  
540 | its valid pari-mutuel wagering permit to conduct pari-mutuel  
541 | wagering activities. An initial cardroom license shall be issued  
542 | to a pari-mutuel permitholder only after its facilities are in  
543 | place and, except for greyhound permitholders, after it conducts  
544 | its first day of live racing or games. A greyhound permitholder  
545 | that has conducted live racing during each of the 10 years  
546 | immediately preceding its application for a cardroom license or  
547 | a greyhound permitholder converted pursuant to s. 550.054(14)  
548 | shall be issued a cardroom license without regard to licensure  
549 | for or actual conduct of live racing.

550 |       (b) Except for greyhound permitholders ~~After the initial~~  
551 | ~~cardroom license is granted,~~ the application for the annual  
552 | license renewal shall be made in conjunction with the  
553 | applicant's annual application for its pari-mutuel license. If a  
554 | permitholder has operated a cardroom during any of the 3  
555 | previous fiscal years and fails to include a renewal request for  
556 | the operation of the cardroom in its annual application for  
557 | license renewal, the permitholder may amend its annual  
558 | application to include operation of the cardroom. In order for a  
559 | cardroom license to be renewed the applicant must have  
560 | requested, as part of its pari-mutuel annual license



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561 application, to conduct at least 90 percent of the total number  
 562 of live performances conducted by such permitholder during  
 563 either the state fiscal year in which its initial cardroom  
 564 license was issued or the state fiscal year immediately prior  
 565 thereto if the permitholder ran at least a full schedule of live  
 566 racing or games in the prior year. If the application is for a  
 567 harness permitholder cardroom, the applicant must have requested  
 568 authorization to conduct a minimum of 140 live performances  
 569 during the state fiscal year immediately prior thereto. If more  
 570 than one permitholder is operating at a facility, each  
 571 permitholder must have applied for a license to conduct a full  
 572 schedule of live racing. However, no corresponding pari-mutuel  
 573 license application or minimum numbers of requested or conducted  
 574 live performances is required in order for a greyhound  
 575 permitholder to maintain or renew a cardroom license.

576 (13) TAXES AND OTHER PAYMENTS.—

577 (d)1. Each greyhound and jai alai permitholder that  
 578 operates a cardroom facility shall use at least 4 percent of  
 579 such permitholder's cardroom monthly gross receipts to  
 580 supplement greyhound purses if live racing is conducted during a  
 581 fiscal year, or jai alai prize money, respectively, during the  
 582 permitholder's current or next ensuing pari-mutuel meet.

583 2. Each thoroughbred and harness horse racing permitholder  
 584 that operates a cardroom facility shall use at least 50 percent  
 585 of such permitholder's cardroom monthly net proceeds as follows:  
 586 47 percent to supplement purses and 3 percent to supplement  
 587 breeders' awards during the permitholder's next ensuing racing  
 588 meet.

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589           3. No cardroom license or renewal thereof shall be issued  
590 to an applicant holding a permit under chapter 550 to conduct  
591 pari-mutuel wagering meets of quarter horse racing unless the  
592 applicant has on file with the division a binding written  
593 agreement between the applicant and the Florida Quarter Horse  
594 Racing Association or the association representing a majority of  
595 the horse owners and trainers at the applicant's eligible  
596 facility, governing the payment of purses on live quarter horse  
597 races conducted at the licensee's pari-mutuel facility. The  
598 agreement governing purses may direct the payment of such purses  
599 from revenues generated by any wagering or gaming the applicant  
600 is authorized to conduct under Florida law. All purses shall be  
601 subject to the terms of chapter 550.

602           Section 12. This act shall take effect July 1, 2011.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 1351 South Broward Drainage District, Broward County  
**SPONSOR(S):** Jenne  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	12 Y, 0 N	Duncan	Hoagland
2) Finance & Tax Committee		Aldridge <i>A</i>	Langston <i>A</i>
3) Economic Affairs Committee			

**SUMMARY ANALYSIS**

The South Broward Drainage District (District) is an independent special district created in 1967 with drainage and water control powers derived from ch. 298, F.S. The 7-member Board of Commissioners (Board) of the District is elected by landowners of the District. The District has jurisdiction over 46,600 acres (approximately 73 square miles) in southwest Broward County which includes 150 linear miles of fresh-water canals and 7,500 acres of lakes for stormwater storage. Included in the District's authority is the power to:

- Establish, construct, operate, and maintain a system of main and lateral canals, drains, ditches, levees, dikes, dams, sluices, locks, revetments, reservoirs, holding basins, floodways, pumping stations, siphons, culverts, and storm sewers, and to connect some or any of them to drain and reclaim the lands within the District.
- Construct or enlarge any and all bridges or culverts that may be needed in or out of the District, across any drain, ditch, canal, floodway, holding basin, excavation, public highway, railroad right-of-way, tract, grade, fill, or cut; to construct roadways over levees and embankments; to construct any and all of said works and improvements across, through, or over any public highway, railroad right-of-way, track, grade, fill, or cut in or out of the District; and to remove any fence, building, or other improvements, in or out of the District for purposes of drainage and reclamation.
- Assess and impose upon all of the lands in the District an annual drainage tax, administrative tax, and maintenance tax.
- To impose and foreclose special assessment liens.

This bill clarifies the District's authority to carry out water management activities and, in various provisions throughout the bill, replaces "reclamation" with "water management" or "water control" to provide consistency throughout the District's charter. In addition, the bill:

- Amends the definitions of the term "assessable improvements" and defines the term "drainage and water management facilities" rather than "drainage and reclamation facilities." The bill also defines the term "five-year certification plan."
- Revises the District's powers to incorporate its water management responsibilities and to reflect an Interlocal Agreement regarding water elevations between the District and the Town of Southwest Ranches.
- Amends the process for declaring a winner when an election of the Board results in a tie.
- Authorizes the Treasurer to prepare the District's proposed budget, rather than the Secretary.
- Removes the requirement for the engineer to carry out the administrative duties associated with the District's process for levying special assessments to permit the District's director to carry out these administrative functions.
- Includes the property appraiser as one of the entities to which the Board must certify information regarding special assessments levied.
- Additionally, the bill updates the District's administrative and operational provisions, removes obsolete language, and amends several sections to provide consistency throughout the District's charter.

The bill provides that nothing in this act supersedes ch. 99-468, L.O.F.; requires that a certified copy of the act be recorded in the Broward County Public Records by the District; and includes a severability clause.

The bill is effective upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1351b.FTC

DATE: 4/10/2011

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

The South Broward Drainage District (District), known as the Hollywood Reclamation District until 1986, was created by the Florida Legislature in 1927 out of a portion of the Napoleon B. Broward Drainage District.<sup>1</sup> with drainage and water control powers derived from ch. 298, F.S. The 7-member Board of Commissioners (Board) of the District is elected by landowners of the District. The District has jurisdiction over 46,600 acres (approximately 73 square miles) in southwest Broward County which includes 150 linear miles of fresh-water canals and 7,500 acres of lakes for stormwater storage.<sup>2</sup>

The District is authorized to:

- Establish, construct, operate, and maintain a system of main and lateral canals, drains, ditches, levees, dikes, dams, sluices, locks, revetments, reservoirs, holding basins, floodways, pumping stations, siphons, culverts, and storm sewers, and to connect some or any of them to drain and reclaim the lands within the District.
- Clean out, widen, or change the course and flow, alter, or deepen any canal, ditch, drain, river, water course, or natural stream to drain and reclaim the lands within the District.
- Construct or enlarge any and all bridges or culverts that may be needed in or out of the District, across any drain, ditch, canal, floodway, holding basin, excavation, public highway, railroad right-of-way, tract, grade, fill, or cut; to construct roadways over levees and embankments; to construct any and all of said works and improvements across, through, or over any public highway, railroad right-of-way, track, grade, fill, or cut in or out of the District; and to remove any fence, building, or other improvements, in or out of the District for purposes of drainage and reclamation.
- Hold, control, and acquire by donation, purchase, or condemnation, any easement, reservation, or dedication in or out of the District.
- Assess and impose upon all of the lands in the District an annual drainage tax, administrative tax, and maintenance tax.
- To impose and foreclose special assessment liens.
- To prohibit, regulate, and restrict by appropriate resolution all structures, materials, and things, whether solid, liquid, or gas, whether permanent or temporary in nature, which come upon, come into, connect to, or be a part of any of the main or lateral drains, ditches, canals, levees, dikes, dams, sluices, revetments, reservoirs, holding basins, floodways, pumping stations, and siphons which have been created or constructed.
- Construct, improve, and maintain roadways and roads necessary and convenient to provide access to and efficient development of areas made suitable and available for cultivation, settlement, urban subdivision, homesites and other beneficial developments as a result of the drainage operations of the District.
- To make use of any dedication to public use or platted reservations within the boundaries of the District.
- Exercise any and all other powers conferred upon drainage districts by ch. 298, F.S., including but not limited to, the power to acquire and construct drainage improvements, to issue bonds to the pay the cost of such improvements, and to levy and collect drainage taxes benefited by the improvements.

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<sup>1</sup> South Broward Drainage District Charter, <http://www.sbdds.org/pdfs/SBDDCHARTER.pdf> (last visited April 8th, 2011)

<sup>2</sup> South Broward Drainage District, Overview, <http://www.sbdds.org/> (last visited March 22, 2011).

“Assessable improvements” includes, without limitation, any and all drainage and land reclamation works and facilities, sewer systems, storm sewers and drains, water systems, streets, roads, or other projects of the District local in nature and of special benefit to the premises or lands served by the District, and any and all modifications, improvements, and enlargements.

“Drainage and reclamation facilities” means canals, ditches, or other drainage facilities, reservoirs, dams, levees, sluiceways, dredging, holding basins, floodways, pumping stations, or any other works, structures, or facilities for the conservation, control, development, utilization, and disposal of water, and includes all real and personal property, rights, easements, and franchises relating to such drainage and reclamation facilities necessary for the acquisition, construction, operation, or maintenance of the District.

### The Town of Southwest Ranches, Water Control Elevations, and Revisions to the District’s Charter

The Town of Southwest Ranches (Town) is concerned that the designated water control elevation within the part of the Town located within the boundaries of the District may be requested to be increased by permit application, regulatory requirement, state law, or some other means. In response to that concern, the District and the Town entered into a Memorandum of Agreement (MOA) with the South Florida Water Management District and the Florida Department of Agriculture and Consumer Services on June 16, 2010, to establish a pilot project to investigate revisions to the water management system operations and water quality improvements within the District’s S-9 and S-10 Basins. As part of the MOA, the Town and the District will install intermediate water control gates to allow the water control elevation within the Town limits to be lowered during the wet season to match the water elevation of the C-11 Canal.<sup>3</sup>

In 2010, the District’s Board adopted a resolution<sup>4</sup> authorizing the District to enter into an interlocal agreement with the Town providing that the District would provide written notification to the Town of any potential increase or decrease in a designated water control elevation within the boundaries of the Town at least 30 days prior to the District’s request to the South Florida Water Management District. In addition, the Town would not oppose or object to the District’s proposed charter revisions requested for approval during the 2011 Legislative session.<sup>5</sup>

### **Effect of the Proposed Changes**

This bill clarifies the District’s authority to carry out water management activities and, in various provisions throughout the bill, replaces “reclamation” with “water management,” “plan of reclamation” with “water control plan,” and replaces “reclaim” with “water management.” The bill also updates the District’s administrative and operational provisions, removes obsolete language, and amends several sections to provide consistency throughout the District’s charter.

### Definitions

The bill amends the definition of “assessable improvements” to replace “reclamation water management works and facilities” with “water management works and facilities.”

The bill replaces the term “drainage and reclamation facilities” with “drainage and water management facilities.” The definition of “drainage and water management facilities” is defined to include water management areas and provides that the terms “drainage” and “water management” must be used interchangeably and further provides that the term means the “conservation, control, management, conveyance, flowage, storage, detention, retention, absorption, run-off, pumping, and discharge of

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<sup>3</sup> Interlocal Agreement between South Broward Drainage District and Town of Southwest Ranches relating to Water Control Elevations, documents hand delivered to House Community & Military Affairs Subcommittee staff, March 9, 2011.

<sup>4</sup> Resolution No. 2010-18 adopted Dec. 16, 2010, South Broward Drainage District, documents hand delivered to House Community & Military Affairs Subcommittee staff, March 9, 2011.

<sup>5</sup> *Id.*

water or stormwater and any purposes appurtenant, necessary, or incidental thereto. This definition shall in no way be deemed to expand or reduce the District's powers."

The bill defines the term "five-year certification program," which is the District's program that requires the District's 5-year surface water management operation and maintenance permit for drainage facilities to be renewed at the end of every 5 years by the permittee or landowner and requires the permitted surface water management and drainage system to be operational and in compliance with the District's rules, regulations, and criteria.

#### Election of the District's Board of Commissioners (When an Election Results in a Tie)

The District's governing body is composed of seven commissioners who are elected from seven single-member zones. The District's elections process provides that the candidate receiving the highest number of votes cast for commissioner for each respective zone at each respective election is declared elected to office. If the vote results in a tie, then the outcome must be determined by lot. The bill amends this procedure to provide that if the vote results in a tie, the outcome must be determined by drawing a card from a standard unopened sealed deck of 52 cards provided by the District's director. The candidate that draws the highest card will be declared elected to office.

#### Powers of the District

The bill replaces the term "reclaim" with "water management services" and replaces the term "reclamation" with "water management" relative to the District's power. The bill also amends this section to clarify the District's authority to construct or enlarge any bridges or culverts and to construct any works or improvements in or out of the District. The bill clarifies the District's power to assess and impose taxes by removing the list of specific taxes and using the term "annual assessment" instead.

The bill adds a provision relating to the District's power to prohibit, regulate, and restrict certain structures and materials providing that it may be necessary for the District to take appropriate action should it be required by another governmental agency with jurisdiction over the District. The South Florida Water Management District is an example of an agency with jurisdiction over the District.

In response to the Interlocal Agreement formed between the District and the Town of Southwest Ranches, this specific power is further amended to provide that the District's designated water control elevations must be maintained in accordance with the terms of the District's South Florida Water Management District permits and any agreements that may be entered into between the District, the South Florida Water Management District, and any other governmental entity. In addition, when reviewing all permit applications, the District must take into consideration the water control elevations in the design, construction, and maintenance of all drainage and water management facilities such that the design, construction, and maintenance within the District will not adversely impact the designated water control levels.

The bill includes dedicated easements with respect to the District's power to make use of any dedication to public use, platted, or reservations and provides that such power is applied within or without the District's boundaries.

The bill further amends the powers of the District to make them consistent with other sections of the charter.

#### Annual Budget

The bill requires the treasurer or the director, rather than the secretary or the director, to prepare the District's proposed budget.

## Water Control Plan

All references to the “plan of reclamation” are replaced with “water control plan.” The bill clarifies that the water control plan pertains to water management facilities and water management works.

## Assessing Land for Drainage and Water Management

Currently, the charter requires the secretary or the District’s director to prepare a list of all taxes levied, which becomes the District’s tax record, and to sign and certify this document. The bill includes the Board’s treasurer as one of those persons authorized to prepare the list of all taxes levied known as the District’s tax record, and to sign and certify the document. These provisions are also amended to provide consistency throughout the District’s charter.

## Administrative Tax

The bill moves, but does not amend, the maintenance tax provisions currently in a separate section of the District’s charter to the administrative tax section. The bill also renames this section “Administrative, maintenance, and operations tax.”

## Special Assessments

Currently, the District is authorized to levy special assessments to pay for the construction or reconstruction of assessable improvements. The engineer is required to manage several administrative aspects of this process. The bill removes the specific reference to the engineer to direct the District and/or the director to carry out these administrative functions. This change does not appear to impact the duties of the engineer<sup>6</sup> as prescribed by law.

Currently, the Board is required to annually certify to the county revenue (tax) collector a list of all special assessments including a description and the names of, properties against which assessments have been levied, as well as the amounts due. The bill requires the Board to certify this information to both the county revenue collector and the county property appraiser. The bill also provides that all charges of the county revenue collector, the county property appraiser, or the District relating to the assessment issues pursuant to the charter are deemed costs of the operation and maintenance of any drainage improvements in connection with the special assessments levied. The costs, fees, and expenses must be mutually agreed upon between the Board, the county revenue collector, and the county property appraiser.

The bill also corrects cross-references and makes technical changes.

## Maintenance of Projects

The bill revises this section to make it consistent with other provisions in the District’s charter and clarifies that the District has the power to construct, maintain, and operate its projects and drainage and water management facilities in, along, on, or under any dedications to the public, platted or dedicated rights-of-way, platted or dedicated reservations, streets, easements, water management areas, alleys, highways, or other public places or ways, and across any drain, ditch, canal, floodway, holding basin, excavation, railroad right-of-way, easement, reservation, or water management area, track, grade, fill, or cut within or without the District. The bill also renames the section “Maintenance and operation of projects and drainage and water management facilities.”

## Enforcement and Penalties

The bill adds a new provision to this section which states, “a person may not willfully, or otherwise, obstruct any canal, drain, ditch, watercourse, or water management area or destroy any drainage

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<sup>6</sup> See ss. 298.16, 298.26, 298.301, F.S.



works constructed in or maintained by the District or obstruct or damage any easement, right-of-way, or other property dedicated to the District or the public or fail to comply with the District's 5-year certification program, rules, criteria, or regulations." The bill also renames the section, "Obstructions, damage, and destruction prohibited; enforcement; penalties."

The bill provides that nothing in this act supersedes ch. 99-468, L.O.F.; requires that a certified copy of the act be recorded in the Broward County Public Records by the District; and includes a severability clause.

The bill is effective upon becoming law.

#### B. SECTION DIRECTORY:

- Section 1: Amends subsections (1) and (10) of s.9, subsection (6) of s. 10, and ss. 13, 19, 21,22, 23, 41, and 42 of s. 2 of ch. 98-524, L.O.F., as amended by ch. 2004-459 and ch. 2007-308, L.O.F., and adds subsection (14) to s. 9; relating to definitions; the board of commissioners; powers; annual budget; water control plan and the adoption of the plan; assessing land; and the administrative tax.
- Section 2: Renumbers ss. 43-74 of s. 2 of ch. 98-524, L.O.F., as ss. 42-73, amends present s.45, subsection (1) of present s. 46, subsection (1) of present s. 49, present ss. 50, 52, 55, and 58, subsection (2) of present s. 59, and present ss. 64, 65, 68, 70, and 72, and adds subsection (4) to present s. 62; relating to special assessments; issuance of certificates of indebtedness based on assessments for assessable improvements; changing boundary lines; unit development; mandatory use of certain district facilities and services; maintenance of projects across rights-of-ways; fees; subdivision regulation; enforcement and penalties; Bailey Drainage District; Broward County responsible for operation and maintenance of certain roadways; South Broward Drainage District to have all power and authority and jurisdiction over certain lands.
- Section 3: Provides that nothing in the act supersedes ch. 99-468, L.O.F.
- Section 4: Requires a certified copy of the act to be recorded in the Broward County public records by the South Broward Drainage District.
- Section 5: Provides a severability clause.
- Section 6: Provides an effective date of upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 20, 2011

WHERE? Sun-Sentinel published daily and distributed in Broward, Palm Beach, and Miami-Dade Counties, 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 [X] No []

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2011-12 or 2012-2013.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The tiebreaking provision for elections for commissioner is changed from "by lot" to "the drawing of a card from a standard unopened sealed deck of 52 cards provided by the district director. The candidate drawing the highest card shall be declared elected to such office." There is no definition of highest card provided, which may present an issue as the concept of highest card varies from game to game.<sup>7</sup> Further, the current tiebreaking procedure does not address the possibility<sup>8</sup> of both players drawing the same rank of card.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.

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<sup>7</sup> While in blackjack and most currently popular variants of poker the Ace can play high or low at the player's discretion, in Razz and other forms of lowball the King is usually the highest rank. Other ranking systems exist, e.g. in Euchre the highest card is the Jack.

<sup>8</sup> This will occur 1/17<sup>th</sup> of the time in the case of two tied candidates, if more candidates are tied the probability increases.

1                                   A bill to be entitled  
2       An act relating to the South Broward Drainage District,  
3       Broward County; amending chapter 98-524, Laws of Florida,  
4       as amended; revising and providing definitions; conforming  
5       terminology; deleting and updating obsolete provisions;  
6       revising inconsistent provisions; revising the method of  
7       deciding elections of commissioners in the event of a tie  
8       vote; clarifying language relating to the imposition of  
9       district assessments and taxes; clarifying the type of  
10      property subject to district rules, criteria, and  
11      regulations; authorizing the board to take appropriate  
12      action as may be required of the district by another  
13      governmental agency; requiring the district to take  
14      designated water control elevations into consideration for  
15      all projects within the district; authorizing the  
16      treasurer, rather than the secretary, of the board to be  
17      involved in the preparation of the district's budget;  
18      clarifying procedures relating to special assessments;  
19      authorizing the treasurer to prepare the district tax  
20      record; requiring the district to prepare plans,  
21      specifications, and estimates for improvements;  
22      authorizing the district director to implement certain  
23      activities and receive documents relating to special  
24      assessments; conforming cross-references; prohibiting  
25      obstruction, damage, or destruction of district facilities  
26      and noncompliance with the district's 5-year  
27      recertification program rules, criteria, or regulations;

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28 clarifying applicability; providing severability;  
29 providing an effective date.

30

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

32

33 Section 1. Subsections (1) and (10) of section 9,  
34 subsection (6) of section 10, and sections 13, 19, 21, 22, 23,  
35 41, and 42 of section 2 of chapter 98-524, Laws of Florida, as  
36 amended by chapters 2004-459 and 2007-308, Laws of Florida, are  
37 amended, and subsection (14) is added to section 9 of that  
38 section, to read:

39 Section 9. Definitions.—

40 (1) "Assessable improvements" includes, without  
41 limitation, any and all drainage, ~~and land,~~ and water management  
42 ~~reclamation~~ works and facilities, sewer systems, storm sewers  
43 and drains, water systems, streets, roads, or other projects of  
44 the district, or that portion or portions thereof, local in  
45 nature and of special benefit to the premises or lands served  
46 thereby, and any and all modifications, improvements, and  
47 enlargements thereof.

48 (10) "Drainage and water management ~~reclamation~~  
49 facilities" means any canals, ditches, water management areas,  
50 or other drainage facilities, reservoirs, dams, levees,  
51 sluiceways, dredging, holding basins, floodways, pumping  
52 stations, or any other works, structures, or facilities for the  
53 conservation, control, development, utilization, management, and  
54 disposal of water, and any purposes appurtenant, necessary, or  
55 incidental thereto, and includes all real and personal property

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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56 and any interest therein, rights, easements, and franchises of  
57 any nature relating to any such drainage and water management  
58 ~~reclamation~~ facilities or necessary or convenient for the  
59 acquisition, construction, reconstruction, operation, or  
60 maintenance thereof. The terms "drainage" and "water management"  
61 shall be used interchangeably and shall mean the conservation,  
62 control, utilization, management, collection, disposal,  
63 conveyance, flowage, storage, detention, retention, absorption,  
64 run-off, pumping, and discharge of water or stormwater and any  
65 purposes appurtenant, necessary, or incidental thereto. This  
66 definition shall in no way be deemed to expand or reduce the  
67 district's powers.

68 (14) "Five-year recertification program" means the  
69 district's program that requires the district's 5-year surface  
70 water management operation and maintenance permit for drainage  
71 facilities to be renewed at the end of every 5 years by the  
72 permittee or landowner and that requires that the permitted  
73 surface water management and drainage system is operational and  
74 complies with the district's rules, regulations, and criteria.

75 Section 10. Board of commissioners; election;  
76 organization; terms of office; benefits; quorum; report and  
77 minutes.-

78 (6) Except as stated in this act, the board shall be  
79 composed of seven members as follows:

80 (a) In the general election of November 2008 and in the  
81 November general election of every 4th year thereafter, one  
82 commissioner shall be elected from Zone 1, one commissioner  
83 shall be elected from Zone 3, and one commissioner shall be

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84 | elected from Zone 6. The commissioners elected in November 2008  
 85 | shall serve until their terms expire in November 2012.

86 | (b) In the general election of November 2010, and in the  
 87 | November general election of every 4th ~~fourth~~ year thereafter,  
 88 | one commissioner shall be elected from Zone 2, one commissioner  
 89 | shall be elected from Zone 4, one commissioner shall be elected  
 90 | from Zone 5, and one commissioner shall be elected from Zone 7.  
 91 | The commissioners elected in November 2010 shall serve until  
 92 | their terms expire in November 2014.

93 | (c) If only one candidate qualifies for an office, that  
 94 | candidate shall be deemed elected. If two or more candidates  
 95 | qualify for an office, the names of those candidates shall be  
 96 | placed on the ballot for the designated November general  
 97 | election.

98 | (d) The candidate receiving the highest number of votes  
 99 | cast for the office of commissioner for each respective zone at  
 100 | each respective election shall be declared elected to such  
 101 | office. If the vote results in a tie, the outcome shall be  
 102 | determined by the drawing of a card from a standard unopened  
 103 | sealed deck of 52 cards provided by the district director. The  
 104 | candidate drawing the highest card shall be declared elected to  
 105 | such office ~~let~~.

106 | (e) Commissioners elected or reelected shall be inducted  
 107 | into office at the first regularly scheduled meeting of the  
 108 | board following certification of the election.

109 | Section 13. Powers.—The district shall have, and the board  
 110 | may exercise, any or all the following powers:

111 | (1) To contract and be contracted with; to sue and be sued

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112 in the name of the district; to adopt and use a seal; to  
 113 acquire, by purchase, gift, devise, condemnation, eminent  
 114 domain, or otherwise, property, real or personal, or any estate  
 115 therein, within or without the district, to be used for any  
 116 purpose necessary or to meet the needs of any of the purposes of  
 117 this act.

118 (2) To establish, construct, operate, and maintain a  
 119 system of main and lateral canals, drains, ditches, levees,  
 120 dikes, dams, sluices, locks, revetments, reservoirs, holding  
 121 basins, floodways, pumping stations, syphons, culverts, and  
 122 storm sewers, and to connect some or any of them as within the  
 123 judgment of the board is deemed advisable to drain and provide  
 124 water management services for ~~reclaim~~ the lands within the  
 125 district.

126 (3) To acquire and maintain appropriate sites for storage  
 127 and maintenance of the equipment of the district; and to acquire  
 128 and maintain and construct a suitable building to house the  
 129 office and records of the district.

130 (4) To clean out, straighten, widen, open up, or change  
 131 the course and flow, alter, or deepen any canal, ditch, drain,  
 132 river, water course, or natural stream as within the judgment of  
 133 the board is deemed advisable to drain and provide water  
 134 management services for ~~reclaim~~ the lands within the district;  
 135 to acquire, purchase, operate, and maintain pumps, plants, and  
 136 pumping systems for drainage purposes; and to construct,  
 137 operate, and maintain irrigation works and machinery in  
 138 connection with the purposes herein set forth.

139 (5) To regulate and set forth by appropriate resolution

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140 the drainage and water management requirements and conditions to  
141 be met for the land within the district and for plats to be  
142 entitled to record on any land within the district, including  
143 authority to require as a condition precedent for any platting,  
144 that good and sufficient bond be posted to assure proper  
145 drainage and water management for the area to be platted.

146 (6) To borrow money and issue bonds, certificates,  
147 warrants, notes, or other evidences of indebtedness of the  
148 district as hereinafter provided.

149 (7) To build and construct any other works and  
150 improvements deemed necessary to preserve and maintain the works  
151 in or out of the district; to acquire, construct, operate,  
152 maintain, use, sell, convey, transfer, or otherwise provide for  
153 machines and equipment for drainage and water management  
154 ~~reclamation~~ purposes; and to contract for the purchase,  
155 construction, operation, maintenance, use, sale, conveyance, and  
156 transfer of the said machinery and equipment.

157 (8) To construct or enlarge, or cause to be constructed or  
158 enlarged, any and all bridges or culverts that may be needed in  
159 or out of the district, across any drain, ditch, canal,  
160 floodway, holding basin, excavation, public highway, railroad  
161 right-of-way, easement, reservation, tract, grade, fill, or cut;  
162 to construct roadways over levees and embankments; to construct  
163 any and all of said works and improvements across, through, or  
164 over any drain, ditch, canal, floodway, holding basin,  
165 excavation, public highway, railroad right-of-way, easement,  
166 reservation, track, grade, fill, or cut in or out of the  
167 district; and to remove any fence, building, or other



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168 improvements, in or out of the district for purposes of drainage  
169 and water management reclamation.

170 (9) To hold, control, and acquire by donation, purchase,  
171 or condemnation, any easement, reservation, or dedication in or  
172 out of the district, for any of the purposes herein provided. To  
173 condemn or acquire, by purchase or grant or by exercise of the  
174 right of eminent domain, for use in the district, any land or  
175 property within or without the district and acquire or condemn  
176 any other property within or without the district. To exercise  
177 the right of eminent domain as provided by chapters 73 and 74,  
178 Florida Statutes.

179 (10) To assess and impose ~~upon all of the lands in the~~  
180 ~~district~~ an annual assessment or drainage tax, an administrative  
181 ~~tax, and a maintenance tax~~ as hereinafter provided on all  
182 assessable property within the district for the purposes as  
183 herein provided.

184 (11) To impose and foreclose special assessment liens as  
185 hereinafter provided.

186 (12) To prohibit, regulate, and restrict by appropriate  
187 resolution all structures, materials, and things, whether solid,  
188 liquid, or gas, whether permanent or temporary in nature, which  
189 come upon, come into, connect to, or be a part of any of the  
190 main or lateral drains, ditches, canals, levees, dikes, dams,  
191 sluices, revetments, reservoirs, holding basins, floodways,  
192 pumping stations, and syphons which may have been heretofore  
193 created or may hereafter be created or hereafter constructed,  
194 and if deemed necessary, to take appropriate action as may be  
195 required of the district by another governmental agency having

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196 jurisdiction over the district. Notwithstanding the above, the  
197 district's designated water control elevations shall be  
198 maintained in accordance with the terms of the district's South  
199 Florida Water Management District permits and any agreements  
200 that may be entered into between the district, South Florida  
201 Water Management District, and any other governmental entity.  
202 When reviewing all submitted permit applications, including, but  
203 not limited to, all district projects, the district shall take  
204 into consideration the water control elevations in the design,  
205 construction, and maintenance of all drainage and water  
206 management facilities such that the design, construction, and  
207 maintenance within the district will not adversely impact the  
208 designated water control elevations.

209 (13) To administer and provide for the enforcement of all  
210 of the provisions herein, including the making, adopting,  
211 promulgating, amending, and repealing of all rules, criteria,  
212 and regulations necessary or convenient for the carrying out of  
213 the duties, obligations, and powers conferred on the district  
214 created herein.

215 (14) To cooperate with or contract with other drainage  
216 districts or other governmental agencies as may be necessary,  
217 convenient, incidental, or proper in connection with any of the  
218 powers, duties, or purposes of the district as stated in this  
219 act.

220 (15) To employ engineers, attorneys, agents, employees,  
221 and representatives as the board of commissioners may from time  
222 to time determine necessary and to fix their compensation and  
223 duties.

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224 (16) To exercise all of the powers necessary, convenient,  
 225 incidental, or proper in connection with any of the powers,  
 226 duties, or purposes of said district as stated in this act.

227 (17) To construct, improve, and maintain roadways and  
 228 roads necessary and convenient to provide access to and  
 229 efficient development of areas made suitable and available for  
 230 cultivation, settlement, urban subdivision, homesites, and other  
 231 beneficial developments as a result of the drainage and water  
 232 management operations of the district.

233 (18) To make use of any dedication to public use, ~~or~~  
 234 platted and dedicated easements, or reservations within or  
 235 without the boundaries of the district.

236 (19) To exercise any and all other powers conferred upon  
 237 drainage and water control districts by chapter 298, Florida  
 238 Statutes, including, but not limited to, the power to acquire  
 239 and construct drainage and water management improvements, to  
 240 issue bonds to pay the cost thereof, and to levy and collect  
 241 assessments and drainage taxes upon lands benefited by the  
 242 improvements.

243 Section 19. Annual budget.—Prior to the end of each fiscal  
 244 year ~~after this act is effective,~~ the treasurer of the board or  
 245 the secretary ~~or~~ director of the district shall prepare a  
 246 proposed budget to be submitted to the board for approval. The  
 247 proposed budget shall include an estimate of all necessary  
 248 expenditures of the district for the next ensuing fiscal year  
 249 and an estimate of income to the district from the taxes and  
 250 assessments provided in this act. The board shall consider the  
 251 proposed budget item by item and may either approve the budget

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252 as proposed by the treasurer or ~~secretary or~~ director or modify  
 253 the same in part or in whole. The board shall indicate their  
 254 approval of the budget by resolution, which resolution shall  
 255 provide for a hearing on the budget as approved. Notice of the  
 256 hearing on the budget shall be published in a newspaper of  
 257 general circulation in Broward County once a week for 2  
 258 consecutive weeks, provided that the second publication shall  
 259 not be less than 7 days after the first publication. The notice  
 260 shall be directed to all landowners in the district and shall  
 261 state the purpose of the meeting. The notice shall further  
 262 contain a designation of the date, time, and place of the public  
 263 hearing, which shall be not less than 7 days after the second  
 264 publication. At the time and place designated in the notice, the  
 265 board shall hear all objections to the budget as proposed, and  
 266 make such changes as the board deems necessary. At the  
 267 conclusion of the budget hearing the board shall, by resolution,  
 268 adopt the budget as finally approved by the board.

269 Section 21. Water control plan ~~of reclamation; proceedings~~  
 270 ~~thereon.~~—The district's water control plan for the drainage and  
 271 water management ~~reclamation~~ of lands which is in effect prior  
 272 to the effective date of this act shall remain in full force and  
 273 effect after the effective date of this act.

274 Section 22. Adoption, revision, and revocation of water  
 275 control plan ~~of reclamation.~~—In addition to and not in  
 276 limitation of its power to provide for and adopt a water control  
 277 ~~plan of reclamation~~ provided in section 21 and under chapter  
 278 298, Florida Statutes, and amendments thereto, the board may at  
 279 any time and from time to time adopt, revoke, or modify, in

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280 whole or in part, any water control plan ~~of reclamation~~ or any  
281 plan providing for the drainage and water management of lands  
282 within the district, and may provide for such new and additional  
283 drainage and water management facilities, canals, ditches,  
284 levees, and other works as the board may determine. In  
285 connection with the revision of any water control plan ~~of~~  
286 ~~reclamation~~ or the providing of any new or additional drainage  
287 and water management facilities, canals, ditches, levees, or  
288 other works, or in the event that the total taxes and  
289 assessments theretofore levied or the funds derived from the  
290 sale of bonds are insufficient to pay the cost of any drainage  
291 or water management works, benefits may be reassessed,  
292 additional assessments made, and taxes levied in accordance with  
293 the procedures provided in this act or in chapter 298, Florida  
294 Statutes. The board may at any time approve and make effective  
295 technical changes or modifications in any water control plan ~~of~~  
296 ~~reclamation or drainage~~ not affecting assessed benefits, levy of  
297 taxes, or the security of bondholders.

298 Section 23. Assessing land for drainage and water  
299 management ~~reclamation~~; apportionment of tax; ~~drainage~~ tax  
300 record.—The board shall, without any unnecessary delay, levy a  
301 tax of such portion of benefits of the district's water control  
302 plan ~~of reclamation~~ on all lands in the district to which  
303 benefits have been assessed, as may be found necessary by the  
304 board to pay the costs of the completion of the proposed works  
305 and water management and drainage improvements, as shown in said  
306 water control plan ~~of reclamation~~ and in carrying out the  
307 objectives ~~objects~~ of said district; and, in addition thereto,

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308 10 percent of said total amount for emergencies. The said tax  
309 shall be apportioned to, and levied on, each tract or parcel of  
310 land in said district ~~in proportion to the benefits assessed,~~  
311 ~~and not in excess thereof~~; and in case bonds are issued, as  
312 provided in this act, a tax shall be levied in a sum not less  
313 than an amount 90 percent of which shall be equal to the  
314 principal of said bonds. The amount of bonds to be issued for  
315 paying the cost of the works as set forth in the water control  
316 ~~plan of reclamation~~ shall be ascertained and determined by the  
317 board; however, the total amount of all bonds to be issued by  
318 the district shall in no case exceed 90 percent of the benefits  
319 assessed upon the lands of the district. The amount of the  
320 interest, as estimated by said board, which will accrue on such  
321 bonds, shall be included and added to the said tax, but the  
322 interest to accrue on account of the issuing of said bonds shall  
323 not be construed as a part of the costs of construction in  
324 determining whether or not the expenses and costs of making said  
325 improvements are equal to, or in excess of, the benefits  
326 assessed. The secretary or treasurer of the board, or the  
327 director, as soon as said total tax is levied, shall, at the  
328 expense of the district, prepare a list of all taxes ~~taxies~~  
329 levied, in the form of a well bound book, which book shall be  
330 endorsed and named "~~DRAINAGE~~ TAX RECORD OF SOUTH BROWARD  
331 DRAINAGE DISTRICT, BROWARD COUNTY, FLORIDA," which endorsement  
332 shall be printed or written at the top of each page in said  
333 book, and shall be signed and certified by the chairperson and  
334 secretary or treasurer of the board, attested by affixing the  
335 seal of the district, and the same shall thereafter become a

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336 permanent record in the office of said secretary, treasurer, or  
 337 director. In the alternative, so long as the Broward County  
 338 property appraiser or revenue collector assesses and collects  
 339 the taxes and assessments authorized by this section, the  
 340 records of the Broward County property appraiser shall satisfy  
 341 the requirements of the ~~drainage~~ tax record of the district.

342 Section 41. ~~Operation and Administrative, maintenance, and~~  
 343 operations tax.—To carry on the business of the district and to  
 344 pay the administrative, maintenance, and operational costs  
 345 thereof and in addition to any other tax or assessment  
 346 authorized to be levied, the district is authorized to levy a  
 347 tax on all the lands within the district as determined by the  
 348 board for said purpose. This tax shall be a lien until paid on  
 349 the property against which assessed and enforceable in like  
 350 manner as county taxes. The amount of the tax shall be  
 351 determined by the board based upon a report of the secretary or  
 352 treasurer of the board or the director and assessed by the board  
 353 upon such lands, which may be all of the lands within the  
 354 district. This tax shall be evidenced to and certified by the  
 355 board each year to the property appraiser and shall be entered  
 356 by the property appraiser on the county tax rolls and shall be  
 357 collected by the revenue collector in the same manner and time  
 358 as county taxes and the proceeds therefrom paid to the district.

359 ~~Section 42. Maintenance tax. To maintain and preserve the~~  
 360 ~~drainage improvements of the district, a maintenance tax shall~~  
 361 ~~be evidenced to and certified by the board each year to the~~  
 362 ~~property appraiser and shall be entered by the property~~  
 363 ~~appraiser on the county tax rolls and shall, be collected by the~~

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364 ~~revenue collector in the same manner and time as county taxes~~  
 365 ~~and the proceeds therefrom paid to the district. The tax shall~~  
 366 ~~be a lien until paid on the property against which assessed and~~  
 367 ~~enforceable in like manner as county taxes. The amount of said~~  
 368 ~~maintenance tax shall be determined by the board based upon a~~  
 369 ~~report of the chief engineer or director and assessed by the~~  
 370 ~~board upon such lands, which may be all of the lands within the~~  
 371 ~~district, benefited by the maintenance thereof.~~

372 Section 2. Sections 43 through 74 of section 2 of chapter  
 373 98-524, Laws of Florida, as amended by chapter 2007-308, Laws of  
 374 Florida, are renumbered as sections 42 through 73, respectively,  
 375 present section 45, subsection (1) of present section 46,  
 376 subsection (1) of present section 49, present sections 50, 52,  
 377 55, and 58, subsection (2) of present section 59, and present  
 378 sections 64, 65, 68, 70, and 72 are amended, and subsection (4)  
 379 is added to present section 62 of that section, to read:

380 Section 44 ~~45~~. Special assessments.—The board may provide  
 381 for the construction or reconstruction of assessable  
 382 improvements as defined in section 9, and for the levying of  
 383 special assessments upon benefited property for the payment  
 384 thereof, under provisions of this section. Such special  
 385 assessments may be levied and assessed in either of the  
 386 alternate methods provided in subsections (2) and (3), and  
 387 except for such procedure, all the other provisions of this  
 388 section and this act shall apply to levy of such special  
 389 assessments under either subsection (2) or subsection (3).

390 (1) The initial proceeding under subsection (2) or  
 391 subsection (3) shall be the passage by the board of a resolution



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392 ordering the construction or reconstruction of such assessable  
393 improvements, indicating the location by terminal points and  
394 routes and either giving a description of the improvements by  
395 its material, nature, character, and size or giving two or more  
396 descriptions with the directions that the material, nature,  
397 character, and size shall be subsequently determined in  
398 conformity with one of such descriptions. Drainage improvements  
399 need not be continuous and may be in more than one locality. The  
400 resolution ordering any such improvement may give any short and  
401 convenient designation to each improvement ordered thereby, and  
402 the property against which assessments are to be made for the  
403 cost of such improvement may give any short and convenient  
404 designation to each improvement ordered thereby, and the  
405 property against which assessments are to be made for the cost  
406 of such improvement may be designated as an assessment district,  
407 followed by a letter or number or name to distinguish it from  
408 other assessment districts, after which it shall be sufficient  
409 to refer to such improvement and property by such designation in  
410 all proceedings and assessments, except in the notices required  
411 by this section. As soon as possible after the passage of such  
412 resolution, ~~the engineer for~~ the district shall prepare, in  
413 duplicate, plans and specifications for each improvement ordered  
414 thereby and an estimate of the cost thereof. Such cost shall  
415 include, in addition to the items of cost as defined in this  
416 act, the cost of relaying streets and sidewalks necessarily torn  
417 up or damaged and the following items of incidental expenses:

- 418 (a) Printing and publishing notices and proceedings.
- 419 (b) Costs of abstracts of title.

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420 (c) Any other expense necessary or proper in conducting  
421 the proceedings and work provided for in this section, including  
422 the estimated amount of discount, if any, financial expenses  
423 upon the sale of assessment bonds or any other obligations  
424 issued hereunder for which such special assessment bonds or any  
425 other obligations issued hereunder for which such special  
426 assessments are to be pledged, and interest prior to and until  
427 not more than 2 years after the completion of said assessable  
428 improvements. If the resolution shall provide alternative  
429 descriptions of material, nature, character, and size, such  
430 estimate shall include an estimate of the cost of the  
431 improvement of each such description.

432  
433 The district ~~engineer~~ shall next prepare, in duplicate, a  
434 tentative apportionment of the estimated total cost of the  
435 improvement as between the district and each lot or parcel of  
436 land subject to special assessment under the resolution, such  
437 apportionment to be made in accordance with the provisions of  
438 the resolution and in relation to apportionment of cost provided  
439 herein for the preliminary assessment roll. Such tentative  
440 apportionment of total estimated cost shall not be held to limit  
441 or restrict the duties of the director ~~engineer~~ in the  
442 preparation of such preliminary assessment roll under subsection  
443 (2). One of the duplicates of such plans, specifications, and  
444 estimates and such tentative apportionment shall be filed with  
445 the secretary of the board and the other duplicate shall be  
446 retained by the director ~~engineer~~ in his or her files, all  
447 thereof to remain open to public inspection.

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448 (2) (a) If the special assessments are to be levied under  
449 this subsection, the secretary of the board, or the director,  
450 upon the filing with the secretary of such plans,  
451 specifications, estimates, and tentative apportionment of cost,  
452 shall publish once in a newspaper published in the county where  
453 the benefited land is located and of general circulation in the  
454 county, a notice stating that at a meeting of the board on a  
455 certain day and hour, not earlier than 15 days from such  
456 publication, the board will hear objections of all interested  
457 persons to the confirmation of such resolution, which notice  
458 shall state in brief and general terms a description of the  
459 proposed assessable improvements with the location thereof, and  
460 shall also state that plans, specifications, estimates, and  
461 tentative apportionment of cost thereof are on file with the  
462 secretary of the board or the director. A copy of the notice  
463 shall be mailed to the landowners of the land to be benefited by  
464 construction of the assessable improvements ~~improvement~~. The  
465 landowners shall be determined by reference to the last  
466 available tax roll of Broward County. The secretary of the board  
467 or the director shall keep a record in which shall be inscribed,  
468 at the request of any person, firm, or corporation having or  
469 claiming to have any interest in any lot or parcel of land, the  
470 name and post office address of such person, firm, or  
471 corporation, together with a brief description or designation of  
472 such lot or parcel, and it shall be the duty of the secretary of  
473 the board or the director to mail a copy of such notice to such  
474 person, firm, or corporation at such address at least 10 days  
475 before the time for the hearing as stated in such notice, but

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476 the failure of the secretary of the board or the director to  
477 keep such record or so to inscribe any name or address or to  
478 mail any such notice shall not constitute a valid objection to  
479 holding the hearing as provided in this section or to any other  
480 action taken under the authority of this section.

481 (b) At the time named in such notice, or to which an  
482 adjournment may be taken by the board, the board shall receive  
483 any objections of interested persons and may then or thereafter  
484 repeal or confirm such resolution with such amendments, if any,  
485 as may be desired by the board and which do not cause any  
486 additional property to be specially assessed.

487 (c) All objections to any such resolution on the ground  
488 that it contains items which cannot be properly assessed against  
489 property, or that it is, for any default or defect in the  
490 passage or character of the resolution or the plans or  
491 specifications or estimate, void or voidable in whole or in  
492 part, or that it exceeds the power of the board, shall be made  
493 in writing, in person or by attorney, and filed with the  
494 secretary of the board or the director at or before the time or  
495 adjourned time of such hearing. Any objections against the  
496 making of any assessable improvements not so made shall be  
497 considered as waived, and, if any objections shall be made and  
498 overruled or shall not be sustained, the confirmation of the  
499 resolution shall be the final adjudication of the issue  
500 presented unless proper steps shall be taken in a court of  
501 competent jurisdiction to secure relief within 20 days.

502 (d) Whenever any resolution providing for the construction  
503 or reconstruction of assessable improvements and for the levying

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504 of special assessments upon benefited property for the payment  
505 thereof has been confirmed, and the special assessments are  
506 levied under this subsection, or at any time thereafter, the  
507 board may issue assessment bonds payable out of such assessments  
508 when collected. Such bonds shall mature not later than 2 years  
509 after the maturity of the last annual installment in which the  
510 special assessments may be paid, as provided in subsection (4),  
511 and shall bear interest as provided by section 31. Such  
512 assessment bonds shall be executed, shall have such provisions  
513 for redemption prior to maturity, and shall be sold in the  
514 manner and be subject to all of the applicable provisions  
515 contained in this act applicable to other bonds, except as the  
516 same are inconsistent with the provisions of this section. The  
517 amount of such assessment bonds for any assessable improvement,  
518 prior to the confirmation of the preliminary assessment roll  
519 provided for in this subsection shall not exceed the estimated  
520 amount of the cost of such assessable improvements which are to  
521 be specially assessed against the lands and real estate referred  
522 to in this section.

523 (e) After the passage of the resolution authorizing the  
524 construction or reconstruction of assessable improvements has  
525 been confirmed where special assessments are levied under this  
526 subsection or after the final confirmation of the assessment  
527 roll where such assessments are levied under subsection (3), the  
528 board may publish at least once in a newspaper published and of  
529 general circulation in the county where the benefited land is  
530 located, a notice calling for sealed bids to be received by the  
531 board on a date not earlier than 15 days after the first

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532 publication for the construction of the work, unless in the  
533 initial resolution the board has declared its intention to have  
534 the work done by district forces without contract. The notice  
535 shall refer in general terms to the extent and nature of the  
536 improvements and may identify the same by the short designation  
537 indicated in the initial resolution and by reference to the  
538 plans and specifications on file. If the initial resolution has  
539 given two or more alternative descriptions of the assessable  
540 improvements as to its material, nature, character, and size,  
541 and, if the board has not theretofore determined upon a definite  
542 description, the notice shall call for bids upon each of such  
543 descriptions. Bids may be requested for the work as a whole or  
544 for any part thereof separately and bids may be asked for any  
545 one or more of such assessable improvements authorized by the  
546 same or different resolutions, but any bid covering work upon  
547 more than one improvement shall be in such form as to permit a  
548 separation of cost as to each improvement. The notice shall  
549 require bidders to file with their bids either a certified check  
550 drawn upon an incorporated bank or trust company in such amount  
551 or percentage of their respective bids, as the board deems  
552 advisable, or a bid bond in like amount with corporate surety  
553 satisfactory to the board to ensure the execution of a contract  
554 to carry out the work in accordance with such plans and  
555 specifications and ensure the filing, at the making of such  
556 contract, of a bond in the amount of the contract price with  
557 corporate surety satisfactory to the board conditioned for the  
558 performance of the work in accordance with such contract. The  
559 board shall have the right to reject any or all bids, and, if

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560 all bids are rejected, the board may readvertise or may  
 561 determine to do the work by the district forces without  
 562 contract.

563 (f) Promptly after the completion of the work, in the case  
 564 of special assessments levied under this subsection, the  
 565 director, or his or her designee ~~engineer for the district~~, who  
 566 is hereby designated as the official of the district to make the  
 567 preliminary assessment of benefits from assessable improvements,  
 568 shall prepare a preliminary assessment roll and file the same  
 569 with the secretary of the board which roll shall contain the  
 570 following:

571 1. A description of abutting lots and parcels of land or  
 572 lands which will benefit from such assessable improvements and  
 573 the amount of such benefits to each such lot or parcel of land.  
 574 There shall also be given the name of the owner of record of  
 575 each lot or parcel, where practicable, and, in all cases, there  
 576 shall be given a statement of the method of assessment used ~~by~~  
 577 ~~the engineer~~ for determining the benefits.

578 2. The total cost of the improvements and the amount of  
 579 incidental expense.

580 (g) The preliminary roll shall be advisory only and shall  
 581 be subject to the action of the board as hereafter provided.  
 582 Upon the filing with the secretary of the board or the director  
 583 of the preliminary assessment roll, the secretary of the board  
 584 or the director shall publish at least once in a newspaper  
 585 published and of general circulation in the county where the  
 586 benefited land is located, a notice stating that at a meeting of  
 587 the board to be held on a certain day and hour, not less than 15

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588 days after the date of such publication, which meeting may be a  
589 regular, adjourned, or special meeting, all interested persons  
590 may appear and file written objections to the confirmation of  
591 such roll. Such notice shall state the class of the assessable  
592 improvements and the location thereof by terminal points and  
593 route.

594 (h) At the time and place stated in such notice the board  
595 shall meet and receive the objections in writing of all  
596 interested persons as stated in such notice. The board may  
597 adjourn the hearing from time to time. After the completion  
598 thereof the board shall either annul or sustain or modify in  
599 whole or in part the prima facie assessment as indicated on such  
600 roll, either by confirming the prima facie assessment against  
601 any or all lots or parcels described therein or by canceling,  
602 increasing, or reducing the same, according to the special  
603 benefits which the board decides each lot or parcel has received  
604 or will receive on account of such improvement. If any property  
605 which may be chargeable under this section has been omitted from  
606 the preliminary roll or if the prima facie assessment has not  
607 been made against it, the board may place on such roll an  
608 apportionment to such property. The board shall not confirm any  
609 assessment in excess of the special benefits to the property  
610 assessed, and the assessments so confirmed shall be in  
611 proportion to the special benefits. Forthwith after such  
612 confirmation such assessment roll shall be delivered to the  
613 secretary of the board or the director. The assessment so made  
614 shall be final and conclusive as to each lot or parcel assessed  
615 unless proper steps be taken within 30 days in a court of



616 competent jurisdiction to secure relief. If the assessment  
 617 against any property shall be sustained or reduced or abated by  
 618 the court, the secretary of the board or the director shall note  
 619 that fact on the assessment roll opposite the description of the  
 620 property affected thereby. The amount of the special assessment  
 621 against any lot or parcel which may be abated by the court,  
 622 unless the assessment upon all benefited property be abated, or  
 623 the amount by which such assessment is so reduced, may, by  
 624 resolution of the board, be made chargeable against the district  
 625 at large; or, at the discretion of the board, a new assessment  
 626 roll may be prepared and confirmed in the manner herein provided  
 627 for the preparation and confirmation of the original assessment  
 628 roll.

629 (i) Pending the final confirmation of such special  
 630 assessments in the manner provided in this subsection, the  
 631 district shall have a lien on all such lands and real estate  
 632 after the passage of the initial resolution, subject, however,  
 633 to the final confirmation thereof in the manner provided in this  
 634 subsection.

635 (3) (a) The district ~~engineer~~, under the procedure provided  
 636 for in this subsection shall next, after passage of the initial  
 637 resolution and filing of the plans and estimates of cost ~~by the~~  
 638 ~~district engineer~~, prepare an assessment roll for the district  
 639 in duplicate, which assessment roll shall contain an  
 640 apportionment of the estimated total cost of the improvement as  
 641 between the district and each lot or parcel of land subject to  
 642 the special assessment under the initial resolution, such  
 643 apportionment to be made in accordance with the provisions of

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644 the initial resolution. One of the duplicates of said assessment  
645 roll shall be filed with the secretary of the board and the  
646 other duplicate shall be retained by the director ~~district~~  
647 ~~engineer~~ in his or her files, all thereof to remain open to  
648 public inspection.

649 (b) Upon the completion and filing of said assessment  
650 roll, the secretary ~~of~~ ~~to~~ the board or the director shall cause  
651 a copy thereof to be published once in a newspaper published in  
652 the county where the benefited land is located and of general  
653 circulation in the county, together with a notice directed to  
654 all property owners interested in the special assessments  
655 stating that at a meeting of the board on a certain day and  
656 hour, not earlier than 15 days after such publication, the board  
657 sitting as an equalizing board, will hear objections of all  
658 interested persons to the final confirmation of such assessment  
659 roll, and will finally confirm such assessment roll or take such  
660 action relative thereto as it deems necessary and advisable. A  
661 copy of the notice shall be mailed to the landowners of the land  
662 to be benefited by construction of the assessable improvements  
663 ~~improvement~~. The landowners shall be determined by reference to  
664 the last available tax roll of Broward County. The secretary of  
665 the board or the director shall keep a record in which shall be  
666 inscribed, at the request of any person, firm, or corporation  
667 having or claiming to have any interest in any lot or parcel of  
668 land, the name and post office address of such ~~each~~ person,  
669 firm, or corporation, together with a brief description or  
670 designation of such lot or parcel, and it shall be the duty of  
671 the secretary of the board or the director to mail a copy of

672 such notice to such person, firm, or corporation at such address  
 673 at least 10 days before the time for the hearing as stated in  
 674 such notice, but the failure of the secretary of the board or  
 675 the director to keep such record or so to inscribe any name or  
 676 address or to mail any such notice shall not constitute a valid  
 677 objection to holding the hearing as provided in this section or  
 678 to any other action taken under the authority of this section.

679 (c) At the time and place named in the notice provided for  
 680 in paragraph (b), the board shall meet as an equalizing board to  
 681 hear and consider any and all complaints as to the special  
 682 assessments, and shall adjust and equalize the special  
 683 assessments on a basis of justice and right, and, when so  
 684 equalized and approved, such special assessment shall stand  
 685 confirmed and remain legal, valid, and binding liens upon the  
 686 properties upon which such special assessments are made, until  
 687 paid in accordance with the provisions of this act. However,  
 688 upon the completion of the improvements, if the actual cost of  
 689 the assessable improvements is less than the amount of such  
 690 special assessments levied, the district shall rebate to the  
 691 owners of any properties which shall have been specially  
 692 assessed for the assessable improvements the difference in the  
 693 special assessments as originally made, levied, and confirmed,  
 694 and the proportionate part of the actual cost of said assessable  
 695 improvements as finally determined upon the completion of said  
 696 assessable improvements. In the event that the actual cost of  
 697 said assessable improvements shall be more than the amount of  
 698 the special assessments confirmed, levied, and as finally  
 699 determined upon the completion of said assessable improvements,

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700 the proportionate part of such excess cost of such assessable  
701 improvements may be levied against all of the lands and  
702 properties against which such special assessments were  
703 originally levied, or, in the alternative, the board may, in its  
704 discretion, pay such excess cost from any legally available  
705 funds.

706 (d) All objections to any such assessment roll on the  
707 ground that it contains items which cannot be properly assessed  
708 against property, or that it is, for any default or defect in  
709 the passage or character of the assessment roll or the plans or  
710 specifications or estimate, void or voidable in whole or in  
711 part, or that it exceeds the power of the board, shall be made  
712 in writing, in person or by attorney, and filed with the  
713 secretary of the board or the director at or before the time or  
714 adjourned time of such hearing on the assessment roll. Any  
715 objections against the making of any assessable improvements not  
716 so made shall be considered as waived, and, if any objections  
717 shall be made and overruled or shall not be sustained, the  
718 confirmation of the assessment roll shall be the final  
719 adjudication of the issue presented unless proper steps are  
720 taken in a court of competent jurisdiction to secure relief  
721 within 20 days.

722 (e) All the provisions of subsection (2) not inconsistent  
723 with this subsection shall apply to the levy of special  
724 assessments under this subsection.

725 (4) (a) Any assessment may be paid at the office of the  
726 secretary of the board or the director within 60 days after the  
727 confirmation thereof, without interest. Thereafter all

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728 assessments shall be payable in equal installments, with  
 729 interest as provided by section 31 from the expiration of the 60  
 730 days in each of the succeeding number of years which the board  
 731 shall determine by resolution, not exceeding 20. However, the  
 732 board may provide that any assessment may be paid at any time  
 733 before due, together with interest accrued thereon to the date  
 734 of payment, if such prior payment shall be permitted by the  
 735 proceedings authorizing any assessment bonds or other  
 736 obligations for the payment of which such special assessments  
 737 have been pledged.

738 (b) All such special assessments levied pursuant to this  
 739 act may, in the discretion of the board, be collected by the  
 740 revenue collector of the county at the same time as the general  
 741 county taxes are collected by the revenue collector of the  
 742 county, and the board shall in such event certify to the county  
 743 revenue collector and county property appraiser in each year a  
 744 list of all such special assessments and a description of, and  
 745 names of the owners of, the properties against which such  
 746 special assessments have been levied and the amounts due thereon  
 747 in such year, and interest thereon for any deficiencies for  
 748 prior years. The amount to be so certified by the board to the  
 749 county revenue collector and county property appraiser to be  
 750 collected in such year may include, in the discretion of the  
 751 board, the principal installment of such special assessments  
 752 which will become due at any time in the next succeeding fiscal  
 753 year, and all or any part of the interest which will become due  
 754 on such special assessments during such next fiscal year,  
 755 together with any deficiencies for prior years.

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756 (c) The board may, in lieu of providing for the collection  
757 of the special assessments by the revenue collector of the  
758 county, provide for the collection of said special assessments  
759 by the district under such terms and conditions as the board  
760 shall determine. In such event, the bills or statements for the  
761 amounts due in any fiscal year shall be mailed to the owners of  
762 all properties affected by such special assessments at such time  
763 or times as the board shall determine and such bills or  
764 statements may include all or any part of the principal and  
765 interest which will mature and become due on the annual  
766 installments of such special assessments during the fiscal year  
767 in which installments of such assessments are payable.

768 (d) All charges of the county revenue collector, the  
769 county property appraiser, or ~~of~~ the district, and the fees,  
770 costs, and expenses of any paying agents, trustees, or other  
771 fiduciaries for assessment bonds issued under this act, are  
772 deemed to be costs of the operation and maintenance of any  
773 drainage improvements in connection with which such special  
774 assessments were levied and the board shall be authorized and  
775 directed to provide for the payment each year of such costs of  
776 collection, fees, and other expenses from the administrative,  
777 maintenance, and operations tax as provided in this act as shall  
778 be mutually agreed upon between the board and the county revenue  
779 collector and county property appraiser as additional  
780 compensation for their ~~his or her~~ services for each such  
781 assessment district in which the special assessments are  
782 collected ~~by him or her~~.

783 (e) All assessments shall constitute a lien upon the

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784 | property so assessed, from the date of final confirmation  
 785 | thereof, of the same nature and to the same extent as the lien  
 786 | for general county taxes falling due in the same year or years  
 787 | in which such assessments or installments thereof fall due, and  
 788 | any assessment or installment not paid when due shall be  
 789 | collectible with such interest and with a reasonable attorney's  
 790 | fee and costs, but without penalties, by the district by  
 791 | proceedings in a court of equity to foreclose the line of  
 792 | assessments as a lien for mortgages is or may be foreclosed  
 793 | under the laws of the state; provided that any such proceedings  
 794 | to foreclose shall embrace all installments of principal  
 795 | remaining unpaid with accrued interest thereon, which  
 796 | installments shall, by virtue of the institution of such  
 797 | proceedings, immediately become due and payable. Nevertheless,  
 798 | if, prior to any sale of the property under decree of  
 799 | foreclosure in such proceedings, payment be made of the  
 800 | installment or installments which are shown to be due under the  
 801 | provisions of subsection ~~subsections~~ (2) or subsection (3), and  
 802 | by this subsection, and all costs, including interest and  
 803 | attorney's fees, such payment shall have the effect of restoring  
 804 | the remaining installments to their original maturities as  
 805 | provided by the resolution passed pursuant to this subsection  
 806 | and the proceedings shall be dismissed. It shall be the duty of  
 807 | the board to enforce the prompt collection of assessment by the  
 808 | means herein provided, and such duty may be enforced at the suit  
 809 | of any holder of bonds issued under this act in a court of  
 810 | competent jurisdiction by mandamus or other appropriate  
 811 | proceedings or action. Not later than 30 days after the annual

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812 | installments are due and payable, it shall be the duty of the  
 813 | board to direct the attorney for the district to institute  
 814 | actions within 2 months after such direction to enforce  
 815 | collection of all special assessments for assessable  
 816 | improvements made under this section and remaining due and  
 817 | unpaid at the time of such direction. Such action shall be  
 818 | prosecuted in the manner and under the conditions in and under  
 819 | which mortgages are foreclosed under the laws of the state. It  
 820 | shall be lawful to join in one action the collection of  
 821 | assessments against any or all property assessed by virtue of  
 822 | the same assessment roll unless the court shall deem such  
 823 | joinder prejudicial to the interest of any defendant. The court  
 824 | shall allow a reasonable attorney's fee for the attorney for the  
 825 | district, and the same shall be collectible as a part of or in  
 826 | addition to the costs of the action. At the sale pursuant to  
 827 | decree in any such action, the district may be a purchaser to  
 828 | the same extent as an individual person or corporation, except  
 829 | that the part of the purchase price represented by the  
 830 | assessments sued upon and the interest thereon need not be paid  
 831 | in cash. Property so acquired by the district may be sold or  
 832 | otherwise disposed of.

833 |       (f) All assessments and charges made under the provisions  
 834 | of this section for the payment of all or any part of the cost  
 835 | of any assessable improvements for which assessment bonds shall  
 836 | have been issued under the provisions of this act, or which have  
 837 | been pledged as additional security for any other bonds or  
 838 | obligations issued under this act, shall be used only for the



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839 payment of principal or interest on such assessment bonds or  
 840 other bonds or obligations issued under this act.

841 Section 45 ~~46~~. Issuance of certificates of indebtedness  
 842 based on assessments for assessable improvements; assessment  
 843 bonds.—

844 (1) The board may, after any assessments for assessable  
 845 improvements are made, determined, and confirmed as provided in  
 846 section 44 ~~45~~, issue certificates of indebtedness for the amount  
 847 so assessed against the abutting property or property otherwise  
 848 benefited, as the case may be, and separate certificates shall  
 849 be issued against each part or parcel of land or property  
 850 assessed, which certificates shall state the general nature of  
 851 the improvement for which the said assessment is made. Said  
 852 certificates shall be payable in annual installments in  
 853 accordance with the installments of the special assessment for  
 854 which they are issued. The board may determine the interest to  
 855 be borne by such certificates as provided by section 31, and may  
 856 sell such certificates at either private or public sale and  
 857 determine the form, manner of execution, and other details of  
 858 such certificates. Such certificates shall recite that they are  
 859 payable only from the special assessments levied and collected  
 860 from the part or parcel of land or property against which they  
 861 are issued. The proceeds of such certificates may be pledged for  
 862 the payment of principal of and interest on any revenue bonds or  
 863 general obligation bonds issued to finance in whole or in part  
 864 such assessable improvement, or, if not so pledged, may be used  
 865 to pay the cost or part of the cost of such assessable  
 866 improvements.

867 Section ~~48~~ 49. Changing boundary lines; annexation and  
 868 exclusion of lands.—

869 (1) Whenever the owners of a majority of the acreage of  
 870 the land within a prescribed area adjacent to the boundaries of  
 871 the district petitions the board to include a specific area of  
 872 lands within the boundaries of the district or when the board by  
 873 resolution proposes that an area of land adjacent to the  
 874 boundaries of the district be included within the boundaries of  
 875 the district, the board shall publish a notice once a week for 2  
 876 consecutive weeks in a newspaper of general circulation  
 877 published in Broward County describing the boundaries of the  
 878 area which is proposed to be taken into the boundaries of the  
 879 district. The notice shall be directed to the landowners within  
 880 the area proposed to be taken into the boundaries of the  
 881 district and shall direct said landowners to show cause in  
 882 writing before the board at a time and place to be stated in  
 883 such notice why such area of land should not be brought into the  
 884 boundaries of the district and why the proceedings and powers  
 885 authorized by this act should not be exercised by the board. At  
 886 the time and place stated in said notice, the board shall hear  
 887 all objections of any landowner within the area proposed to be  
 888 taken into the boundaries of the district and if no objections  
 889 are made or if said objections, if made, are overruled by the  
 890 board, the board shall enter in its minutes its findings and  
 891 adopt a final resolution of annexation confirming the new  
 892 boundaries of the district as they may be extended. Thereafter,  
 893 the board may proceed with the development, drainage, and water  
 894 management ~~reclamation~~ of the new area of land brought into the

895 | district. If the board shall overrule any landowners' objections  
 896 | as provided herein or if such landowner shall deem himself or  
 897 | herself aggrieved by the aforesaid action of the board, such  
 898 | landowner may within 20 days after the board adopts its final  
 899 | resolution of annexation invoke the jurisdiction of the circuit  
 900 | court for Broward County. When said resolution annexing the new  
 901 | area to the boundaries of the district shall have been adopted  
 902 | by the board, or by a court of competent jurisdiction if such  
 903 | proposed action shall have been challenged by a landowner by the  
 904 | judicial proceedings hereinabove authorized, the board may adopt  
 905 | a water control plan ~~of reclamation~~ for the newly annexed area  
 906 | and thereafter proceed in a like manner as prescribed in this  
 907 | act. Upon the adoption of the final resolution of annexation,  
 908 | all provisions of this act shall apply to the newly annexed area  
 909 | of land. Lands lying within the boundaries of the district may  
 910 | be deannexed in the same manner as the procedure for annexation.

911 | Section ~~49~~ 50. Unit development; powers of board to  
 912 | designate units of district and adopt system of progressive  
 913 | drainage by units; water control plans ~~of reclamation~~ and  
 914 | financing assessments for each unit; amendment of unit plan.—

915 | (1) The board is authorized in its discretion to drain and  
 916 | provide water management ~~reclaim~~ and place under water control  
 917 | or more completely and intensively to drain and provide water  
 918 | management ~~reclaim~~ and place under water control the lands in  
 919 | the district by designated areas or parts of the district to be  
 920 | called "units." The units into which the district may be so  
 921 | divided shall be given appropriate numbers or names by the  
 922 | board, so that the units may be readily identified and

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923 distinguished. The board shall have the power to fix and  
924 determine the location, area, and boundaries of lands to be  
925 included in each and all such units, the order of development  
926 thereof, and the method of carrying on the work in each unit.  
927 The unit system of drainage and water management provided by  
928 this section may be conducted and all of the proceedings by this  
929 section and this act authorized in respect to such unit or units  
930 may be carried on and conducted at the same time as or after the  
931 work of draining and providing water management for ~~reclaiming~~  
932 ~~of~~ the entire district has been or is being or shall be  
933 instituted or carried on under the provisions of this act or  
934 under chapter 298, Florida Statutes, or both.

935 (2) If the board determines that it is ~~it~~ advisable to  
936 conduct the work of draining and providing water management for  
937 ~~reclaiming~~ the lands in the district by units, as authorized by  
938 this section, the board shall, by resolution, declare its  
939 purpose to conduct such work accordingly, and shall fix the  
940 number, location, and boundaries of and description of lands  
941 within such unit or units and give them appropriate numbers or  
942 names. The entire district may also be designated as a unit for  
943 the proper allocation of such part of the water control and  
944 drainage plan ~~of reclamation and drainage~~ as benefits the entire  
945 district.

946 (3) As soon as practicable after the adoption of such  
947 resolution, the board shall publish notice once a week for 2  
948 consecutive weeks in a newspaper or newspapers published and of  
949 general circulation in Broward County, briefly describing the  
950 units into which the district has been divided and the lands

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951 embraced in each unit, giving the name, number, or other  
952 designation of such units, requiring all owners of lands in the  
953 district to show cause in writing before the board at a time and  
954 place to be stated in such notice why such division of the  
955 district into such units should not be approved, and the system  
956 of development by units should not be adopted and given effect  
957 by the board, and why the proceedings and powers authorized by  
958 this section should not be had, taken, and exercised. At the  
959 time and place stated in the notice, the board shall hear all  
960 objections or causes of objection, all of which shall be in  
961 writing, of any landowner in the district who may appear in  
962 person or by attorney, to the matters mentioned and referred to  
963 in such notice, and, if no objections are made, or, if  
964 objections are made and overruled by the board, then the board  
965 shall enter in its minutes its finding and order confirming the  
966 resolution, and may thereafter proceed with the development,  
967 drainage, and water management ~~reclamation~~ of the district by  
968 units pursuant to such resolution and to the provisions of this  
969 act. The failure to make objections as provided in this  
970 subsection shall constitute a waiver of such objection, and, if  
971 any objection shall be made and overruled or otherwise not  
972 sustained, confirmation of the resolution shall be the final  
973 adjudication of the issues presented unless a judicial  
974 proceeding is initiated within 10 days after such ruling.

975 (4) The board may, as a result of any objections or of  
976 other matters brought forth at such hearing, modify or amend  
977 said resolution in whole or in part, confirm said resolution  
978 after overruling all objections, or reject said resolution and,

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979 | if such resolution is confirmed, modified, or amended, may  
 980 | proceed thereafter in accordance with said resolution as  
 981 | confirmed, modified, or amended. The sustaining of such  
 982 | objections and the rescinding of such resolutions shall not  
 983 | exhaust the power of the board under this section, but the board  
 984 | may at any time adopt other resolutions under this section and  
 985 | thereupon proceed on due notice in like manner as provided in  
 986 | this section. If the board shall overrule or refuse to sustain  
 987 | any such objections in whole or in part made by any landowner in  
 988 | the district, or if any such landowner shall deem himself or  
 989 | herself aggrieved by any action of the board in respect to any  
 990 | objections so filed, such landowner may, within 10 days after  
 991 | the ruling of the board, invoke the jurisdiction of the circuit  
 992 | court for the 17th circuit; and such suits shall be conducted  
 993 | like other chancery suits, except that said suits shall have  
 994 | preference over all other pending actions except criminal  
 995 | actions and writs of habeas corpus.

996 |       (5) When the resolutions creating the unit system shall be  
 997 | confirmed by the board, or by the circuit court, if such  
 998 | proposed action shall be challenged by a landowner by the  
 999 | judicial proceedings authorized in this section, the board may  
 1000 | adopt a water control plan or plans ~~of reclamation~~ for and in  
 1001 | respect to any or all such units, and to have the benefits and  
 1002 | damages resulting therefrom assessed and apportioned in like  
 1003 | manner as is provided by chapter 298, Florida Statutes, in  
 1004 | regard to water control plans ~~of reclamation~~ for the assessments  
 1005 | of benefits and damages of the entire district, or in like  
 1006 | manner as is provided for in this act for the assessments of

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1007 | benefits. The board shall have the same powers in respect to  
 1008 | each and all of such units as is vested in them with respect to  
 1009 | the entire district. All the provisions of this act shall apply  
 1010 | to the drainage, water management ~~reclamation~~, and improvement  
 1011 | of each, any, and all such units, and the enumeration of or  
 1012 | reference to specific powers or duties of the commissioners or  
 1013 | any other officers or other matters in this act, as set forth in  
 1014 | this act, shall not limit or restrict the application of any and  
 1015 | all of the proceedings and powers herein to the drainage and  
 1016 | water management ~~reclamation~~ of such units as fully and  
 1017 | completely as if such unit or units were specifically and  
 1018 | expressly named in every section and clause of this act where  
 1019 | the entire district is mentioned or referred to. Unless the  
 1020 | board by resolution otherwise provides, all assessments, levies,  
 1021 | taxes, bonds, and other obligations made, levied, assessed, or  
 1022 | issued for or in respect to any such unit or units shall be a  
 1023 | lien and charge solely and only upon the lands in such unit or  
 1024 | units, respectively, for the benefit of which the same shall be  
 1025 | levied, made, or issued, and not upon the remaining units or  
 1026 | lands in the district.

1027 |         (6) The board may at any time amend its resolution by  
 1028 | changing the location and description of lands in any unit or  
 1029 | units, provided that if the location of or description of lands  
 1030 | located in any unit or units is so changed, notice of the change  
 1031 | shall be published as required in this section for notice of the  
 1032 | formation or organization of such unit or units, and all  
 1033 | proceedings shall be had and done in that regard as are provided  
 1034 | in this section for the original creation of such unit or units.

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1035 (7) If, after the determination of benefits with respect  
1036 to any unit or units or the issuance of bonds or other  
1037 obligations which are payable from taxes or assessments for  
1038 benefits levied upon lands within such unit or units, the board  
1039 finds the water control plan ~~of reclamation~~ of any such unit or  
1040 units insufficient or inadequate for efficient development, the  
1041 water control plan ~~of reclamation~~ may be amended or changed as  
1042 provided in chapter 298, Florida Statutes, or as provided in  
1043 this act, and the unit or units may be amended or changed as  
1044 provided in this section by changing the location and  
1045 description of lands in such unit or units or by detaching lands  
1046 therefrom or by adding lands thereto, but only upon the approval  
1047 or consent of not less than the holders of a majority in  
1048 principal amount of such bonds or other obligations, or such  
1049 other percentage as may be required by the terms of such bonds  
1050 or other obligations, or without such consent or approval, if  
1051 the proceedings authorizing such bonds provide that such action  
1052 may be taken without the consent or approval of the holders  
1053 thereof. In the event of such amendment or change, all  
1054 assessments, levies, taxes, bonds, or other obligations made,  
1055 levied, assessed, incurred, or issued for or in respect to any  
1056 such unit or units shall be allocated and apportioned to the  
1057 amended unit or units in proportion to the benefits assessed  
1058 with respect to the amended water control plan ~~of reclamation~~.  
1059 In the event of the change of the boundaries of any unit as  
1060 provided in this section and the allocation and apportionment to  
1061 the amended unit or units or assessments, levies, taxes, bonds,  
1062 and other obligations in proportion to the benefits assessed for

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1063 the amended water control plan ~~of reclamation~~, the holders of  
 1064 bonds or other obligations hereafter issued for the original  
 1065 unit shall be entitled to all rights and remedies against any  
 1066 lands added to the amended unit or units as fully and to the  
 1067 same extent as if such added lands had formed and constituted a  
 1068 part of the original unit or units at the time of the original  
 1069 issuance of such bonds or other obligations, and regardless of  
 1070 whether the holders of such bonds or other obligations are the  
 1071 original holders thereof or the holders from time to time  
 1072 hereafter, and the rights and remedies of such holders against  
 1073 the lands in the amended unit or units, including any lands  
 1074 added thereto, under such allocation and apportionment, shall  
 1075 constitute vested and irrevocable rights and remedies to the  
 1076 holders from time to time of such bonds or other obligations as  
 1077 fully and to the same extent as if such bonds or other  
 1078 obligations had been originally issued to finance the  
 1079 improvements in such amended unit or units under such amended  
 1080 water control plan ~~of reclamation~~. Conversely, in the event of  
 1081 the change of the boundaries of any unit wherein lands are  
 1082 detached therefrom, as provided for in this section, said lands  
 1083 so detached shall be relieved and released from any further  
 1084 liability for the assessment, levy, or payment of any taxes for  
 1085 the purpose of paying the principal or interest on any bonds  
 1086 originally issued for the original unit from which said lands  
 1087 were detached.

1088 Section 51 ~~52~~. Mandatory use of certain district  
 1089 facilities and services.—The district may require all lands,  
 1090 buildings, and premises, and all persons, firms, and

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1091 corporations, within the district to use the drainage and water  
 1092 management ~~reclamation~~ facilities of the district. Subject to  
 1093 such exceptions as may be provided by the resolutions, rules, or  
 1094 bylaws of the board, and subject to the terms and provisions of  
 1095 any resolution authorizing any bonds and agreements with  
 1096 bondholders, no drainage or water management ~~and reclamation~~  
 1097 facilities shall be constructed or operated within the district  
 1098 unless the board gives consent thereto and approves the plans  
 1099 and specifications therefor. The violation of the foregoing  
 1100 requirements is declared to be a criminal offense and  
 1101 misdemeanor within the meaning of s. 775.08, Florida Statutes,  
 1102 and shall be punishable as provided by general law.

1103 Section 54 ~~55~~. Maintenance and operation of projects and  
 1104 drainage and water management facilities ~~across rights-of-ways.~~  
 1105 The district shall have the power to construct, maintain, and  
 1106 operate its projects and drainage and water management  
 1107 facilities in, along, on, or under any dedications to the  
 1108 public, platted or dedicated rights-of-way, platted or dedicated  
 1109 reservations, streets, easements, water management areas,  
 1110 alleys, highways, or other public places or ways, and across any  
 1111 drain, ditch, canal, floodway, holding basin, excavation,  
 1112 railroad right-of-way, easement, reservation, water management  
 1113 area, track, grade, fill, or cut, within or without the  
 1114 district.

1115 Section 57 ~~58~~. Fees, rentals, tolls, fares, and charges;  
 1116 procedure for adoption and modification; minimum revenue  
 1117 requirements.—The district shall have the power to prescribe,  
 1118 fix, establish, and collect rates, fees, rentals, tolls, fares,

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1119 or other charges, hereinafter sometimes referred to as  
 1120 "revenues," and to revise the same from time to time, for the  
 1121 facilities and services furnished or to be furnished by the  
 1122 district, including, but not limited to, drainage and water  
 1123 management facilities.

1124 Section 58 ~~59~~. Subdivision regulation.-

1125 (2) Any division of a parcel of land as a subdivision as  
 1126 defined in this act shall be subject to such plat and  
 1127 subdivision regulations hereafter adopted, amended, or modified  
 1128 by the district under the authority of law. Such regulations may  
 1129 provide for streets in the subdivision to be of such width,  
 1130 grade, and location as to facilitate drainage and water  
 1131 management; provide that adequate easements and rights-of-way be  
 1132 provided for drainage and water management and that the lay-out  
 1133 of the subdivision conform to the comprehensive water control  
 1134 plan for drainage and water management for the area; and provide  
 1135 for the drainage and water management requirements to be met.  
 1136 The district shall not approve any subdivision plat unless the  
 1137 land included within the subdivision is suitable or shall be  
 1138 made suitable to the various purposes for which it is intended  
 1139 to be used, and, in particular, unless all land intended for  
 1140 building sites can be used safely for building purposes, without  
 1141 the danger from flood or other inundation, or from any such  
 1142 menace to health, safety, or public welfare. ~~After the effective~~  
 1143 ~~date of this act,~~ It shall be unlawful for anyone being an  
 1144 owner, or agent of an owner, of any land to transfer, sell,  
 1145 agree to sell, or negotiate to sell such land by reference to,  
 1146 or exhibition of, or by any other use of a plat or subdivision

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1147 | of such land, without having submitted a plat of such  
 1148 | subdivision to the district and obtaining its approval as  
 1149 | required by this act. The unlawful use of a plat by the owner,  
 1150 | or the agent of the owner, of such land before it is properly  
 1151 | approved by the district is declared to be a criminal offense  
 1152 | and misdemeanor within the meaning of s. 775.08, Florida  
 1153 | Statutes, and shall be punishable as provided by general law.  
 1154 | The description by metes and bounds in the instrument of  
 1155 | transfer or other document used in the process of transferring  
 1156 | shall not exempt the transaction from such penalties.

1157 |       Section 61 ~~62~~. Obstructions, damage, and destruction  
 1158 | prohibited; damages; enforcement; and penalties.-

1159 |       (4) A person may not willfully, or otherwise, obstruct any  
 1160 | canal, drain, ditch, watercourse, or water management area or  
 1161 | destroy any drainage works constructed in or maintained by the  
 1162 | district or obstruct or damage any easement, right-of-way, or  
 1163 | other property dedicated to the district or the public or fail  
 1164 | to comply with the district's 5-year recertification program  
 1165 | rules, criteria, or regulations.

1166 |       Section 63 ~~64~~. Bailey Drainage District abolished and  
 1167 | assets transferred to South Broward Drainage District.-That  
 1168 | effective October 1, 1992, the Bailey Drainage District hereto  
 1169 | created by the Florida Legislature pursuant to chapter 67-950,  
 1170 | Laws of Florida, and amendments thereto, was abolished. Except  
 1171 | as provided by sections 67 and 68 ~~and 69~~, the easements, rights-  
 1172 | of-way, dikes, ditches, facilities, equipment, files, papers,  
 1173 | plans, and all other assets, real or personal, of whatever  
 1174 | description and wheresoever situate of said Bailey Drainage

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1175 District, on October 1, 1992, were surrendered to the Board of  
 1176 Supervisors of the South Broward Drainage District and such  
 1177 easements, rights-of-way, dikes, ditches, facilities, equipment,  
 1178 files, papers, plans, and all other assets of the Bailey  
 1179 Drainage District shall, by operations and provisions of this  
 1180 section of this law, become and remain easements, rights-of-way,  
 1181 dikes, ditches, facilities, equipment, files, papers, plans, and  
 1182 all other assets of the South Broward Drainage District.

1183 Section 64 ~~65~~. Bailey Drainage District powers,  
 1184 indebtedness, and liabilities transferred to South Broward  
 1185 Drainage District.—Commencing on October 1, 1992, all powers,  
 1186 duties, responsibilities, obligations, and functions of Bailey  
 1187 Drainage District except as stated in sections 67 and 68 and ~~69~~,  
 1188 shall be performed by South Broward Drainage District and South  
 1189 Broward Drainage District shall assume all indebtedness of  
 1190 Bailey Drainage District. Commencing on October 1, 1992, except  
 1191 as stated in sections 67 and 68 and ~~69~~, South Broward Drainage  
 1192 District shall assume all liabilities of Bailey Drainage  
 1193 District both known and unknown as of October 1, 1992.

1194 Section 67 ~~68~~. Bailey Drainage District road right-of-way  
 1195 and responsibility for roadways transferred to Board of  
 1196 Commissioners of Broward County.—Notwithstanding the provisions  
 1197 of sections 63, 64, 65, and 66, and ~~67~~, the South Broward  
 1198 Drainage District shall have no requirements or responsibility  
 1199 for maintaining or improving any roadways located within the  
 1200 lands described in section 62, ~~63~~ and on October 1, 1992, all  
 1201 road rights-of-way described in section 68 ~~69~~ along with the  
 1202 roadways constructed therein were surrendered to the Board of

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1203 Commissioners of Broward County and by operation and provisions  
 1204 of this section became and shall remain rights-of-way and  
 1205 property of Broward County, subject to all drainage easements  
 1206 previously dedicated to Bailey Drainage District which as of  
 1207 October 1, 1992, are drainage easements of South Broward  
 1208 Drainage District.

1209 Section 69 ~~70~~. Broward County responsible for operation  
 1210 and maintenance of roadways within lands described in section 68  
 1211 ~~69~~.—Pursuant to the provisions of chapters 335 and 336, Florida  
 1212 Statutes, Broward County shall, from October 1, 1992, be the  
 1213 governmental entity responsible for operation and maintenance of  
 1214 all roads within the lands described in section 62 ~~63~~ and  
 1215 located within the right-of-way described in section 68 ~~69~~, said  
 1216 roads to be part of the Broward County road system.

1217 Section 71 ~~72~~. South Broward Drainage District to have all  
 1218 of its power and authority and jurisdiction over lands described  
 1219 in section 62 ~~63~~.—Commencing on October 1, 1992, the South  
 1220 Broward Drainage District shall have all of the powers and  
 1221 authority and jurisdiction over and within the territory  
 1222 described in section 62 ~~63~~ hereof and of the inhabitants thereof  
 1223 and the property located therein as it had over and within its  
 1224 boundaries prior to October 1, 1992; and all of the laws,  
 1225 regulations, and resolutions of or pertaining to the South  
 1226 Broward Drainage District shall apply to and have the same force  
 1227 and effect on all the territory described in section 62 ~~63~~ as if  
 1228 such territory had been a part of said South Broward Drainage  
 1229 District at the time of passage and approval of such laws,  
 1230 regulations, and resolutions.

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1231 Section 3. Nothing in this act supersedes chapter 99-468,  
 1232 Laws of Florida.

1233 Section 4. A certified copy of this act shall be recorded  
 1234 in the Broward County Public Records by the South Broward  
 1235 Drainage District.

1236 Section 5. If any provision of this act or its application  
 1237 to any person or circumstance is held invalid, the invalidity  
 1238 does not affect other provisions or applications of this act  
 1239 which can be given effect without the invalid provision or  
 1240 application, and to this end the provisions of this act are  
 1241 severable.

1242 Section 6. This act shall take effect upon becoming a law.



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# Finance and Tax Committee

Tuesday, April 12, 2011

9:00 a.m.

Morris Hall

**AMENDMENT PACKET**





COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 243 (2011)

Amendment No. 01

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Finance & Tax Committee  
2 Representative Workman offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove lines 32-51 and insert:

6 recovery fee in an amount equal to 2 percent of the total rental  
7 transaction fee generated in each county of operation. The  
8 recovery fee may be collected and retained after payment of the  
9 tangible personal property tax assessed for the previous year  
10 only if the heavy equipment is subject to a short-term rental  
11 agreement that discloses the amount and purpose for the  
12 collection of the recovery fee.

13 (a) A person engaging in the business of renting or  
14 leasing heavy equipment may not seek additional recoupment of  
15 the recovery fee for the current year if the actual recovery fee  
16 collected in the current year exceeds the tangible personal  
17 property tax paid in the prior year.

18 (b) If, during the current year, the recovery fee  
19 collected by the person engaging in the business of renting or

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20 leasing heavy equipment exceeds the tax paid in the prior year,  
21 the recovery fee recoupment for the following year must be  
22 reduced by an amount equal to such excess amount.

23

24

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25

**T I T L E   A M E N D M E N T**

26

Remove lines 6-7 and insert:

27

equipment; providing requirements for collection and retention;  
28 prohibiting additional recoupment of a recovery fee in the  
29 current year under certain circumstances; requiring a reduction  
30 in the amount of recoupment of a recovery fee for the following  
31 year under certain circumstances;



Amendment No. 01

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Finance & Tax Committee  
2 Representative(s) Brodeur offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6  
7 Section 1. Subsections (15) and (16) of section 196.012,  
8 Florida Statutes, are amended to read:

9 (15) "New business" means:

10 (a) 1. A business or organization establishing 10 or more  
11 new jobs to employ 10 or more full-time employees in this state,  
12 paying an average wage for such new jobs that is above the  
13 average wage in the area, which principally engages in any one  
14 or more of the following operations:

15 a. Manufactures, processes, compounds, fabricates, or  
16 produces for sale items of tangible personal property at  
17 a fixed location and which comprises an industrial or  
18 manufacturing plant; or

19 b. Is a Qualified Target Industry pursuant to s. 288.106(2).

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20 2. A business or organization establishing 25 or more new  
21 jobs to employ 25 or more full-time employees in this state, the  
22 sales factor of which, as defined by s. 220.15(5), for the  
23 facility with respect to which it requests an economic  
24 development ad valorem tax exemption is less than 0.50 for each  
25 year the exemption is claimed; or

26 3. An office space in this state owned and used by a  
27 business ~~corporation~~ or organization newly domiciled in this  
28 state; provided such office space houses 50 or more full-time  
29 employees of such business or organization ~~corporation~~; provided  
30 that such business or organization office first begins operation  
31 on a site clearly separate from any other commercial or  
32 industrial operation owned by the same business or organization.

33 (b) Any business or organization located in an enterprise  
34 zone or brownfield area that first begins operation on a site  
35 clearly separate from any other commercial or industrial  
36 operation owned by the same business or organization.

37 (c) A business or organization that is situated on property  
38 annexed into a municipality and that, at the time of the  
39 annexation, is receiving an economic development ad valorem tax  
40 exemption from the county under s. 196.1995.

41 (16) "Expansion of an existing business" means:

42 (a) 1. A business or organization establishing 10 or more  
43 new jobs to employ 10 or more full-time employees in this state,  
44 paying an average wage for such new jobs that is above the  
45 average wage in the area, which principally engages in any of  
46 the operations referred to in subparts a. and b. of subsection  
47 (a) 1 of this section; or

COMMITTEE/SUBCOMMITTEE AMENDMENT

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Amendment No.

48 2. A business or organization establishing 25 or more new  
49 jobs to employ 25 or more full-time employees in this state, the  
50 sales factor of which, as defined by 220.15(5), for the facility  
51 with respect to which it requests an economic development ad  
52 valorem tax exemption is less than 0.50 for each year the  
53 exemption is claimed; provided that such business increases  
54 operations on a site located within the same county,  
55 municipality, or both colocated with a commercial or industrial  
56 operation owned by the same business or organization under  
57 common control with the same business or organization, resulting  
58 in a net increase in employment of not less than 10 percent or  
59 an increase in productive output or sales of not less than 10  
60 percent.

61 (b) Any business or organization located in an enterprise  
62 zone or brownfield area that increases operations on a site  
63 located within the same zone or area colocated with a commercial  
64 or industrial operation owned by the same business or  
65 organization under common control with the same business or  
66 organization.

67 Section 2. Section 196.1995, Florida Statutes, is amended  
68 to read:

69 (1) The board of county commissioners of any county or the  
70 governing authority of any municipality shall call a referendum  
71 within its total jurisdiction to determine whether its  
72 respective jurisdiction may grant economic development ad  
73 valorem tax exemptions under s. 3, Art. VII of the State  
74 Constitution if:

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75 (a) The board of county commissioners of the county or the  
76 governing authority of the municipality votes to hold such  
77 referendum; ~~or~~

78 (b) The board of county commissioners of the county or the  
79 governing authority of the municipality receives a petition  
80 signed by 10 percent of the registered electors of its  
81 respective jurisdiction, which petition calls for the holding of  
82 such referendum; or

83 (c) The board of county commissioners of a charter county  
84 receives a petition or initiative signed by the required  
85 percentage of registered electors in accordance with the  
86 procedures established in the county's charter for the enactment  
87 of ordinances or for approval of amendments of the charter, if  
88 less than 10 percent, which petition or initiative calls for the  
89 holding of such referendum.

90 (2) The ballot question in such referendum shall be in  
91 substantially the following form:

92  
93 Shall the board of county commissioners of this county (or the  
94 governing authority of this municipality, or both) be  
95 authorized to grant, pursuant to s. 3, Art. VII of the State  
96 Constitution, property tax exemptions to new businesses and  
97 expansions of existing businesses that are expected to create  
98 new, full-time jobs in the county (or municipality, or both)?

99  
100 \_\_\_\_\_ Yes-For authority to grant exemptions.

101 \_\_\_\_\_ No-Against authority to grant exemptions.



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103 (3) The board of county commissioners or the governing  
104 authority of the municipality that calls a referendum within its  
105 total jurisdiction to determine whether its respective  
106 jurisdiction may grant economic development ad valorem tax  
107 exemptions may vote to limit the effect of the referendum to  
108 authority to grant economic development tax exemptions for new  
109 businesses and expansions of existing businesses located in an  
110 enterprise zone or a brownfield area, as defined in s.  
111 376.79(4). If an area nominated to be an enterprise zone  
112 pursuant to s. 290.0055 has not yet been designated pursuant to  
113 s. 290.0065, the board of county commissioners or the governing  
114 authority of the municipality may call such referendum prior to  
115 such designation; however, the authority to grant economic  
116 development ad valorem tax exemptions does not apply until such  
117 area is designated pursuant to s. 290.0065. The ballot question  
118 in such referendum shall be in substantially the following form  
119 and shall be used in lieu of the ballot question prescribed in  
120 subsection (2):

121  
122 Shall the board of county commissioners of this county (or the  
123 governing authority of this municipality, or both) be  
124 authorized to grant, pursuant to s. 3, Art. VII of the State  
125 Constitution, property tax exemptions for new businesses and  
126 expansions of existing businesses that which are located in an  
127 enterprise zone or a brownfield area and that are expected to  
128 create new, full-time jobs in the county (or municipality, or  
129 both)?

130

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131        \_\_\_\_\_ Yes—For authority to grant exemptions.

132        \_\_\_\_\_ No—Against authority to grant exemptions

133

134        (4) A referendum pursuant to this section may be called  
135 only once in any 12-month period.

136        (5) Upon a majority vote in favor of such authority, the  
137 board of county commissioners or the governing authority of the  
138 municipality, at its discretion, by ordinance may exempt from ad  
139 valorem taxation up to 100 percent of the assessed value of all  
140 improvements to real property made by or for the use of a new  
141 business and of all tangible personal property of such new  
142 business, or up to 100 percent of the assessed value of all  
143 added improvements to real property made to facilitate the  
144 expansion of an existing business and of the net increase in all  
145 tangible personal property acquired to facilitate such expansion  
146 of an existing business, provided that the improvements to real  
147 property are made or the tangible personal property is added or  
148 increased on or after the day the ordinance is adopted. However,  
149 if the authority to grant exemptions is approved in a referendum  
150 in which the ballot question contained in subsection (3) appears  
151 on the ballot, the authority of the board of county  
152 commissioners or the governing authority of the municipality to  
153 grant exemptions is limited solely to new businesses and  
154 expansions of existing businesses that are located in an  
155 enterprise zone or brownfield area. Property acquired to replace  
156 existing property shall not be considered to facilitate a  
157 business expansion. The exemption applies only to taxes levied  
158 by the respective unit of government granting the exemption. The

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159 exemption does not apply, however, to taxes levied for the  
160 payment of bonds or to taxes authorized by a vote of the  
161 electors pursuant to s. 9(b) or s. 12, Art. VII of the State  
162 Constitution. Any such exemption shall remain in effect for up  
163 to 10 years with respect to any particular facility, regardless  
164 of any change in the authority of the county or municipality to  
165 grant such exemptions. The exemption shall not be prolonged or  
166 extended by granting exemptions from additional taxes or by  
167 virtue of any reorganization or sale of the business receiving  
168 the exemption.

169 (6) With respect to a new business as defined by s.  
170 196.012(15)(c), the municipality annexing the property on which  
171 the business is situated may grant an economic development ad  
172 valorem tax exemption under this section to that business for a  
173 period that will expire upon the expiration of the exemption  
174 granted by the county. If the county renews the exemption under  
175 subsection (7), the municipality may also extend its exemption.  
176 A municipal economic development ad valorem tax exemption  
177 granted under this subsection may not extend beyond the duration  
178 of the county exemption.

179 (7) The authority to grant exemptions under this section  
180 expires 10 years after the date such authority was approved in  
181 an election, but such authority may be renewed for subsequent  
182 10-year periods if each 10-year renewal is approved in a  
183 referendum called and held pursuant to this section.

184 (8) Any person, firm, or corporation which desires an  
185 economic development ad valorem tax exemption shall, in the year  
186 the exemption is desired to take effect, file a written

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187 application on a form prescribed by the department with the  
188 board of county commissioners or the governing authority of the  
189 municipality, or both. The application shall request the  
190 adoption of an ordinance granting the applicant an exemption  
191 pursuant to this section and shall include the following  
192 information:

193 (a) The name and location of the new business or the  
194 expansion of an existing business;

195 (b) A description of the improvements to real property for  
196 which an exemption is requested and the date of commencement of  
197 construction of such improvements;

198 (c) A description of the tangible personal property for  
199 which an exemption is requested and the dates when such property  
200 was or is to be purchased;

201 (d) Proof, to the satisfaction of the board of county  
202 commissioners or the governing authority of the municipality,  
203 that the applicant is a new business or an expansion of an  
204 existing business, as defined in s. 196.012(15) or (16); and

205 (e) Other information deemed necessary or appropriate by  
206 the department, county, or municipality.

207 (9) Before it takes action on the application, the board of  
208 county commissioners or the governing authority of the  
209 municipality shall deliver a copy of the application to the  
210 property appraiser of the county. After careful consideration,  
211 the property appraiser shall report the following information to  
212 the board of county commissioners or the governing authority of  
213 the municipality:

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214 (a) The total revenue available to the county or  
215 municipality for the current fiscal year from ad valorem tax  
216 sources, or an estimate of such revenue if the actual total  
217 revenue available cannot be determined;

218 (b) Any revenue lost to the county or municipality for the  
219 current fiscal year by virtue of exemptions previously granted  
220 under this section, or an estimate of such revenue if the actual  
221 revenue lost cannot be determined;

222 (c) An estimate of the revenue which would be lost to the  
223 county or municipality during the current fiscal year if the  
224 exemption applied for were granted had the property for which  
225 the exemption is requested otherwise been subject to taxation;  
226 and

227 (d) A determination as to whether the property for which an  
228 exemption is requested is to be incorporated into a new business  
229 or the expansion of an existing business, as defined in s.  
230 196.012(15) or (16), or into neither, which determination the  
231 property appraiser shall also affix to the face of the  
232 application. Upon the request of the property appraiser, the  
233 department shall provide to him or her such information as it  
234 may have available to assist in making such determination.

235 (10) In considering any application for an exemption under  
236 this section, the board of county commissioners or the governing  
237 authority of the municipality must take into account the  
238 following:

239 (a) the total number of net new jobs to be created by the  
240 applicant;

241 (b) the average wage of the new jobs;

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242 (c) the capital investment to be made by the applicant;

243 (d) the type of business or operation and whether it  
244 qualifies as a targeted industry as may be identified from time  
245 to time by the board of county commissioners or the governing  
246 authority of the municipality;

247 (e) the environmental impact of the proposed business or  
248 operation;

249 (f) the extent to which the applicant intends to source its  
250 supplies and materials within the applicable jurisdiction; and

251 (g) any other economic-related characteristics or criteria  
252 deemed necessary by the board of county commissioners or the  
253 governing authority of the municipality.

254 (11) An ordinance granting an exemption under this section  
255 shall be adopted in the same manner as any other ordinance of  
256 the county or municipality and shall include the following:

257 (a) The name and address of the new business or expansion  
258 of an existing business to which the exemption is granted;

259 (b) The total amount of revenue available to the county or  
260 municipality from ad valorem tax sources for the current fiscal  
261 year, the total amount of revenue lost to the county or  
262 municipality for the current fiscal year by virtue of economic  
263 development ad valorem tax exemptions currently in effect, and  
264 the estimated revenue loss to the county or municipality for the  
265 current fiscal year attributable to the exemption of the  
266 business named in the ordinance;

267 (c) The period of time for which the exemption will remain  
268 in effect and the expiration date of the exemption, which may be  
269 any period up to 10 years; and

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270 (d) A finding that the business named in the ordinance  
271 meets the requirements of s. 196.012(15) or (16).

272 (12) Upon approval of any application for an exemption  
273 under this section the board of county commissioners or the  
274 governing authority of the municipality may enter into a written  
275 exemption agreement with the applicant covering such additional  
276 details and related terms and conditions as may be deemed  
277 necessary or appropriate by such board or governing authority,  
278 which agreement shall not be inconsistent with the requirements  
279 of this section or of applicable law.

280 Section 3. This act shall take effect July 1, 2011, and  
281 shall apply only to exemptions from ad valorem taxation granted  
282 pursuant to referenda held on or after July 1, 2011 under the  
283 provisions of s. 196.1995(1), Florida Statutes.

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

287  
288 Remove the entire title and insert:

289 An act relating to economic development; amending s.  
290 196.012, F.S.; revising the definitions of the terms "new  
291 business" and "expansion of an existing business";  
292 providing for an average wage of a new job; providing  
293 Qualified Target Industries for eligibility; amending s.  
294 196.1995, F.S.; authorizing the board of county  
295 commissioners of a charter county to call and hold a  
296 referendum to determine whether to grant economic  
297 development ad valorem tax exemptions if in receipt of a

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298 petition signed by a percentage of electors as required by  
299 the county charter; revising the language of ballot  
300 questions relating to the authority to grant economic  
301 development tax exemptions; specifying additional  
302 information that must be included in a written application  
303 requesting adoption of an ordinance granting an economic  
304 development ad valorem tax exemption; specifying factors  
305 for a board of county commissioners or governing authority  
306 of a municipality to consider when deciding whether to  
307 approve or reject applications for economic development tax  
308 exemptions; limiting the allowable duration of an economic  
309 development tax exemption granted by a county or municipal  
310 ordinance; authorizing written tax exemption agreements  
311 consistent with this act upon approval of a tax exemption  
312 application; specifying that the written tax agreement must  
313 require the applicant to report certain information at a  
314 specific time before expiration of the exemption;  
315 authorizing the board of county commissioners or the  
316 governing authority of the municipality to revoke, in whole  
317 or in part, the exemption under certain circumstances;  
318 clarifying that certain ad valorem exemptions will be  
319 provided pursuant to referendum; providing an effective  
320 date.





COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HJR 789 (2011)

Amendment No. 01

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Finance & Tax Committee  
2 Representative Nunez offered the following:

3  
4 **Amendment (with ballot and title amendments)**

5 Remove lines 47-58 and insert:

6 (2) The legislature may, by general law, allow counties or  
7 municipalities, for the purpose of their respective tax levies  
8 and subject to the provisions of general law, to limit  
9 assessments on homestead property subject to the additional  
10 homestead tax exemption under Section 6(d) to the assessed value  
11 of the property in the prior year if the just value of the  
12 property is equal to or less than one hundred fifty percent of  
13 the average just value of homestead property within the  
14 respective county or municipality. The general law must allow  
15 counties and municipalities to provide this limitation, by  
16 ordinance adopted in the manner prescribed by general law, and  
17 must specify the state agency designated to calculate the  
18 average just value of homestead property within each county and  
19 municipality and provide that such agency shall annually supply

Amendment No.

20 that information to each property appraiser. The calculation  
21 shall be based on the prior year tax roll of each county.

22  
23  
24

25 -----

26 **B A L L O T A M E N D M E N T**

27 Remove lines 215-223 and insert:  
28 counties and municipalities to limit the assessments of the  
29 homesteads of persons receiving such additional exemption to the  
30 assessed value of the property in the previous year if the just  
31 value of the property is equal to or less than 150 percent of  
32 the average just value of homestead property in the respective  
33 county or municipality. As such, if authorized by a county or  
34 municipality, these individuals will not be required to pay more  
35 county or municipal ad valorem

36  
37  
38

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

40 Remove lines 4-5 and insert:  
41 counties and municipalities to limit the assessed value of the  
42 homesteads of certain low-income senior citizens.



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1141 (2011)

Amendment No. 01

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Finance & Tax Committee  
2 Representative Steube offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove lines 48-86 and insert:

6 2001;

7 (b) Operation Iraqi Freedom, which began on March 19,  
8 2003, and ended on August 31, 2010; or

9 (c) Operation New Dawn, which began on September 1, 2010.

10  
11 The Department of Revenue shall notify all property appraisers  
12 and tax collectors in this state of the designated military  
13 operations.

14 (3) By January 15 of each year, the Department of Military  
15 Affairs shall submit to the President of the Senate, the Speaker  
16 of the House of Representatives, and the tax committees of each  
17 house of the Legislature a report of all known and unclassified  
18 military operations outside the continental United States,  
19 Alaska, or Hawaii for which servicemembers based in the

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20 continental United States have been deployed during the previous  
21 calendar year. The report must include:

22 (a) The official and common names of the military  
23 operations;

24 (b) The general location and purpose of each military  
25 operation;

26 (c) The date each military operation commenced; and

27 (d) The date each military operation terminated, unless  
28 the operation is ongoing.

29 (4) The amount of the exemption is equal to the taxable  
30 value of the homestead of the servicemember on January 1 of the  
31 year in which the exemption is sought multiplied by the number  
32 of days that the servicemember was on a qualifying deployment in  
33 the preceding calendar year and divided by the number of days in  
34 that year.

35 (5) (a) An eligible servicemember who seeks to claim the  
36 additional tax exemption as provided in this section must file  
37 an application for exemption with the property appraiser on or  
38 before March 1 of the year following the year of the qualifying  
39 deployment. The application for the exemption must be made on a  
40 form prescribed by the department and furnished by the property  
41 appraiser. The form must require a servicemember to include or  
42 attach proof of a qualifying deployment, the dates of that  
43 deployment, and other information necessary to verify  
44 eligibility for and the amount of the exemption.

45 (b) An application may be filed on behalf of an eligible  
46 servicemember by his or her spouse if the homestead property to  
47 which the exemption applies is held by the entireties or jointly

COMMITTEE/SUBCOMMITTEE AMENDMENT

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48 with the right of survivorship, by a person who has been  
49 designated by the servicemember to take actions on his or her  
50 behalf pursuant to chapter 709, or by the personal  
51 representative of the servicemember's estate.

52

53

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56

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

57

Between lines 19 and 20, insert:

58

allowing specified persons to apply to the property appraiser to  
59 receive the exemption on behalf of the servicemember;

59





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Bill No. CS/HB 1145 (2011)

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COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Finance & Tax Committee  
2 Representative Young offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6  
7 Section 1. Subsection (11) of section 550.002, Florida  
8 Statutes, is amended to read:

9 550.002 Definitions.—As used in this chapter, the term:

10 (11) "Full schedule of live racing or games" means, for a  
11 greyhound or jai alai permitholder, the conduct of a combination  
12 of at least 100 live evening or matinee performances during the  
13 preceding year; for a permitholder who has a converted permit or  
14 filed an application on or before June 1, 1990, for a converted  
15 permit, the conduct of a combination of at least 100 live  
16 evening and matinee wagering performances during either of the 2  
17 preceding years; for a jai alai permitholder who does not  
18 operate slot machines in its pari-mutuel facility, who has  
19 conducted at least 100 live performances per year for at least

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20 10 years after December 31, 1992, and whose handle on live jai  
21 alai games conducted at its pari-mutuel facility has been less  
22 than \$4 million per state fiscal year for at least 2 consecutive  
23 years after June 30, 1992, the conduct of a combination of at  
24 least 40 live evening or matinee performances during the  
25 preceding year; for a jai alai permitholder who operates slot  
26 machines in its pari-mutuel facility, the conduct of a  
27 combination of at least 150 performances during the preceding  
28 year; for a harness permitholder, the conduct of at least 100  
29 live regular wagering performances during the preceding year;  
30 for a quarter horse permitholder at its facility unless an  
31 alternative schedule of at least 20 live regular wagering  
32 performances is agreed upon by the permitholder and either the  
33 Florida Quarter Horse Racing Association or the horsemen's  
34 association representing the majority of the quarter horse  
35 owners and trainers at the facility and filed with the division  
36 along with its annual date application, in the 2010-2011 fiscal  
37 year, the conduct of at least 20 regular wagering performances,  
38 in the 2011-2012 and 2012-2013 fiscal years, the conduct of at  
39 least 30 live regular wagering performances, and for every  
40 fiscal year after the 2012-2013 fiscal year, the conduct of at  
41 least 40 live regular wagering performances; for a quarter horse  
42 permitholder leasing another licensed racetrack, the conduct of  
43 160 events at the leased facility; and for a thoroughbred  
44 permitholder, the conduct of at least 40 live regular wagering  
45 performances during the preceding year. For a permitholder which  
46 is restricted by statute to certain operating periods within the  
47 year when other members of its same class of permit are

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48 authorized to operate throughout the year, the specified number  
49 of live performances which constitute a full schedule of live  
50 racing or games shall be adjusted pro rata in accordance with  
51 the relationship between its authorized operating period and the  
52 full calendar year and the resulting specified number of live  
53 performances shall constitute the full schedule of live games  
54 for such permitholder and all other permitholders of the same  
55 class within 100 air miles of such permitholder. A live  
56 performance must consist of no fewer than eight races or games  
57 conducted live for each of a minimum of three performances each  
58 week at the permitholder's licensed facility under a single  
59 admission charge. Notwithstanding any other provision of law,  
60 beginning with the 2011-2012 fiscal year, there shall be no  
61 minimum requirement of live performances for greyhound  
62 permitholders.

63 Section 2. Subsection (1) of section 550.01215, Florida  
64 Statutes, is amended to read:

65 550.01215 License application; periods of operation; bond,  
66 conversion of permit.—

67 (1) Each permitholder shall annually, during the period  
68 between December 15 and January 4, file in writing with the  
69 division its application for a license to conduct pari-mutuel  
70 wagering activities ~~performances~~ during the next state fiscal  
71 year. Each application requesting live performances, if any,  
72 shall specify the number, dates, and starting times of all  
73 performances which the permitholder intends to conduct. It shall  
74 also specify which performances will be conducted as charity or  
75 scholarship performances. In addition, each application for a

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76 license shall include, for each permitholder which elects to  
77 operate a cardroom, the dates and periods of operation the  
78 permitholder intends to operate the cardroom or, for each  
79 thoroughbred permitholder which elects to receive or rebroadcast  
80 out-of-state races after 7 p.m., the dates for all performances  
81 which the permitholder intends to conduct. Permitholders may  
82 ~~shall be entitled to~~ amend their applications through February  
83 28 or, for applications by greyhound permitholders relating to  
84 the 2011-2012 fiscal year, through August 31, 2011.

85 Section 3. Paragraph (b) of subsection (14) of section  
86 550.054, Florida Statutes, is amended to read:

87 550.054 Application for permit to conduct pari-mutuel  
88 wagering.—

89 (14)

90 (b) The division, upon application from the holder of a  
91 jai alai permit meeting all conditions of this section, shall  
92 convert the permit and shall issue to the permitholder a permit  
93 to conduct greyhound racing. ~~A permitholder of a permit~~  
94 ~~converted under this section shall be required to apply for and~~  
95 ~~conduct a full schedule of live racing each fiscal year to be~~  
96 ~~eligible for any tax credit provided by this chapter.~~ The holder  
97 of a permit converted pursuant to this subsection or any holder  
98 of a permit to conduct greyhound racing located in a county in  
99 which it is the only permit issued pursuant to this section who  
100 operates at a leased facility pursuant to s. 550.475 may move  
101 the location for which the permit has been issued to another  
102 location within a 30-mile radius of the location fixed in the  
103 permit issued in that county, provided the move does not cross

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104 the county boundary and such location is approved under the  
105 zoning regulations of the county or municipality in which the  
106 permit is located, and upon such relocation may use the permit  
107 for the conduct of pari-mutuel wagering and the operation of a  
108 cardroom. The provisions of s. 550.6305(9)(d) and (f) shall  
109 apply to any permit converted under this subsection and shall  
110 continue to apply to any permit which was previously included  
111 under and subject to such provisions before a conversion  
112 pursuant to this section occurred.

113 Section 4. Paragraph (b) of subsection (1) of section  
114 550.0951, Florida Statutes, is amended to read:

115 550.0951 Payment of daily license fee and taxes;  
116 penalties.—

117 (1)

118 (b) Each permitholder that cannot utilize the full amount  
119 of the exemption of \$360,000 or \$500,000 provided in s.  
120 550.09514(1) or the daily license fee credit provided in this  
121 section may, at any time after notifying the division in  
122 writing, ~~elect once per state fiscal year~~ on a form provided by  
123 the division, ~~to~~ transfer such exemption or credit or any  
124 portion thereof to any greyhound permitholder which acts as a  
125 host track to such permitholder for the purpose of intertrack  
126 wagering. Notwithstanding any other provision of law, the  
127 exemption of \$360,000 or \$500,000 under s. 550.09514(1) for each  
128 greyhound permitholder that conducted live racing before July 1,  
129 2011, but subsequently elects not to conduct live racing during  
130 a fiscal year shall be pooled, and each greyhound permitholder  
131 conducting a full schedule of live racing during a fiscal year

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132 shall be entitled to an additional tax credit in an amount equal  
133 to the product of the respective permitholder's percentage share  
134 of live and intertrack wagering handle under subsection (3)  
135 during the preceding fiscal year and the total value of tax  
136 credits available in the pool. Once an election to transfer such  
137 exemption or credit is filed with the division, it shall not be  
138 rescinded. The division shall disapprove the transfer when the  
139 amount of the exemption or credit or portion thereof is  
140 unavailable to the transferring permitholder for any reason,  
141 including being unavailable because the transferring  
142 permitholder did not conduct at least 100 live performances of  
143 at least eight races during the fiscal year, or when the  
144 permitholder who is entitled to transfer the exemption or credit  
145 or who is entitled to receive the exemption or credit owes taxes  
146 to the state pursuant to a deficiency letter or administrative  
147 complaint issued by the division. Upon approval of the transfer  
148 by the division, the transferred tax exemption or credit shall  
149 be effective for the first performance of the next payment  
150 period as specified in subsection (5). The exemption or credit  
151 transferred to such host track may be applied by such host track  
152 against any taxes imposed by this chapter or daily license fees  
153 imposed by this chapter. The greyhound permitholder host track  
154 to which such exemption or credit is transferred shall reimburse  
155 such permitholder the exact monetary value of such transferred  
156 exemption or credit as actually applied against the taxes and  
157 daily license fees of the host track. The division shall ensure  
158 that all transfers of exemption or credit are made in accordance  
159 with this subsection and shall have the authority to adopt rules

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160 to ensure the implementation of this section.

161 Section 5. Paragraphs (b), (c), and (e) of subsection (2)  
162 of section 550.09514, Florida Statutes, are amended to read:

163 550.09514 Greyhound dogracing taxes; purse requirements.—  
164 (2)

165 (b) Except as otherwise set forth herein, in addition to  
166 the minimum purse percentage required by paragraph (a), each  
167 permitholder conducting live racing during a fiscal year shall  
168 pay as purses an annual amount equal to 75 percent of the daily  
169 license fees paid by each permitholder for the 1994-1995 fiscal  
170 year. This purse supplement shall be disbursed weekly during the  
171 permitholder's race meet in an amount determined by dividing the  
172 annual purse supplement by the number of performances approved  
173 for the permitholder pursuant to its annual license and  
174 multiplying that amount by the number of performances conducted  
175 each week. ~~For the greyhound permitholders in the county where~~  
176 ~~there are two greyhound permitholders located as specified in s.~~  
177 ~~550.615(6), such permitholders shall pay in the aggregate an~~  
178 ~~amount equal to 75 percent of the daily license fees paid by~~  
179 ~~such permitholders for the 1994-1995 fiscal year. These~~  
180 ~~permitholders shall be jointly and severally liable for such~~  
181 ~~purse payments.~~ The additional purses provided by this paragraph  
182 must be used exclusively for purses other than stakes. The  
183 division shall conduct audits necessary to ensure compliance  
184 with this section.

185 (c)1. Each greyhound permitholder when conducting at least  
186 three live performances during any week shall pay purses in that  
187 week on wagers it accepts as a guest track on intertrack and

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188 simulcast greyhound races at the same rate as it pays on live  
189 races. Each greyhound permitholder when conducting at least  
190 three live performances during any week shall pay purses in that  
191 week, at the same rate as it pays on live races, on wagers  
192 accepted on greyhound races at a guest track which is not  
193 conducting live racing and is located within the same market  
194 area as the greyhound permitholder conducting at least three  
195 live performances during any week.

196 2. Each host greyhound permitholder shall pay purses on  
197 its simulcast and intertrack broadcasts of greyhound races to  
198 guest facilities that are located outside its market area in an  
199 amount equal to one quarter of an amount determined by  
200 subtracting the transmission costs of sending the simulcast or  
201 intertrack broadcasts from an amount determined by adding the  
202 fees received for greyhound simulcast races plus 3 percent of  
203 the greyhound intertrack handle at guest facilities that are  
204 located outside the market area of the host and that paid  
205 contractual fees to the host for such broadcasts of greyhound  
206 races. For guest greyhound permitholders not conducting live  
207 racing during a fiscal year and not subject to the purse  
208 requirements of subparagraph 1., 3 percent of the greyhound  
209 intertrack handle shall be paid to the host greyhound  
210 permitholder for payment of purses at the host track.

211 (e) In addition to the purse requirements of paragraphs  
212 (a)-(c), each greyhound permitholder shall pay as purses an  
213 amount equal to one-third of the amount of the tax reduction on  
214 live and simulcast handle applicable to such permitholder as a  
215 result of the reductions in tax rates provided ~~by this act~~



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216 through the amendments to s. 550.0951(3) by chapter 2000-354,  
217 Laws of Florida. With respect to intertrack wagering when the  
218 host and guest tracks are greyhound permitholders not within the  
219 same market area, an amount equal to the tax reduction  
220 applicable to the guest track handle as a result of the  
221 reduction in tax rates ~~rate~~ ~~provided by this act~~ through the  
222 amendments ~~amendment~~ to s. 550.0951(3) by chapter 2000-354, Laws  
223 of Florida, shall be distributed to the guest track, one-third  
224 of which amount shall be paid as purses at those guest tracks  
225 conducting live racing ~~the guest track~~. However, if the guest  
226 track is a greyhound permitholder within the market area of the  
227 host or if the guest track is not a greyhound permitholder, an  
228 amount equal to such tax reduction applicable to the guest track  
229 handle shall be retained by the host track, one-third of which  
230 amount shall be paid as purses at the host track. These purse  
231 funds shall be disbursed in the week received if the  
232 permitholder conducts at least one live performance during that  
233 week. If the permitholder does not conduct at least one live  
234 performance during the week in which the purse funds are  
235 received, the purse funds shall be disbursed weekly during the  
236 permitholder's next race meet in an amount determined by  
237 dividing the purse amount by the number of performances approved  
238 for the permitholder pursuant to its annual license, and  
239 multiplying that amount by the number of performances conducted  
240 each week. The division shall conduct audits necessary to ensure  
241 compliance with this paragraph.

242 Section 6. Subsection (1) of section 550.26165, Florida  
243 Statutes, is amended to read:

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244 550.26165 Breeders' awards.—

245 (1) The purpose of this section is to encourage the  
246 agricultural activity of breeding and training racehorses in  
247 this state. Moneys dedicated in this chapter for use as  
248 breeders' awards and stallion awards are to be used for awards  
249 to breeders of registered Florida-bred horses winning horseraces  
250 and for similar awards to the owners of stallions who sired  
251 Florida-bred horses winning stakes races, if the stallions are  
252 registered as Florida stallions standing in this state. Such  
253 awards shall be given at a uniform rate to all winners of the  
254 awards, shall not be greater than 20 percent of the announced  
255 gross purse, and shall not be less than 15 percent of the  
256 announced gross purse if funds are available. In addition, no  
257 less than 17 percent nor more than 40 percent, as determined by  
258 the Florida Thoroughbred Breeders' Association, of the moneys  
259 dedicated in this chapter for use as breeders' awards and  
260 stallion awards for thoroughbreds shall be returned pro rata to  
261 the permitholders that generated the moneys for special racing  
262 awards to be distributed by the permitholders to owners of  
263 thoroughbred horses participating in prescribed thoroughbred  
264 stakes races, nonstakes races, or both, all in accordance with a  
265 written agreement establishing the rate, procedure, and  
266 eligibility requirements for such awards entered into by the  
267 permitholder, the Florida Thoroughbred Breeders' Association,  
268 and the Florida Horsemen's Benevolent and Protective  
269 Association, Inc., except that the plan for the distribution by  
270 any permitholder located in the area described in s.  
271 550.615 (8) ~~(9)~~ shall be agreed upon by that permitholder, the

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272 Florida Thoroughbred Breeders' Association, and the association  
273 representing a majority of the thoroughbred racehorse owners and  
274 trainers at that location. Awards for thoroughbred races are to  
275 be paid through the Florida Thoroughbred Breeders' Association,  
276 and awards for standardbred races are to be paid through the  
277 Florida Standardbred Breeders and Owners Association. Among  
278 other sources specified in this chapter, moneys for thoroughbred  
279 breeders' awards will come from the 0.955 percent of handle for  
280 thoroughbred races conducted, received, broadcast, or simulcast  
281 under this chapter as provided in s. 550.2625(3). The moneys for  
282 quarter horse and harness breeders' awards will come from the  
283 breaks and uncashed tickets on live quarter horse and harness  
284 racing performances and 1 percent of handle on intertrack  
285 wagering. The funds for these breeders' awards shall be paid to  
286 the respective breeders' associations by the permitholders  
287 conducting the races.

288 Section 7. Section 550.475, Florida Statutes, is amended  
289 to read:

290 550.475 Lease of pari-mutuel facilities by pari-mutuel  
291 permitholders.—Holders of valid pari-mutuel permits for the  
292 conduct of any jai alai games, dogracing, or thoroughbred and  
293 standardbred horse racing in this state are entitled to lease  
294 any and all of their facilities to any other holder of a same  
295 class valid pari-mutuel permit for jai alai games, dogracing, or  
296 thoroughbred or standardbred horse racing, when located within a  
297 35-mile radius of each other; and such lessee is entitled to a  
298 permit and license to operate its pari-mutuel wagering  
299 activities ~~race meet~~ or jai alai games at the leased premises.

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300 Section 8. Section 550.615, Florida Statutes, is amended  
301 to read:

302 550.615 Intertrack wagering.—

303 (1) Any horserace permitholder licensed under this chapter  
304 which has conducted a full schedule of live racing may, at any  
305 time, receive broadcasts of horseraces and accept wagers on  
306 horseraces conducted by horserace permitholders licensed under  
307 this chapter at its facility.

308 (2) A Any track or fronton licensed under this chapter  
309 that conducted a full schedule of live racing or games which in  
310 the preceding year, or any greyhound permitholder that has held  
311 an annual license to conduct pari-mutuel wagering activities in  
312 each of the preceding 10 years or was converted pursuant to s.  
313 550.054(14) conducted a full schedule of live racing is  
314 qualified to, at any time, receive broadcasts of any class of  
315 pari-mutuel race or game and accept wagers on such races or  
316 games conducted by any class of permitholders licensed under  
317 this chapter.

318 (3) If a permitholder elects to broadcast its signal to  
319 any permitholder in this state, any permitholder that is  
320 eligible to conduct intertrack wagering under the provisions of  
321 ss. 550.615-550.6345 is entitled to receive the broadcast and  
322 conduct intertrack wagering under this section; provided,  
323 however, that the host track may require a guest track within 25  
324 miles of another permitholder to receive in any week at least 60  
325 percent of the live races that the host track is making  
326 available on the days that the guest track is otherwise  
327 operating live races or games. A host track may require a guest

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328 track not operating live races or games and within 25 miles of  
329 another permitholder to accept within any week at least 60  
330 percent of the live races that the host track is making  
331 available. A person may not restrain or attempt to restrain any  
332 permitholder that is otherwise authorized to conduct intertrack  
333 wagering from receiving the signal of any other permitholder or  
334 sending its signal to any permitholder.

335 (4) In no event shall any intertrack wager be accepted on  
336 the same class of live races or games of any permitholder  
337 without the written consent of such operating permitholders  
338 conducting the same class of live races or games if the guest  
339 track is within the market area of such operating permitholder.  
340 A greyhound permitholder situated in an area described in  
341 subsection (6) that accepts intertrack wagers on live greyhound  
342 signals is not required to obtain the written consent required  
343 by this subsection from any operating greyhound permitholder  
344 within its market area.

345 (5) No permitholder within the market area of the host  
346 track shall take an intertrack wager on the host track without  
347 the consent of the host track.

348 (6) Notwithstanding the provisions of subsection (3), in  
349 any area of the state where there are three or more horserace  
350 permitholders within 25 miles of each other, intertrack wagering  
351 between permitholders in said area of the state shall only be  
352 authorized under the following conditions: Any permitholder,  
353 other than a thoroughbred permitholder, may accept intertrack  
354 wagers on races or games conducted live by a permitholder of the  
355 same class or any harness permitholder located within such area

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356 and any harness permitholder may accept wagers on games  
357 conducted live by any jai alai permitholder located within its  
358 market area and from a jai alai permitholder located within the  
359 area specified in this subsection when no jai alai permitholder  
360 located within its market area is conducting live jai alai  
361 performances; any greyhound or jai alai permitholder may receive  
362 broadcasts of and accept wagers on any permitholder of the other  
363 class provided that a permitholder, other than the host track,  
364 of such other class is not operating a contemporaneous live  
365 performance within the market area.

366 ~~(7) In any county of the state where there are only two~~  
367 ~~permits, one for dogracing and one for jai alai, no intertrack~~  
368 ~~wager may be taken during the period of time when a permitholder~~  
369 ~~is not licensed to conduct live races or games without the~~  
370 ~~written consent of the other permitholder that is conducting~~  
371 ~~live races or games. However, if neither permitholder is~~  
372 ~~conducting live races or games, either permitholder may accept~~  
373 ~~intertrack wagers on horseraces or on the same class of races or~~  
374 ~~games, or on both horseraces and the same class of races or~~  
375 ~~games as is authorized by its permit.~~

376 ~~(7)(8) In any three contiguous counties of the state where~~  
377 ~~there are only three permitholders, all of which are greyhound~~  
378 ~~permitholders, If any greyhound permitholder leases the facility~~  
379 ~~of another greyhound permitholder for the purpose of conducting~~  
380 ~~all or any portion of the conduct of its live race meet pursuant~~  
381 ~~to s. 550.475, such lessee may conduct intertrack wagering at~~  
382 ~~its pre-lease permitted facility throughout the entire year,~~  
383 ~~including while its race live meet is being conducted at the~~

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384 leased facility, ~~if such permitholder has conducted a full~~  
385 ~~schedule of live racing during the preceding fiscal year at its~~  
386 ~~pre-lease permitted facility or at a leased facility, or~~  
387 ~~combination thereof.~~

388 (8)~~(9)~~ In any two contiguous counties of the state in  
389 which there are located only four active permits, one for  
390 thoroughbred horse racing, two for greyhound dogracing, and one  
391 for jai alai games, no intertrack wager may be accepted on the  
392 same class of live races or games of any permitholder without  
393 the written consent of such operating permitholders conducting  
394 the same class of live races or games if the guest track is  
395 within the market area of such operating permitholder.

396 (9)~~(10)~~ All costs of receiving the transmission of the  
397 broadcasts shall be borne by the guest track; and all costs of  
398 sending the broadcasts shall be borne by the host track.

399 Section 9. Paragraph (g) of subsection (9) of section  
400 550.6305, Florida Statutes, is amended to read:

401 550.6305 Intertrack wagering; guest track payments;  
402 accounting rules.—

403 (9) A host track that has contracted with an out-of-state  
404 horse track to broadcast live races conducted at such out-of-  
405 state horse track pursuant to s. 550.3551(5) may broadcast such  
406 out-of-state races to any guest track and accept wagers thereon  
407 in the same manner as is provided in s. 550.3551.

408 (g)1. Any thoroughbred permitholder which accepts wagers  
409 on a simulcast signal must make the signal available to any  
410 permitholder that is eligible to conduct intertrack wagering  
411 under the provisions of ss. 550.615-550.6345.

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412           2. Any thoroughbred permitholder which accepts wagers on a  
413 simulcast signal received after 6 p.m. must make such signal  
414 available to any permitholder that is eligible to conduct  
415 intertrack wagering under the provisions of ss. 550.615-  
416 550.6345, including any permitholder located as specified in s.  
417 550.615(6). Such guest permitholders are authorized to accept  
418 wagers on such simulcast signal, notwithstanding any other  
419 provision of this chapter to the contrary.

420           3. Any thoroughbred permitholder which accepts wagers on a  
421 simulcast signal received after 6 p.m. must make such signal  
422 available to any permitholder that is eligible to conduct  
423 intertrack wagering under the provisions of ss. 550.615-  
424 550.6345, including any permitholder located as specified in s.  
425 550.615(8)~~(9)~~. Such guest permitholders are authorized to accept  
426 wagers on such simulcast signals for a number of performances  
427 not to exceed that which constitutes a full schedule of live  
428 races for a quarter horse permitholder pursuant to s.  
429 550.002(11), notwithstanding any other provision of this chapter  
430 to the contrary, except that the restrictions provided in s.  
431 550.615(8)~~(9)~~(a) apply to wagers on such simulcast signals.

432  
433 No thoroughbred permitholder shall be required to continue to  
434 rebroadcast a simulcast signal to any in-state permitholder if  
435 the average per performance gross receipts returned to the host  
436 permitholder over the preceding 30-day period were less than  
437 \$100. Subject to the provisions of s. 550.615(4), as a condition  
438 of receiving rebroadcasts of thoroughbred simulcast signals  
439 under this paragraph, a guest permitholder must accept



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440 intertrack wagers on all live races conducted by all then-  
441 operating thoroughbred permitholders.

442 Section 10. Paragraph (c) of subsection (4) of section  
443 551.104, Florida Statutes, is amended to read:

444 551.104 License to conduct slot machine gaming.—

445 (4) As a condition of licensure and to maintain continued  
446 authority for the conduct of slot machine gaming, the slot  
447 machine licensee shall:

448 (c) Conduct no fewer than a full schedule of live racing  
449 or games as defined in s. 550.002(11), except for holders of  
450 greyhound permits, which have no live racing requirement. A  
451 permitholder's responsibility to conduct such number of live  
452 races or games shall be reduced by the number of races or games  
453 that could not be conducted due to the direct result of fire,  
454 war, hurricane, or other disaster or event beyond the control of  
455 the permitholder.

456 Section 11. Subsections (2) and (4) of section 551.114,  
457 Florida Statutes, are amended to read:

458 551.114 Slot machine gaming areas.—

459 (2) The slot machine licensee shall display pari-mutuel  
460 races or games within the designated slot machine gaming areas  
461 and offer patrons within the designated slot machine gaming  
462 areas the ability to engage in pari-mutuel wagering on any live,  
463 intertrack, and simulcast races conducted or offered to patrons  
464 of the licensed facility.

465 (4) Designated slot machine gaming areas may be located  
466 within the current live gaming facility or in an existing  
467 building that must be contiguous and connected to the live

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468 gaming facility, if applicable. If a designated slot machine  
469 gaming area is to be located in a building that is to be  
470 constructed, that new building must be contiguous and connected  
471 to the live gaming facility.

472 Section 12. Paragraphs (a) and (b) of subsection (5) and  
473 paragraph (d) of subsection (13) of section 849.086, Florida  
474 Statutes, are amended to read:

475 849.086 Cardrooms authorized.—

476 (5) LICENSE REQUIRED; APPLICATION; FEES.—No person may  
477 operate a cardroom in this state unless such person holds a  
478 valid cardroom license issued pursuant to this section.

479 (a) Only those persons holding a valid cardroom license  
480 issued by the division may operate a cardroom. A cardroom  
481 license may only be issued to a licensed pari-mutuel  
482 permitholder and an authorized cardroom may only be operated at  
483 the same facility at which the permitholder is authorized under  
484 its valid pari-mutuel wagering permit to conduct pari-mutuel  
485 wagering activities. An initial cardroom license shall be issued  
486 to a pari-mutuel permitholder only after its facilities are in  
487 place and after it conducts its first day of live racing or  
488 games, or, for a greyhound permitholder, only after it has  
489 conducted a full schedule of live racing in each of the  
490 preceding 10 years or after it was converted pursuant to s.  
491 550.054(14).

492 (b) After the initial cardroom license is granted, the  
493 application for the annual license renewal shall be made in  
494 conjunction with the applicant's annual application for its  
495 pari-mutuel license. If a permitholder has operated a cardroom

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496 during any of the 3 previous fiscal years and fails to include a  
497 renewal request for the operation of the cardroom in its annual  
498 application for license renewal, the permitholder may amend its  
499 annual application to include operation of the cardroom. Except  
500 for greyhound permitholders, in order for a cardroom license to  
501 be renewed the applicant must have requested, as part of its  
502 pari-mutuel annual license application, to conduct at least 90  
503 percent of the total number of live performances conducted by  
504 such permitholder during either the state fiscal year in which  
505 its initial cardroom license was issued or the state fiscal year  
506 immediately prior thereto if the permitholder ran at least a  
507 full schedule of live racing or games in the prior year. If the  
508 application is for a harness permitholder cardroom, the  
509 applicant must have requested authorization to conduct a minimum  
510 of 140 live performances during the state fiscal year  
511 immediately prior thereto. If more than one permitholder is  
512 operating at a facility, each permitholder must have applied for  
513 a license to conduct a full schedule of live racing. However, no  
514 minimum number of requested or conducted live performances are  
515 required in order for a greyhound permitholder to maintain or  
516 renew a cardroom license.

517 (13) TAXES AND OTHER PAYMENTS.—

518 (d)1. Each greyhound and jai alai permitholder that  
519 operates a cardroom facility shall use at least 4 percent of  
520 such permitholder's cardroom monthly gross receipts to  
521 supplement greyhound purses if live racing is conducted during a  
522 fiscal year, or jai alai prize money, respectively, during the  
523 permitholder's current or next ensuing pari-mutuel meet.

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524           2. Each thoroughbred and harness horse racing permitholder  
525 that operates a cardroom facility shall use at least 50 percent  
526 of such permitholder's cardroom monthly net proceeds as follows:  
527 47 percent to supplement purses and 3 percent to supplement  
528 breeders' awards during the permitholder's next ensuing racing  
529 meet.

530           3. No cardroom license or renewal thereof shall be issued  
531 to an applicant holding a permit under chapter 550 to conduct  
532 pari-mutuel wagering meets of quarter horse racing unless the  
533 applicant has on file with the division a binding written  
534 agreement between the applicant and the Florida Quarter Horse  
535 Racing Association or the association representing a majority of  
536 the horse owners and trainers at the applicant's eligible  
537 facility, governing the payment of purses on live quarter horse  
538 races conducted at the licensee's pari-mutuel facility. The  
539 agreement governing purses may direct the payment of such purses  
540 from revenues generated by any wagering or gaming the applicant  
541 is authorized to conduct under Florida law. All purses shall be  
542 subject to the terms of chapter 550.

543           Section 13. This act shall take effect July 1, 2011.

544  
545

546 -----

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

548           Remove the entire title and insert:

549                   A bill to be entitled

550           An act relating to greyhound racing; amending s. 550.002,  
551           F.S., which defines the term "full schedule of live

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552 racing or games"; providing that a greyhound permitholder  
553 shall not be required to conduct a minimum number of live  
554 performances; amending s. 550.01215, F.S.; revising  
555 requirements for an application for a license to conduct  
556 performances; extending the period of time allowed to  
557 amend certain applications; amending s. 550.054, F.S.;  
558 removing a requirement for holders of certain converted  
559 permits to conduct a full schedule of live racing to  
560 qualify for certain tax credits; amending s. 550.0951,  
561 F.S.; revising provisions for transfer by a permitholder  
562 of a tax exemption or license fee credit to a greyhound  
563 permitholder; establishing a tax credit pool; providing  
564 for use of credits in the pool; amending s. 550.09514,  
565 F.S.; revising purse requirements for greyhound racing  
566 and provisions for payment of purses; amending s.  
567 550.475, F.S., relating to lease of pari-mutuel  
568 facilities by pari-mutuel permitholders; revising  
569 terminology to conform to changes made by the act;  
570 amending s. 550.615, F.S.; revising provisions for  
571 intertrack wagering; amending ss. 550.26165 and 550.6305,  
572 F.S.; conforming cross-references to changes made by the  
573 act; amending s. 551.104, F.S.; revising a condition of  
574 licensure for the conduct of slot machine gaming;  
575 amending s. 551.114, F.S.; revising requirements for  
576 designated slot machine gaming areas; amending s.  
577 849.086, F.S.; revising requirements for initial and  
578 renewal issuance of a cardroom license to a greyhound  
579 permitholder; providing that no minimum number of

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580 requested or conducted live performances are required in  
581 order for a greyhound permitholder to maintain or renew a  
582 cardroom license; providing an effective date.