
# LOCAL & FEDERAL AFFAIRS COMMITTEE

# MEETING PACKET

**Friday, March 22, 2013**
**8:30 a.m.**
**Webster Hall (212 Knott)**

**Will W. Weatherford**
**Speaker**

**Eduardo "Eddy" Gonzalez**
**Chair**

# The Florida House of Representatives

## Local & Federal Affairs Committee

**Will W. Weatherford**
**Speaker**

**Eduardo "Eddy" Gonzalez**
**Chair**

## AGENDA

Webster Hall (212 Knott)
Friday, March 22, 2013, 8:30 am

I. CALL TO ORDER AND WELCOME REMARKS

II. CONSIDERATION OF THE FOLLOWING BILL(S):

CS/HB 203 Agricultural Lands by Agriculture & Natural Resources Subcommittee, Beshears

HB 369 Student Safety by La Rosa

CS/HB 415 Brownfields by Economic Development & Tourism Subcommittee, Hutson

HM 545 Right to Keep and Bear Arms by Combee

HB 885 Independent Special Fire Control Districts by Caldwell

HB 1127 Pet Services and Welfare Programs by Artiles

HB 1271 Central County Water Control District, Hendry County by Hudson

HB 1281 East County Water Control District, Hendry and Lee Counties by Caldwell

HB 1283 Nassau County by Adkins

HB 1367 Tampa Port Authority, Hillsborough County by Young

HB 4053 City of Pensacola, Escambia County by Ford

III. ADJOURNMENT

317 House Office Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850)717-4860

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 203 Agricultural Lands
**SPONSOR(S):** Agriculture & Natural Resources Subcommittee, Beshears and others
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1190

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Agriculture & Natural Resources Subcommittee | 12 Y, 0 N, As CS | Kaiser | Blalock |
| 2) Local & Federal Affairs Committee | | Lukis AL | Rojas JR |
| 3) Finance & Tax Subcommittee | | | |
| 4) State Affairs Committee | | | |

### SUMMARY ANALYSIS

In 2003, the Legislature passed the Agricultural Lands and Practices Act, which in part, prohibits counties from adopting any duplicative policy that limits activity of a bona fide farm or farm operation on agricultural land if such activity is already regulated through or by any of the following:

- best management practices (BMPs);
- interim measures, or regulations adopted as rules under ch. 120, F.S., by the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), or a water management district (WMD) as part of a statewide or regional program; or
- United States Department of Agriculture, United States Army Corps of Engineers, or the United States Environmental Protection Agency.

CS/HB 203 expands the prohibition described above to include not just counties, but any "governmental entity," as defined in law. The bill also prohibits any governmental entity from charging an assessment or fee upon such farms or farm operations. Lastly, the bill amends the definition of "governmental entity" to exclude water management districts.

The bill does not appear to have a fiscal impact on state government. However, by prohibiting governmental entities from charging assessments or fees on certain agricultural activities, the bill appears to have a possible negative impact on local government revenues. This may implicate the mandates provision of s. 18, Art. VII of the State Constitution, but it would qualify to be exempt as the Revenue Estimating Conference determined that the fiscal impact on local governments would be insignificant.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

In 2003, the Legislature passed the Agricultural Lands and Practices Act (Act),[1] which is codified in s. 163.3162, F.S. The Act prohibits counties from adopting any duplicative ordinance, resolution, regulation, rule, or policy that limits activity of a bona fide farm or farm operation[2] on agricultural land if such activity is already regulated through or by any of the following:

- best management practices (BMPs)
- interim measures, or regulations adopted as rules under ch. 120, F.S., by the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), or a water management district (WMD) as part of a statewide or regional program; or
- United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

Prior to the passage of this legislation, some counties enacted measures to regulate various agricultural operations in the state that were duplicative and in some cases more restrictive than those already implemented through BMPs or an existing governmental regulatory program.

In 2010, the legislature further amended s. 163.3162, F.S., because while the Act banned the adoption of future county restrictive measures, it did not explicitly prohibit the enforcement of existing county measures. Therefore, legislation was passed[3] to prohibit the enforcement of existing county measures.

Currently, this prohibition applies only to counties. However, some agricultural associations have reported that municipalities are now starting to adopt ordinances and regulations that are duplicative in nature to existing regulatory requirements.

Section 163.3162(2)(d), F.S., provides that "governmental entity" has the same meaning as provided in s. 164.1031, F.S. The term does not include a water control district established under ch. 298, F.S., or a special district created by a special act for water management purposes.

**Effect of Proposed Changes**

The bill amends the definition of "governmental entity" in s. 163.3162(2)(d), F.S, to exclude water management districts.

The bill also amends s. 163.3162(3)(a), F.S., to prohibit any "governmental entity,"[4] instead of just counties, from adopting or enforcing any ordinance, resolution, rule, or policy to prohibit, restrict,

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[1] CS/CS/SB 1660, Ch. 2003-162, L.O.F.

[2] Bona fide farm or farm operation is defined in s. 193.461.F.S., as good faith commercial agricultural use of the land based on the length of time the land has been so used, whether the use has been continuous, indication that an effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, and size as it relates to the specific agricultural use, among other things.

[3] CS/HB 7103, Ch. 2011-7, L.O.F. (CS/HB 7103 was vetoed by the Governor; overridden during the 2011 legislative session and became law, the Governor's veto notwithstanding.)

[4] "Governmental entity" is defined in s. 163.3162(2)(d), F.S., as having the same meaning as provided in s. 164.1031, F.S., except that the term does not include a water control district established under chapter 298, F.S., or a special district created by a special act for water management purposes. Section 164.1031, F.S., defines "governmental entity" as including any local and regional governmental entities. "Local governmental entities" includes municipalities, counties, school boards, special districts, and other local entities within the jurisdiction of one county created by general or special law or local ordinance. "Regional governmental entities" includes regional planning councils, metropolitan planning organizations, water supply authorities that include more than one county, local

regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural, if such activity is regulated through or by any of the following:

- implemented BMPs;
- interim measures, or regulations adopted as rules under ch. 120, F.S., by DEP, DACS, or a WMD as part of a statewide or regional program; or
- United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

Lastly, the bill creates a new paragraph (b) in s. 163.3162,(3), F.S., which prohibits any governmental entity from charging an assessment or fee upon an activity of a bona fide farm operation on land classified as agricultural, if such activity is regulated through or by any of the abovementioned entities.

B. SECTION DIRECTORY:

**Section 1**: Amends s. 163.3162, F.S.; amending the definition of "governmental entity;" prohibiting governmental entities under certain conditions from adopting or enforcing prohibitions, restrictions, regulations, or other limitations on an activity of a bona fide farm operation on land classified as agricultural; and, prohibiting governmental entities under certain conditions from charging an assessment or fee on an activity of a bona fide farm operation on land classified as agricultural.

**Section 2**: Provides an effective date of July 1, 2013.

## 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:

   By prohibiting governmental entities from charging assessments or fees on certain agricultural activities occurring on agricultural lands, the bill appears to have a possible negative impact on local government revenues. However, the Revenue Estimating Conference determined in an analysis dated February 28, 2013 that the fiscal impact on local governments would be insignificant.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certain agricultural producers would be spared the expense associated with adhering to duplicative regulations or paying certain fees or assessments imposed by governmental entities in the state.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill may have a negative fiscal impact on local government revenues. However, an exemption applies because the Revenue Estimating Conference determined in an analysis dated February 28, 2013 that the fiscal impact on local governments would be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 12, 2013, the Agriculture & Natural Resources Subcommittee adopted two amendments to HB 203.

- **Amendment 1** specifies that, for purposes of section 163.3162, F.S., water management districts are not included in the definition of a governmental entity.
- **Amendment 2** removes the phrase "or charge an assessment or fee upon such activity" from s. 163.3162(3)(a), F.S., in the bill, and creates a new paragraph (b) in s. 163.3162(3), F.S., specifying that a governmental entity, as defined in this section of law, may not charge an assessment or fee upon any activity of a bona fide farm operation if such activity is already regulated by a state or federal agency.

This analysis has been updated to reflect these amendments.

A bill to be entitled

An act relating to agricultural lands; amending s. 163.3162, F.S.; revising a definition; prohibiting a governmental entity from adopting or enforcing any prohibition, restriction, regulation, or other limitation or from charging an assessment or fee on the activity of a bona fide farm operation on land classified as agricultural land under certain circumstances; providing an effective date.

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

Section 1. Paragraphs (b) through (j) of subsection (3) of section 163.3162, Florida Statutes, are redesignated as paragraphs (c) through (k), respectively, paragraph (d) of subsection (2) and paragraph (a) of subsection (3) are amended, and a new paragraph (b) is added to subsection (3) of that section, to read:

163.3162 Agricultural Lands and Practices.—

(2) DEFINITIONS.—As used in this section, the term:

(d) "Governmental entity" has the same meaning as provided in s. 164.1031. The term does not include a water management district, a water control district established under chapter 298, or a special district created by special act for water management purposes.

(3) DUPLICATION OF REGULATION.—Except as otherwise provided in this section and s. 487.051(2), and notwithstanding any other law, including any provision of chapter 125 or this

chapter:

(a) A governmental entity ~~county~~ may not exercise any of its powers to adopt or enforce any ordinance, resolution, regulation, rule, or policy to prohibit, restrict, regulate, or otherwise limit an activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if such activity is regulated through implemented best management practices, interim measures, or regulations adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program; or if such activity is expressly regulated by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

(b) A governmental entity may not charge an assessment or fee upon an activity of a bona fide farm operation on land classified as agricultural land pursuant to s. 193.461, if such activity is regulated through implemented best management practices, interim measures, or regulations adopted as rules under chapter 120 by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district as part of a statewide or regional program; or if such activity is expressly regulated by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.

Section 2. This act shall take effect July 1, 2013.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 369 Student Safety
**SPONSOR(S):** La Rosa and others
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 284

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Choice & Innovation Subcommittee | 13 Y, 0 N | Ammel | Fudge |
| 2) Local & Federal Affairs Committee | | Baker | Rojas |
| 3) Education Committee | | | |

## SUMMARY ANALYSIS

The bill requires the agency responsible for notifying a school district for each type of emergency to be listed in each district school board's emergency response policy and in its model emergency management and preparedness procedures. The bill also authorizes private schools to opt into the district school board's emergency notification procedures and be notified by the relevant emergency response agencies.

Current Florida law does not expressly require that district school board emergency response policies and model emergency management and preparedness procedures list the agencies responsible for notifying the school district regarding each type of emergency.

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies must include procedures for responding to fires, natural disasters, and bomb threats. Model emergency management and preparedness procedures must address life-threatening emergencies, such as weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies; and exposure resulting from manmade emergencies.

The emergency policies of private schools are not regulated by the state. Private schools typically make arrangements to receive notification of emergencies from the appropriate emergency response agency. Florida law does not expressly authorize private schools to opt into school district emergency notification procedures for the purpose of receiving emergency notifications.

The bill has no fiscal impact on state or local governments.

The bill takes effect July 1, 2013.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

Florida law does not expressly require that school district emergency response policies and model emergency management and preparedness procedures list the agencies responsible for notifying the school district regarding emergencies. However, cooperation with emergency response agencies is incorporated into the *Safety and Security Best Practices*, a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies. Among other "best practices," the self-assessment suggests that school districts:

- Make arrangements to work with local emergency officials, including, without limitation, law enforcement; fire department; emergency management; hospital, mental health, health, and social services agencies; and court officials.
- Share comprehensive school safety plans and emergency procedures with appropriate emergency response agencies.
- Implement procedures for contacting all district schools simultaneously regarding an emergency.[1]

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies must include procedures for responding to fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.[2] Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies.[3]

Private school emergency policies are not regulated by the state.[4] Private schools typically make arrangements to receive notification of emergencies from the appropriate emergency response agency. Despite such arrangements, private schools do not always receive notification.[5] Florida law does not expressly authorize private schools to opt into district school board emergency notification procedures for the purpose of receiving notification of emergencies from an emergency response agency.[6]

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[1] Section 1006.07(6), F.S.; Florida Department of Education, *District Safety and Security Best Practices*, http://www.fldoe.org/EM/security-practices.asp (last visited March 10, 2011). The Best Practices are developed by the Office of Program Policy Analysis and Government Accountability. Section 1006.07(6), F.S. Each district school superintendent must make recommendations to the school board for improving safety and security based upon the self-assessment results. The self-assessment results and superintendent's recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent's recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting. *Id.*

[2] Section 1006.07(4)(a), F.S.

[3] Section 1006.07(4)(b), F.S.

[4] Telephone interview with Bureau Chief, Emergency Management, Florida Department of Education (March 17, 2011), confirmed by Bureau Chief, Emergency Management, Florida Department of Education (Mar. 15, 2013).

[5] Telephone interview with Executive Director, Florida Council of Independent Schools (March 11, 2011).

[6] *See* s. 1002.42, F.S.

**Effect of Proposed Changes**

The bill requires the agency responsible for notifying a school district for each type of emergency to be listed in each district school board's emergency response policy and in its model emergency management and preparedness procedures.

The bill provides that if the private school requests such notification by opting into the district school board's emergency notification procedures, then the emergency response agencies listed must notify private schools in the school district of occurrences that threaten student safety. This will enable a private school to receive emergency notifications in the same manner as district public schools.

B. SECTION DIRECTORY:

**Section 1.** Amends s. 1006.07, F.S., relating to district school board duties regarding student discipline and school safety; requires school boards to identify in emergency policies and procedures the agency responsible for notifying the school district regarding emergencies.

**Section 2.** Amends s. 1002.42, F.S., relating to private schools; requires an emergency response agency to notify private schools of emergencies that threaten student safety; authorizes private schools to request such notification by opting into school board notification procedures.

**Section 3.** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

A bill to be entitled

An act relating to student safety; amending s. 1006.07, F.S.; requiring district school board policies to list the emergency response agencies that are responsible for notifying the school district of emergencies; amending s. 1002.42, F.S.; requiring the emergency response agencies to notify private schools in the school district under certain circumstances; providing an effective date.

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

Section 1. Subsection (4) of section 1006.07, Florida Statutes, is amended to read:

1006.07 District school board duties relating to student discipline and school safety.—The district school board shall provide for the proper accounting for all students, for the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students, including:

(4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

(a) Formulate and prescribe policies and procedures for emergency drills and for actual emergencies, including, but not limited to, fires, natural disasters, and bomb threats, for all the public schools of the district which comprise grades K-12. District school board policies shall include commonly used alarm system responses for specific types of emergencies and verification by each school that drills have been provided as

required by law and fire protection codes. The emergency response agency that is responsible for notifying the school district for each type of emergency must be listed in the district's emergency response policy.

(b) ~~The district school board shall~~ Establish model emergency management and emergency preparedness procedures, including emergency notification procedures pursuant to paragraph (a), for the following life-threatening emergencies:

1. Weapon-use and hostage situations.

2. Hazardous materials or toxic chemical spills.

3. Weather emergencies, including hurricanes, tornadoes, and severe storms.

4. Exposure as a result of a manmade emergency.

Section 2. Subsection (16) is added to section 1002.42, Florida Statutes, to read:

1002.42 Private schools.—

(16) EMERGENCY PROCEDURES.—The emergency response agencies identified in a district school board's emergency response policy pursuant to s. 1006.07(4) which are responsible for notifying the school district of an occurrence that threatens student safety shall also notify private schools in the district that request such notification by opting into the district school board's emergency notification procedures.

Section 3. This act shall take effect July 1, 2013.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 415 Brownfields
**SPONSOR(S):** Economic Development and Tourism Subcommittee, Hutson
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Economic Development & Tourism Subcommittee | 13 Y, 0 N, As CS | Duncan | West |
| 2) Local & Federal Affairs Committee | | Baker | Rojas |
| 3) Finance & Tax Subcommittee | | | |
| 4) Economic Affairs Committee | | | |

### SUMMARY ANALYSIS

CS/HB 415 revises the provisions relating to the process for designating brownfield areas and specifies the criteria that must be satisfied when a brownfield designation is proposed by a local government, or a person other than a governmental entity, such as an individual, corporation, community-based organization or not-for-profit corporation.

The bill also clarifies the requirements that apply to all proposed brownfield area designations, including those requirements for proposals by a local government or a person other than a governmental entity, and the requirements related to whether an the area to be designated is located inside or outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated pilot project area. Local governments that designate a brownfield area are not required to use the term "brownfield area" within the name of the brownfield area proposed for designation by the local government.

The bill provides relief from liability for property damages, including but not limited to, diminished value of real property or improvements; lost or delayed rent, sale, or use of real property or improvements; or stigma to real property or improvements caused by contamination for those who execute and implement to successful completion a brownfield site rehabilitation agreement and their successors. The liability protection applies to causes of action accruing on or after July 1, 2013. The bill also provides that liability protection does not limit the right of a third party other than the state to pursue an action for damages to persons for bodily harm.

The bill provides an effective date of July 1, 2013.

The bill does not have a fiscal impact on state or local government revenues.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

Brownfields

A "brownfield site" is real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.[1]

Furthermore, a "brownfield area" is a contiguous area of one or more brownfield sites, portions of which may not be contaminated, and which has been designated by local government resolution. Brownfield areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones; other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects.[2]

In 1995, the U.S. Environmental Protection Agency (EPA) initiated a program to empower states, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and reuse brownfields.[3]

The federal brownfields program was significantly expanded on January 11, 2002, when President Bush signed into law the Small Business Relief and Liability and Brownfields Revitalization Act,[4] also known as the "Brownfields Amendments." For example, Sections 221-22 of the Brownfield Amendments included liability exemptions for prospective purchasers, and for owners of contiguous properties who were not a fault in causing the contamination.[5] The main purpose of this new law was to create incentives for the redevelopment of brownfield properties and Superfund sites and provide grants to assess or cleanup a brownfields property.

Florida followed federal law in 1997 when the Legislature enacted the Brownfields Redevelopment Act[6] (Act). The Act provided incentives for the private sector to redevelop abandoned or underused real property, which was complicated by real or perceived environmental contamination. The Act provides legislative intent; a brownfield area designation process; environmental cleanup criteria; a program administration process; eligibility criteria and liability protections; and economic and financial incentives. The Act also provides for a Brownfield Areas Loan Guarantee Program, which is limited to certain percentages of the underlying loan.[7]

Brownfield Designation and Administration

The designation of a brownfield area may be initiated in one of two ways:[8]

- By a local government to encourage redevelopment of an area of specific interest to the community.

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[1] Section 376.79(3), F.S.
[2] *See* Section 376.79(4), F.S.
[3] Brownfields and Land Revitalization, Community Reinvestment Fact Sheet, U.S. Environmental Protection Agency, *available at* http://www.epa.gov/swerosps/bf/laws/cra.htm (last visited February 20, 2013).
[4] Public Law No. 107-118, 115 stat. 2356.
[5] Summary of the Small Business Liability Relief and Brownfields Revitalization Act, U.S. Environmental Protection Agency, *available at* http://epa.gov/brownfields/laws/2869sum.htm (last visited Mar. 12, 2013).
[6] ch. 97-277, L.O.F.; ss. 376.77 – 376.86, F.S., are known as the "Brownfields Redevelopment Act."
[7] Section 376.86, F.S.
[8] *See* s. 376.80, F.S.

- By a person[9] with a redevelopment plan in mind.

Designation of a brownfield area must come from the local government through the passage of a local resolution. Once a brownfield area has been designated, the local government must notify the Department of Environmental Protection (DEP) and attach a map that clearly identifies the parcels proposed for designation or a less-detailed map accompanied by a detailed legal description of the brownfield area. If a property owner within the proposed area requests in writing to have his or property removed from the proposed designation, then the local government must grant the request.[10]

If a local government proposes to designate a brownfield area that is outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area, the local government must adopt a resolution pursuant to the process established under the Act. At least one of the required public hearings must be conducted as close as reasonably practicable to the area proposed for designation to provide an opportunity for the public to provide input as to the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other local issues.[11]

*Required considerations*

In determining the area to be designated, the local government must consider:[12]

- Whether the brownfield area warrants economic development and has a reasonable potential for such activities.
- Whether the proposed area to be designated represents a reasonable focused approach and is not overly large in geographic coverage.
- Whether the area has potential to interest the private sector in participating in rehabilitation.
- Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

*When designation is necessary*

A local government must designate a brownfield area under the following conditions:[13]

- The person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate the site.
- The redevelopment and rehabilitation of the proposed brownfield site will result in economic productivity of the area and will create at least 5 new permanent jobs at the brownfield site. The full-time positions must be associated with the implementation of the brownfield site agreement[14] and with the redevelopment project's demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area.
- The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations.
- Notice has been provided to neighbors and nearby residents of the proposed area to be designated and the person proposing the area for designation has provided the neighbors and residents an opportunity to comment and make suggestions about rehabilitation.

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[9] "Person" means any individual, partner, joint venture, or corporation; any group of the foregoing, organized or united for a business purpose; or any governmental entity. Section 376.79(14), F.S.

[10] Section 376.80(1), F.S.

[11] Section 376.80(2)(a), F.S.

[12] Section 376.80(2)(a), F.S.

[13] Section 376.80(2)(b), F.S.

[14] *See* s. 376.80(5), F.S., for the contents of a brownfield site agreement.

- The person proposing the area for designation has provided reasonable assurance that there are sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield area.

The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitle the identified person to negotiate a brownfield site rehabilitation agreement with the DEP or an approved local pollution control program.[15]

*Public Notice Requirements*

The Act also establishes public notice requirements for local governments to follow when designating a brownfield. Municipalities are required to adopt a resolution in accordance with the procedures under the Municipal Home Rule Powers Act[16] and counties are required to adopt a resolution in accordance with the county government provisions of the state statute.[17]

For municipalities,[18] the notice for public hearings on the proposed resolution must follow the procedures used when a proposed ordinance changes the permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land of 10 contiguous acres or more, which are as follows:

- Two advertised public hearings on the proposed ordinance, one of which must be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day.
    - The first public hearing must be held at least seven days after the day that the first advertisement is published.
    - The second hearing must be held at least 10 days after the first hearing and advertised at least five days prior to the public hearing.
- The required advertisements must be no less than 2 columns wide by 10 inches long in a standard size or tabloid size newspaper and the headline must be in a type of at least 18 point.
    - The advertisement must be placed in a newspaper of general paid circulation in the municipality and of general interest and readership in the municipality, not one of limited subject matter.[19] The legislative intent is that whenever possible, the advertisement appears in a newspaper that is published at least than five days a week unless the only newspaper in the municipality is published less than five days a week. The form of the notice is provided.[20]
    - With the exception of amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement must contain a geographic location map clearly indicating the area covered by the proposed ordinance. The map must include major street names and must also be included in an online[21] notice.

For counties,[22] it is unclear whether the notice for the public hearings must follow the procedures used when a proposal seeks to change the permitted, conditional, or prohibited uses within a zoning

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[15] Section 376.80(2)(c), F.S.
[16] Section 376.80(1), F.S.; s. 166.011, F.S. (chapter 166, F.S., is known as the Municipal Home Rule Powers Act).
[17] Sections 376.80(1) and 125.66, F.S.
[18] Section 166.041(3)(c)2., F.S.
[19] *See* ch. 50, F.S.
[20] *See* s. 166.041(3)(c)2., F.S.
[21] *See* s. 50.0211, relating to internet website publication.
[22] *See* s. 125.66(4)(b)2., F.S.

category, or the actual zoning map designation of a parcel or parcels of land of 10 contiguous acres or more. The statutory reference under the Act describes how the required advertisements are to appear in a newspaper of general circulation; however, it does not require counties to hold public hearings.[23] Thus, there is a technical error in the statutory cross-reference under the Act.

The provisions of the Act relating to the brownfield designation are unclear and may lead to varying interpretations. For example, the Act provides guidance as to the requirements for a local government proposing the designation of a brownfield area outside similar redevelopment areas, such as community redevelopment areas and enterprise zones; however, it does not specifically state what provisions apply when a local government proposes to designate a brownfield area within one of these areas. There are currently no judicial interpretations on the portion of the Act creating this ambiguity.[24]

It is also unclear as to which provisions apply to proposed brownfield designations whether being proposed by a county, municipality, or a person other than a nongovernmental entity.

Eligibility criteria

A person who has not caused or contributed to the contamination of a brownfield site on or after July 1, 1997, is eligible to participate in the brownfield program.[25] However, certain sites are not eligible for the program. Those sites include potential brownfield sites that:

- are subject to an ongoing formal judicial or administrative enforcement or corrective action pursuant to federal authority; or
- have obtained or are required to obtain a hazardous waste operation, storage, or disposal facility permit, unless specifically exempted by a memorandum of agreement with the EPA;[26]

Protection from contamination remediation liability

A person who executes and complies with the terms of a brownfield rehabilitation agreement is relieved of further liability for remediation of the contaminated sites to the state and to third parties and of liability in contribution to any other party who has or may incur cleanup liability for the contaminated site or sites.[27]

Until a person successfully completes a rehabilitation agreement, that liability protection may be revoked upon that person's failure to comply with the rehabilitation agreement.[28] For those persons who comply with the terms of a rehabilitation agreement, DEP must attempt to negotiate an agreement with the U.S. EPA to forego federal enforcement.[29]

The eligibility and liability provisions of the Act do not limit the right of a third party other than the state to pursue an action for property damages or personal injury; however, such an action may not compel site rehabilitation beyond that which is required in the approved brownfield site rehabilitation agreement or required by DEP or an approved local pollution control program.[30]

If a state or local government has acquired a contaminated site within a brownfield area as a gift or by virtue of its operations as a sovereign, it is not liable for implementing site rehabilitation corrective actions, unless the state or local government has caused or contributed to a release of contaminants.[31] Also, nonprofit conservation organizations, acting for the public interest, which purchase contaminated

[23] *See* ss. 376.80(1), F.S., and 125.66(4)(b), F.S.
[24] *I.e.*, s. 376.80, F.S.
[25] Section 376.81(1), F.S.
[26] Section 376.82(1)(b), F.S.
[27] Section 376.82(2)(a) and (2)(d), F.S.
[28] Section 376.80(8), F.S.
[29] Section 376.82(2)(g), F.S.
[30] Section 376.82(2)(b), F.S.
[31] Section 376.82(2)(h), F.S.

sites and which did not contribute to the release of contamination on the site also warrant protection from liability.[32]

Lenders are afforded certain liability protections to encourage financing of real property in brownfield areas. Essentially, the same liability protections apply to lenders if they have not caused or contributed to a release of a contaminant at the brownfield site.[33]

## Effect of Proposed Changes

### Legislative Intent

The Committee Substitute (CS) specifies that brownfields redevelopment, when properly done, can be a significant element in community revitalization, especially within community redevelopment areas, empowerment zones, closed military bases, or designated brownfield pilot project areas.

### Brownfield Program Administration Process

The bill revises the provisions relating to the process for designating brownfield areas, and clarifies the criteria that must be satisfied when a brownfield area designation is proposed by a local government or a person other than a governmental entity, such as an individual, corporation, community-based organization, or not-for-profit corporation.

The bill also clarifies that the following requirements apply to all brownfield area designations, regardless of whether the area proposed for designation is located inside or outside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated pilot project area:

- A local government must notify DEP of its decision to designate a brownfield area for rehabilitation. The bill requires the notification to occur within 30 days after the adoption of a resolution by the local governing body.
- The adopted resolution must include a map that clearly identifies the parcels proposed for designation or a less-detailed map accompanied by a detailed legal description of the brownfield area. The bill adds the requirement that the local government must adopt the resolution pursuant to the procedures and requirements of the local government in effect at the time of the proposed designation, unless s. 376.80, F.S., provides otherwise.

*Public hearing and notice requirement*

As currently provided in s. 376.80, F.S., municipalities and counties are required to adopt the resolution in accordance with the procedures in chs. 166 and 125, F.S., respectively. In the same manner as municipalities, the bill requires counties to notice public hearings in the manner used when a proposed ordinance changes the list of permitted, conditional, or prohibited uses within a zoning category, or changes the zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more. Thus, the bill clarifies that counties must hold two advertised public hearings and when the hearings must be held.

The bill maintains the requirement that the local government or person proposing the designation to conduct at least one public hearing as close as reasonably practicable to the area proposed for designation to give the public an opportunity to provide input as to the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, and neighborhood residents' considerations. The bill specifies that this public hearing must occur prior to the designation of the proposed brownfield area.

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[32] Section 376.82(2)(j), F.S.
[33] *See* s. 376.82(4), F.S.

The bill clarifies what is required of brownfield designations of land inside certain regions. Currently, the Act provides that when a local government proposes to designate a brownfield area *outside* a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area the local government must provide notice and hold public hearings. The bill specifies the public hearings, conditions, and criteria that are required when a local government proposes to designate a brownfield area *within* a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project.

The bill provides that a local government that a designates a brownfield area is not required to use the term "brownfield area" within the name of the brownfield area proposed for designation by the local government.

Liability Protection

The liability portion of the bill expands the protections provided to the person responsible for the brownfield site rehabilitation and may encourage participation in the brownfield program.

Specifically, the bill provides relief from liability for property damages, including but not limited to, diminished value of real property or improvements; lost or delayed rent, sale, or use of real property or improvements; or stigma to real property or improvements caused by contamination for those who execute and comply with the terms of a brownfield site rehabilitation agreement. The liability protection applies to causes of action accruing on or after July 1, 2013. Those property owners who are impacted by contamination addressed by a rehabilitation agreement may also be limited in their ability to seek relief.

The bill also provides that liability protection does not limit the right of a third party other than the state to pursue an action for damages to persons for bodily harm.

B. SECTION DIRECTORY:

**Section 1:** Amends s. 376.78(8), F.S., relating to legislative intent, to provide that brownfield redevelopment when done properly can be significant element in community revitalization, especially community redevelopment areas, enterprise zones, empowerment zones, closed military bases, and designated brownfield pilot project areas.

**Section 2:** Amends s. 376.80(1) and (2), F.S., to revise the provisions relating to the process for designating brownfield areas and clarifying the criteria that must be met when a brownfield area designation is proposed by a local government or a person other than a governmental entity such as an individual, corporation, community-based organization, or not-for-profit corporation, and creates subsection (12) of s. 376.80, F.S. A new subsection provides that a local government that a designates a brownfield area is not required to use the term "brownfield area" within the name of the brownfield area proposed for designation by the local government.

**Section 3:** Amends s. 376.82(2), F.S., relating to eligibility criteria and liability protection, to provide relief from liability for property damages caused by contamination for those who execute and comply with the terms of a brownfield site rehabilitation agreement. The liability protection applies to causes of action accruing on or after July 1, 2013. The bill provides that liability protection does not limit the right of a third party other than the state to pursue an action for damages to persons for bodily harm.

**Section 4:** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals, corporations, community-based organizations, and not-for-profit corporations proposing to designate brownfield areas should benefit from clearer provisions in the Act.

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:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 6, 2013, the Economic Development and Tourism Subcommittee adopted a proposed committee substitute. This analysis reflects the changes made by that committee substitute.

A bill to be entitled

An act relating to brownfields; amending s. 376.78, F.S.; revising legislative intent with regard to community revitalization in certain areas; amending s. 376.80, F.S.; revising procedures for designation of brownfield areas by local governments; authorizing local governments to use a term other than "brownfield area" when naming such areas; amending s. 376.82, F.S.; providing relief of liability for property damages for entities that execute and implement certain brownfield site rehabilitation agreements; providing for applicability; providing an effective date.

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

Section 1. Subsection (8) of section 376.78, Florida Statutes, is amended to read:

376.78 Legislative intent.—The Legislature finds and declares the following:

(8) The existence of brownfields within a community may contribute to, or may be a symptom of, overall community decline, including issues of human disease and illness, crime, educational and employment opportunities, and infrastructure decay. The environment is an important element of quality of life in any community, along with economic opportunity, educational achievement, access to health care, housing quality and availability, provision of governmental services, and other

socioeconomic factors. Brownfields redevelopment, properly done, can be a significant element in community revitalization, especially within community redevelopment areas, enterprise zones, empowerment zones, closed military bases, or designated brownfield pilot project areas.

Section 2. Subsections (1) and (2) of section 376.80, Florida Statutes, are amended, and subsection (12) is added to that section, to read:

376.80 Brownfield program administration process.—

(1)(a) The local government with jurisdiction over a proposed brownfield area shall designate such area pursuant to this section.

(b) For a brownfield area designation proposed by:

1. The jurisdictional local government, except as provided in paragraph (2)(c), the designation criteria under paragraph (2)(a) apply.

2. Any person, other than a governmental entity, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, or not-for-profit corporations, the designation criteria under paragraph (2)(b) apply.

(c) The following provisions apply to all proposed brownfield area designations:

1. A local government with jurisdiction over the brownfield area must notify the department of its decision to designate a brownfield area for rehabilitation for the purposes of ss. 376.77-376.86. The notification must include a resolution adopted~~,~~ by the local government body. The local government

shall notify the department of the designation within 30 days after adoption of the resolution.

2. The brownfield area designation must be carried out by a resolution adopted by the jurisdictional local government, ~~to~~ which includes ~~is attached~~ a map adequate to clearly delineate exactly which parcels are to be included in the brownfield area or alternatively a less-detailed map accompanied by a detailed legal description of the brownfield area. The resolution shall be adopted pursuant to the procedures and requirements of the local government in effect at the time of the proposed designation, except as otherwise provided in this section.

3. If a property owner within the area proposed for designation by the local government requests in writing to have his or her property removed from the proposed designation, the local government shall grant the request.

4. For municipalities, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 166.041, except that the notice for the public hearings on the proposed resolution must be in the form established in s. 166.041(3)(c)2. For counties, the governing body shall adopt the resolution in accordance with the procedures outlined in s. 125.66, except that the notice for the public hearings on the proposed resolution shall be in the form established in s. 125.66(4)(b)2.

(d) Compliance with the following provisions is required before designation of a proposed brownfield area under paragraph (2)(a) or paragraph (2)(b):

1. At least one of the required public hearings shall be

conducted as closely as reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns.

2. Notice of the public hearing must be made in a newspaper of general circulation in the area, and the notice must be at least 16 square inches in size, must be in ethnic newspapers or local community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing.

(2)(a) If a local government proposes to designate a brownfield area that is outside a community redevelopment area ~~areas~~, enterprise zone ~~zones~~, empowerment zone ~~zones~~, closed military base ~~bases~~, or designated brownfield pilot project area ~~areas~~, the local government shall provide notice, adopt the resolution, and conduct ~~the~~ public hearings pursuant to ~~in accordance with the requirements of~~ subsection (1)~~, except at least one of the required public hearings shall be conducted as close as reasonably practicable to the area to be designated to provide an opportunity for public input on the size of the area, the objectives for rehabilitation, job opportunities and economic developments anticipated, neighborhood residents' considerations, and other relevant local concerns. Notice of the public hearing must be made in a newspaper of general circulation in the area and the notice must be at least 16 square inches in size, must be in ethnic newspapers or local~~

~~community bulletins, must be posted in the affected area, and must be announced at a scheduled meeting of the local governing body before the actual public hearing~~. At a public hearing to designate the proposed brownfield area ~~In determining the areas to be designated~~, the local government must consider:

1. Whether the brownfield area warrants economic development and has a reasonable potential for such activities;

2. Whether the proposed area to be designated represents a reasonably focused approach and is not overly large in geographic coverage;

3. Whether the area has potential to interest the private sector in participating in rehabilitation; and

4. Whether the area contains sites or parts of sites suitable for limited recreational open space, cultural, or historical preservation purposes.

(b) For designation of a brownfield area that is proposed by a person other than the local government, the ~~a~~ local government with jurisdiction over the proposed brownfield area shall adopt a resolution to designate the ~~a~~ brownfield area pursuant to subsection (1), if, at the public hearing to adopt the resolution, the person establishes ~~under the provisions of this act provided~~ that:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site;

2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs

at the brownfield site that are full-time equivalent positions not associated with the implementation of the brownfield site rehabilitation agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement does ~~shall~~ not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing as defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks;

3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations;

4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated pursuant to subsection (1), and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be made in a newspaper of general circulation in the area, at least 16 square inches in size, and the notice must be posted in the affected area; and

5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

(c) Paragraphs (a) and (b) do not apply to a proposed

brownfield area if the local government proposes to designate the brownfield area inside a community redevelopment area, enterprise zone, empowerment zone, closed military base, or designated brownfield pilot project area and the local government complies with paragraph (1)(c).

(d) ~~(c)~~ The designation of a brownfield area and the identification of a person responsible for brownfield site rehabilitation simply entitles the identified person to negotiate a brownfield site rehabilitation agreement with the department or approved local pollution control program.

(12) A local government that designates a brownfield area pursuant to this section is not required to use the term "brownfield area" within the name of the brownfield area proposed for designation by the local government.

Section 3. Paragraphs (a) and (b) of subsection (2) of section 376.82, Florida Statutes, are amended to read:

376.82 Eligibility criteria and liability protection.—

(2) LIABILITY PROTECTION.—

(a) Any person, including his or her successors and assigns, who executes and implements to successful completion a brownfield site rehabilitation agreement, shall be relieved of:

1. Further liability for remediation of the contaminated site or sites to the state and to third parties. ~~and of~~

2. Liability in contribution to any other party who has or may incur cleanup liability for the contaminated site or sites.

3. Liability for claims of any person for property damages, including, but not limited to, diminished value of real property or improvements; lost or delayed rent, sale, or use of

real property or improvements; or stigma to real property or improvements caused by contamination addressed by a brownfield site rehabilitation agreement. Notwithstanding any other provision of this chapter, this subparagraph applies to causes of action accruing on or after July 1, 2013.

(b) This section does not limit ~~shall not be construed as a limitation on~~ the right of a third party other than the state to pursue an action for damages to persons for bodily harm ~~property or person~~; however, such an action may not compel site rehabilitation in excess of that required in the approved brownfield site rehabilitation agreement or otherwise required by the department or approved local pollution control program.

Section 4. This act shall take effect July 1, 2013.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HM 545 Right to Keep and Bear Arms
**SPONSOR(S):** Combee and others
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Local & Federal Affairs Committee | | Baker | Rojas |
| 2) Judiciary Committee | | | |

### SUMMARY ANALYSIS

The memorial expresses the sense of the Florida Legislature that the President's Proposal to constrain the people's access to arms violates the U.S. Constitution. The memorial also expresses the Legislature's intent to lawfully overturn federal firearm control measures that violate the U.S. Constitution.

The Second Amendment protects the individual right to possess for lawful purposes a firearm in common use. That right applies to state regulation as well. The U.S. Supreme Court has not specified the level of heightened scrutiny applicable to government measures that constrain that guaranteed right.

The Proposal was issued in January 2013 and urges Congress to not only reinstate the prohibition on military-style weapons and on certain-sized magazines, but also to increase the scope of those prior constrictions. In February 2013, the President asked Congress to pass these general proposals in the State of the Union Address.

The Tenth Amendment may provide a ground upon which to challenge federal regulation of firearms depending on the degree and manner of federal implementation.

The memorial has no fiscal impact.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Current Situation**

*A. The Second Amendment*

The Second Amendment to the U.S. Constitution states a "well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."

General Protections

The U.S. Supreme Court (Court) has declared the Second Amendment provides the constitutional right of an individual to keep and bear arms.[1] The Second Amendment applies to the states by operation of the Fourteenth Amendment.[2] The introductory clause of the Second Amendment does not limit the right to keep and bear arms.[3]

The Court has looked at the provisions of a challenged regulation working together as a whole in order to determine whether that regulation indeed constrains individual rights protected by the Second Amendment. For instance, a law that outlawed the registration of handguns while also outlawing the possession of unregistered firearms was a de facto prohibition on handguns; therefore, that law violated the Second Amendment.[4] Requiring a handgun to be disassembled or trigger-locked also violated the Second Amendment by requiring that weapon to be kept inoperable.[5]

The Court emphasized that these bans on handguns would fail any level of heightened constitutional scrutiny; therefore, it did not choose which type of scrutiny (strict or intermediate) was necessary to apply.[6]

Qualifications

In *District of Columbia v. Heller*, the Court decided, among other things, there is no Second Amendment protection for "those weapons not typically possessed by law-abiding citizens for lawful purposes, such as short-barreled shotguns."[7] In other words, the weapons protected by the Second Amendment are those in common use for lawful purposes, such as self-defense.[8]

For example, because in the United States handguns were a common weapon for home defense, a prohibition on the possession of handguns violated the Second Amendment.[9]

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[1] *District of Columbia v. Heller*, 554 U.S. 570, 128 S. Ct. 2783 (2008).
[2] *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010).
[3] *See Heller*, 128 S. Ct. at 2789-90 (the introductory clause is used to resolve any ambiguities, if they exist, after reading the operative clause, and was in use in many state constitutions at the founding era).
[4] *Id.* at 2789-90.
[5] *Id.* at 2817-19.
[6] *Id.* at 2817-18.
[7] *Id.* at 2816 (choosing to narrow the limitation on the Second Amendment expressed by a prior U.S. Supreme Court decision).
[8] *Id.* at 2815 (finding that militia-type weapons at the revolutionary period were the same type as used in self-defense).
[9] *Id.* at 2817-19.

Exceptions

*Heller* noted there are presumptively lawful regulations the Second Amendment does not protect. The Court then proceeded to give an *open-ended* list of examples of such regulations to which the presumption of lawfulness attaches:

1) "longstanding prohibitions on the possession of firearms *by felons* and *the mentally ill*, or
2) laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or
3) laws imposing conditions and qualifications on the *commercial* sale of arms."[10]

The Court did not specifically mention the degree of difficulty by which these presumptions could be overcome, or whether these were rebuttable or conclusive presumptions.

After *Heller*, the Court was asked to decide whether a federal prohibition on firearm possession by a person convicted of a domestic violence misdemeananor required proof of a domestic relationship.[11] In its opinion, the Court did not invalidate that statute but did not address the issue of the Second Amendment either.[12] However, one U.S. Circuit Court of Appeals has applied intermediate scrutiny (a lower degree of scrutiny than many fundamental rights enjoy) to a prohibition on firearm possession by a person subject to a domestic violence injunction.[13]

Another U.S. Circuit Court of Appeals has found that a prohibition on the possession of military-style firearms and large-capacity magazines passes intermediate scrutiny.[14]

*B. The U.S. President's recent proposal for federal regulation of firearms*

On January 16, 2013, the President released a statement proposing changes to federal law and the regulation of firearms (Proposal).[15] That Proposal was based on recommendations from the Vice President.[16] Those recommendations leaned toward executive action rather than congressional legislation.[17] On January 26, 2013, the President announced certain executive actions he would take regarding firearms (Announcement).[18]

At the State of the Union Address on February 12, 2013, the President called on Congress to vote on firearm control as envisioned by the Proposal. Among other regulatory and spending requests,[19] the Proposal listed two broad prongs of firearm regulation:

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[10] *Id.* at 2816-17 (numerals and emphasis added).
[11] *United States v. Hayes*, 555 U.S. 415 (2009).
[12] *Id.*
[13] *United States v. Reese*, 627 F.3d 792 (10th Cir. 2010).
[14] *Heller v. District of Columbia*, 670 F.3d 1244 (D.C. Cir. 2011) (case is currently at federal District Court after being remanded by the Circuit Court; discovery deadline has been set for May 2013).
[15] "Now is the Time: The President's plan to protect our children and our communities by reducing gun violence," The White House, *available at* http://www.whitehouse.gov/issues/preventing-gun-violence#what-we-can-do (click "Download the full text of the President's Plan") (last visited Feb. 19, 2013) (hereinafter the "Presidential Proposal").
[16] Kevin Liptak, "Details of Biden gun package emerge," CNN, Jan. 15, 2013, *available at* http://politicalticker.blogs.cnn.com/2013/01/15/details-of-biden-gun-package-emerge/ (last visited Feb. 20, 2013).
[17] *See id.* (reporting that Vice President's recommendations found a high-capacity magazine law may pass House, while assault weapon ban would not).
[18] "Now is the Time", *supra* n. 14 (click "See the Executive Actions President Obama Announced") (last visited Feb. 19, 2013) (hereinafter "Announcement").
[19] The portions of the proposal calling for spending include millions of dollars for research; increased police presence on streets; encouragement for firearm manufacturers to create new constraints on weapons; hiring school resource officers, psychologists, and counselors; and implementation of emergency management plans and behavior management plans. The other regulatory categories of the Proposal included schools and mental health services.

1) magazine size, ammunition, and military-style firearms, and
2) constraints on sales.

1. Magazine size, ammunition, and military-style firearms

The Proposal urges Congress to "reinstate and strengthen the prohibition on assault weapons."[20] According to this language, the President not only seeks to recreate the same ban that existed from 1994 to 2004[21], but also wants Congress to enact an even more stringent law. In particular, the Proposal implores Congress to prevent cosmetic modifications of semiautomatic rifles that the President alleges were a circumvention of the 1994 assault weapon ban.[22] The Proposal does not specify which modifications allegedly circumvented that now-repealed law.

The 1994 assault weapons ban prohibited the manufacture, transfer and possession of a "semiautomatic assault weapon," including A-K technology weapons, UZI, AR-15, TEC-9, and "copies or duplicates of the [prohibited] firearms."[23]

The Proposal also urges Congress to "reinstate the prohibition on magazines holding more than 10 rounds."[24] The 1994 federal law prohibited ammunition feeding devices of more than 10 rounds.[25] The Proposal goes on to urge Congress to ban the possession and transfer of armor-piercing ammunition among persons who are not members of law enforcement or the military.[26]

2. Constraints on Sales

The Proposal urges Congress to change the National Criminal Background Check System under the Brady Act.[27] Accordingly, the President urges Congress to require background searches for *all* firearm purchasers, unless a transaction occurred between family members or was a temporary transfer for sporting purposes.[28] The Proposal urges Congress to prevent unlicensed persons from selling weapons to those who may not otherwise be able to make a lawful purchase because of failing a background search, i.e., "straw purchasers."[29]

*Ban on importation of relic arms*

The Proposal requests Congress to permit the executive branch to restrict the definition of importable relic weapons by excluding semiautomatic military rifles therefrom.[30]

*Executive action*

The Proposal implies the implementation of certain executive action. The President has stated that he intends to take executive action so that in spite of the Health Insurance Portability and Accountability Act (HIPAA), states may disclose a person's mental health information when a

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[20] Presidential Proposal at 5, *supra* n. 14.
[21] Pub. L. 103-322, §§ 110102-110104 (HR 3355) (Violent Crime Control and Law Enforcement Act of 1994); once codified at18 U.S.C. §§ 921-22 (1994).
[22] Presidential Proposal at 5, *supra* n. 14.
[23] Pub. L. 103-322, § 110102 (1994).
[24] Presidential Proposal at 5, *supra* n. 14.
[25] Pub. L. 103-322, § 110102 (1994).
[26] Presidential Proposal at 6, *supra* n. 14.
[27] *Id.* at 3; *see* 18 U.S.C. § 921, *et. seq.*
[28] Presidential Proposal at 3, *supra* n. 14.
[29] *Id.* at 6.
[30] *Id.* at. 7.

background search is conducted.[31] To this end, the Proposal, without providing specifics, requests to spend $70 million on states in the next two fiscal years to encourage them to make relevant disclosures.

Further, the President has stated that he intends to direct federal agencies to review federal firearm laws and recommend changes to Congress and the executive branch as to how those laws can be used to "ensure dangerous people aren't slipping through the cracks."[32]

The President intends to issue a Memorandum requiring all federal law enforcement to trace firearms recovered by a criminal investigation.[33] He also intends to recommend regulations that would create a law enforcement database for the purpose of conducting a broader background search before returning a recovered weapon to its owner.[34]

*C. The State of Florida's authority to resist federal measures relating to firearms*

The vagueness by which the Proposal expresses its intent to strengthen the 1994 federal ban on military-style weapons leaves enough room for the federal government to adopt a measure that may violate the Second Amendment.

Moreover, the U.S. Supreme Court (Court) had not yet clarified the meaning of the Second Amendment at the time the 1994 ban existed. It is possible the Court may determine that strict scrutiny is the necessary level of scrutiny to apply to government measures that raise Second Amendment issues, and thereby invalidate laws constricting the possession of certain firearms and magazines, such as those urged in the Proposal.

The proposed federal action may be unconstitutional under the Tenth Amendment to the U.S. Constitution to the extent that a federal measure may impose an obligation on state officers to execute federal law.[35] Such was the case with the Brady Handgun Violence Prevention Act that required *state* officials to implement federal law by searching the background of prospective buyers and handling documents submitted by dealers.[36]

**Effect of Proposed Changes**

This memorial expresses the Florida Legislature's position to the United States Congress and President regarding the President's proposals on firearm constraints. The memorial expresses the Legislature's sense that those proposals to restrict the availability of arms to law-abiding citizens violate the United States Constitution.

The memorial also notifies Congress and the President that the Florida Legislature intends to lawfully exercise its authority to resist and overturn any federal gun control that violates the U.S. Constitution.

B. SECTION DIRECTORY:

N/A

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[31] *Id.* at 4; Announcement at 2, *supra* n. 18.
[32] *Id.* at 5.
[33] *Id.* at 6.
[34] *Id.* at 6-7.
[35] *See Printz v. United States*, 521 U.S. 989, 117 S. Ct. 2365 (1997).
[36] *Id.*; *but see Raich v. Gonzales*, 500 F.3d 850 (9th Cir. 2007) (holding the Tenth Amendment did not apply when Congress properly exercised its Commerce power and did not commandeer state officials when implementing the federal law).

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   N/A

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS / COMMITTEE SUBSTITUTE CHANGES

N/A

House Memorial

A memorial to the United States Congress and the President of the United States, urging Congress and the President to protect the constitutional right of the people to keep and bear arms.

WHEREAS, the Second Amendment to the Unites States Constitution and Section 8, Article I of the State Constitution protect an individual's right to keep and bear arms, and

WHEREAS, the Supreme Court of the United States has found that the Second Amendment protects the right of individuals to possess any bearable arms commonly used for lawful purposes, and

WHEREAS, the President of the United States has made clear his intent to urge Congress to pass legislation that would restrict the lawful acquisition and possession of firearms and ban many firearms commonly used for self-defense, hunting, competition, and target shooting, and

WHEREAS, the Supreme Court of the United States has recognized that the principles of separate sovereignty, as embodied in the Tenth Amendment to the Unites States Constitution, prohibit the Federal Government from requiring the state or its officers to take part in any federal gun control scheme, and

WHEREAS, it is the duty of the Legislature to exercise all of its lawful authority and power to protect the right of the people of this state to keep and bear arms, NOW, THEREFORE,

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

That it is the sense of the Legislature that the proposals of the President of the United States to restrict the arms available to law-abiding citizens violate the United States Constitution and that the Legislature, on behalf of the government and citizens of the state, hereby notifies the Congress and the President that it intends to lawfully use all of its authority and power to resist or overturn any federal gun control measure that violates the right of the people of this state to keep and bear arms.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

# HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 885 Independent Special Fire Control Districts
**SPONSOR(S):** Caldwell
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1196

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Local & Federal Affairs Committee | | Lukis AL | Rojas JR |
| 2) Finance & Tax Subcommittee | | | |
| 3) State Affairs Committee | | | |

## SUMMARY ANALYSIS

HB 885 amends s. 191.009, F.S. and s. 191.011, F.S. to expand the authorization of independent special fire control districts to levy non-ad valorem assessments.

Currently, independent special fire control districts may levy non-ad valorem assessments to "construct, operate, and maintain district facilities and services." The assessments may only be levied on property that benefits from such services, and the rate of the assessments must be based on the specific benefit accruing to such benefitted property.

The bill expands the ability of independent special fire control districts to levy non-ad valorem assessments and specifies that independent special fire control districts may levy non-ad valorem assessments for the following:

- emergency rescue services;
- first response medical aid;
- emergency medical services; and
- emergency transport services.

The bill also recognizes that the abovementioned services constitute a benefit to real property.

Lastly, the bill removes the requirement that assessments be levied on benefitted property and the requirement that the rate of the assessments be based on the specific benefit accruing such benefitted property.

The bill does not compel residents living in an independent special fire control district to pay any new non-ad valorem assessment. Section 191.009(2), F.S., requires that an independent special fire control district board receive elector approval via referendum before it levies any new non-ad valorem assessment within its district.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Background on Independent Special Fire Control Districts**

Formation of Independent Special Fire Control Districts

With limited exceptions provided in general law, independent special districts, including independent special fire control districts, may only be created by the Legislature. The creation of independent special fire control districts is governed by ch. 189, F.S., the "Uniform Special District Accountability Act of 1989," and ch. 191, F.S., the "Independent Special Fire Control District Act."

*The Uniform Special District Accountability Act of 1989*

Chapter 189, F.S., known as the "Uniform Special District Accountability Act of 1989", includes requirements that must be satisfied when the Legislature creates any independent special district, including independent special fire control districts created under ch. 191, F.S. Unless the Legislature has enacted a special law exempting a particular independent special district, all districts must comply with applicable provisions of ch. 189, F.S., including provisions related to issues that must be addressed in a district's charter, election of district governing board members, bond referenda, public records and meetings, and reporting requirements.

*The Independent Special Fire Control District Act*

Chapter 191, F.S., is known as the "Independent Special Fire Control District Act" (the Act). Section 191.002, F.S., sets forth the Act's purpose, which is to establish standards and procedures concerning the operations and governance of independent special fire control districts (districts), and to provide greater uniformity in the financing authority, operations, and procedures for electing members of the governing boards of districts. Unless otherwise exempted by special or general law, the Act requires each district, whether created by special act or general law of local application, to comply with the Act. Currently, there are 57 districts in Florida.

District Governing Board

Section 191.005, F.S., prescribes procedures for the election, composition, and general administration of a district's governing board. With the exception of districts whose governing boards are appointed collectively by the Governor, the county commission, and any cooperating city within the county, the business affairs of each district shall be conducted and administered by a five-member board. Each member must be elected for a term of four years and serve until the member's successor assumes office. Each member of the board must be a qualified elector at the time he or she qualifies and continually throughout his or her term. Any board member who ceases to be a qualified elector is automatically removed pursuant to the Act.

The electors of the district must elect board members at the next general election following the effective date of a special act or general act of local application creating a new district. Except as provided by the Act, all elections must be held at the time and in the manner prescribed by law for holding general elections in accordance with s. 189.405(2)(a) and (3), F.S.

Each member must, upon assuming office, take and subscribe to the oath of office prescribed by s. 5(b), Art. II of the State Constitution and s. 876.05, F.S.

General Powers

Section 191.006, F.S., sets forth the following general powers of a district, which may be exercised by a majority vote of the board:

- To sue and be sued in the name of the district, to adopt and use a seal and authorize the use of a facsimile thereof, and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.
- To provide for a pension or retirement plan for its employees. In accordance with general law, the board may provide for an extra compensation program, including a lump-sum bonus payment program, to reward outstanding employees whose performance exceeds standards, if the program provides that a bonus payment may not be included in an employee's regular base rate of pay and may not be carried forward in subsequent years.
- To contract for the services of consultants to perform planning, engineering, legal, or other professional services.
- To borrow money and accept gifts, to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith, and to hold, use, sell, and dispose of such moneys or property for any district purpose in accordance with the terms of the gift, grant, loan, or agreement relating thereto.
- To adopt resolutions and procedures prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of other documents and records of the district. The board may also adopt ordinances and resolutions that are necessary to conduct district business, if such ordinances do not conflict with any ordinances of a local general purpose government within whose jurisdiction the district is located. Any resolution or ordinance adopted by the board and approved by referendum vote of district electors may only be repealed by referendum vote of district electors.
- To maintain an office at places it designates within a county or municipality in which the district is located and appoint an agent of record.
- To acquire, by purchase, lease, gift, dedication, devise, or otherwise, real and personal property or any estate therein for any purpose authorized by this act and to trade, sell, or otherwise dispose of surplus real or personal property. The board may purchase equipment by an installment sales contract if funds are available to pay the current year's installments on the equipment and to pay the amounts due that year on all other installments and indebtedness.
- To hold, control, and acquire by donation or purchase any public easement, dedication to public use, platted reservation for public purposes, or reservation for those purposes authorized by this act and to use such easement, dedication, or reservation for any purpose authorized by this act consistent with applicable adopted local government comprehensive plans and land development regulations.
- To lease as lessor or lessee to or from any person any facility or property of any nature for the use of the district when necessary to carry out the district's duties and authority under this act.
- To borrow money and issue bonds, revenue anticipation notes, or certificates payable from and secured by a pledge of funds, revenues, taxes and assessments, warrants, notes, or other evidence of indebtedness, and mortgage real and personal property when necessary to carry out the district's duties and authority under this act.
- To charge user and impact fees authorized by resolution of the board, in amounts necessary to conduct district activities and services, and to enforce their receipt and collection in the manner prescribed by resolution and authorized by law. However, the imposition of impact fees may only be authorized as provided by general law.
- To exercise the right and power of eminent domain, pursuant to general law, over any property within the district, except municipal, county, state, special district, or federal property used for a public purpose, for the uses and purposes of the district relating solely to the establishment and maintenance of fire stations and fire substations, specifically including the power to take

easements that serve such facilities consistent with applicable adopted local government comprehensive plans and land development regulations.

- To cooperate or contract with other persons or entities, including other governmental agencies, as necessary, convenient, incidental, or proper in connection with providing effective mutual aid and furthering any power, duty, or purpose authorized by this act.
- To assess and impose upon real property in the district ad valorem taxes and non-ad valorem assessments as authorized by this act.
- To impose and foreclose non-ad valorem assessment liens as provided by this act or to impose, collect, and enforce non-ad valorem assessments pursuant to general law.
- To select as a depository for its funds any qualified public depository as defined by general law which meets all the requirements of ch. 280, F.S., and has been designated by the Chief Financial Officer as a qualified public depository, upon such terms and conditions as to the payment of interest upon the funds deposited as the board deems just and reasonable.
- To provide adequate insurance on all real and personal property, equipment, employees, volunteer firefighters, and other personnel.
- To organize, participate in, and contribute monetarily to organizations or associations relating to the delivery of or improvement of fire control, prevention, emergency rescue services, or district administration.

Special Powers

Section 191.008, F.S., requires districts to provide for fire suppression and prevention by establishing and maintaining fire stations and fire substations and by acquiring and maintaining firefighting and fire protection equipment deemed necessary to prevent or fight fires. All construction must be in compliance with applicable state, regional, and local regulations, including adopted comprehensive plans and land development regulations.

This section grants districts the following special powers relating to facilities and duties authorized by the Act:

- To establish and maintain emergency medical and rescue response services and acquire and maintain rescue, medical, and other emergency equipment, pursuant to general law and any certificate of public convenience and necessity or its equivalent issued thereunder.
- To employ, train, and equip such personnel, and train, coordinate, and equip such volunteer firefighters, as are necessary to accomplish the duties of the district. The board may employ and fix the compensation of a fire chief or chief administrator. The board must prescribe the duties of such person, which include supervision and management of the operations of the district and its employees and maintenance and operation of its facilities and equipment. The fire chief or chief administrator may employ or terminate the employment of such other persons, including, without limitation, professional, supervisory, administrative, maintenance, and clerical employees, as are necessary and authorized by the board. The board must provide the compensation and other conditions of employment of the officers and employees of the district.
- To conduct public education to promote awareness of methods to prevent fires and reduce the loss of life and property from fires or other public safety concerns.
- To adopt and enforce firesafety standards and codes and enforce the rules of the State Fire Marshal consistent with the exercise of the duties authorized by chs. 553 or 633, F.S., with respect to fire suppression, prevention, and firesafety code enforcement.
- To conduct arson investigations and cause-and-origin investigations.
- To adopt hazardous material safety plans and emergency response plans in coordination with the county emergency management agency.
- To contract with general purpose local government for emergency management planning and services.

**Present Situation**

Section 191.009, F.S., authorizes independent special fire control districts to levy ad valorem taxes, special assessments, user charges, and impact fees. HB 885 deals with non-ad valorem assessments.

Non-ad Valorem Assessments

A district may levy non-ad valorem assessments to construct, operate, and maintain district facilities and services. Sections 191.009 and 119.011, F.S., lay out the following provisions and procedures related to non-ad valorem assessments:

- Non-ad valorem assessments may be levied only on benefited real property at a rate of the cost thereof.[1]
- The rate of such assessments must be fixed by resolution of the board pursuant to statutory procedures.[2]
- Non-ad valorem assessment rates set by the board may exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years.[3]
- Non-ad valorem assessment rate increases within the personal income threshold are deemed to be within the maximum rate authorized by law at the time of initial imposition.[4]
- Proposed non-ad valorem assessment increases that exceed the rate set the previous fiscal year or the rate previously set by special act or county ordinance, whichever is more recent, by more than the average annual growth rate in Florida personal income over the last five years, or the first-time levy of non-ad valorem assessments in a district, must be approved by referendum of the electors of the district.[5]
- The referendum on the first-time levy of an assessment must include a notice of the future non-ad valorem assessment rate increases permitted by the Act without a referendum.[6]
- Non-ad valorem assessments must be imposed, collected, and enforced pursuant to general law.[7]

"Assessment" vs. "Tax"

The Florida Supreme Court has held that a legally imposed special[8] assessment is not a tax. In *Klemm v. Davenport*, the Florida Supreme Court explained the difference as follows:

> A 'tax' is an enforced burden of contribution imposed by sovereign right for the support of the government, the administration of the law, and to execute the various functions the sovereign is called on to perform. A 'special assessment' is like a tax in that it is an enforced contribution from the property owner, it may possess other points of similarity to a tax, but it is inherently different and governed by entirely different principles. It is imposed upon the theory that that portion of the community which is required to bear it receives some special or peculiar benefit in the enhancement of value of property

[1] Section 191.011, F.S.
[2] *Id.*
[3] Section 191.009, F.S.
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] There is a technical difference with "non-ad valorem" assessments and "special" assessments—unlike special assessments, non-ad valorem assessments will usually be filed as a lien against property if not paid. However, this difference is not meaningful for purposes of this analysis.

against which it is imposed as a result of the improvement made with the proceeds of the special assessment. It is limited to the property benefited, is not governed by uniformity, and may be determined legislatively or judicially.[9]

More simply, however, special assessments require the following two characteristics that are not necessarily required by a tax:

1) "the property assessed must derive a special benefit from the service provided;"[10] and
2) "the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit."[11]

The test to be applied in evaluating whether a special benefit is conferred on property by the provision of a service is whether there is a "logical relationship" between the services provided and the benefit to real property.[12] Many assessed services and improvements have been upheld as providing the requisite special benefit. Such services and improvements include, but are not limited to, the following:

- garbage disposal;[13]
- sewer improvements;[14]
- fire protection;[15]
- fire and rescue services;[16]
- street improvements;[17]
- parking facilities;[18] and
- downtown redevelopment.[19]

Conversely, Florida courts have acknowledged that the following services do *not* specifically benefit real property (emphasis added):

- law enforcement services;[20]
- indigent health care;[21] and
- emergency medical services.[22]

However, Florida courts have also held that the judiciary traditionally defers to the legislative body's determination of special benefits.[23] In *Sarasota County v. Sarasota Church of Christ,* the Florida Supreme Court held that: "[t]he standard is the same for both prongs; that is, the legislative determination as to the existence of special benefits and as to the apportionment of costs of those benefits should be upheld unless the determination is arbitrary."[24]

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[9] 129 So. 904, 907-08 (1930).
[10] *City of Boca Raton v. State*, 595 So. 2d 25, 29 (Fla. 1992).
[11] *Id.*
[12] *Lake County v. Water Oak Management Corp.*, 695 So. 2d 667, 669 (Fla. 1997) (citing *Whisnant v. Stringfellow*, 50 So. 2d 885 (Fla. 1951)).
[13] *E.g., Harris v. Wilson*, 693 So. 2d 945 (Fla. 1997).
[14] *E.g., Meyer v. City of Oakland Park*, 219 So. 2d 417 (Fla. 1969).
[15] *E.g., South Trail Fire Control Dist., Sarasota County v. State*, 273 So. 2d 380 (Fla. 1973).
[16] *E.g., Lake County v. Water Oak Management Corp.*, 695 So. 2d 667 (Fla. 1997).
[17] *E.g., Bodner v. City of Coral Gables*, 245 So. 2d 250 (Fla. 1971).
[18] *City of Naples v. Moon*, 269 So. 2d 355 (Fla. 1972).
[19] *City of Boca Raton v. State*, 595 So. 2d 25 (Fla. 1992).
[20] *Lake County v. Water Oak Management Corp.*, 695 So. 2d 667, 670 (Fla. 1997).
[21] *Id.*
[22] *City of North Lauderdale v. SMM Properties, Inc.*, 825 So. 2d 343 (Fla. 2002).
[23] *Id.*at 347.
[24] 667 So. 2d 180, 184 (Fla. 1995).

In 2002, for example, the Florida legislature created s. 125.271, F.S., which allows certain counties to levy special assessments for emergency medical services.

**Effect of Proposed Changes**

HB 885 amends s. 191.009, F.S. and s. 191.011, F.S. to expand independent special fire control districts' power of levying non-ad valorem assessments.

Specifically, the bill provides that districts may levy such assessments to construct, operate, and maintain district facilities and services "*provided pursuant to the general powers listed in s. 191.006, the special powers listed in s. 191.008, any applicable general laws of local application, and a district's enabling legislation* (emphasis added) . . ." In particular, the bill provides that these district services include the following:

- emergency rescue services;
- first response medical aid;
- emergency medical services; and
- emergency transport services.

The bill also expressly articulates a legislative determination that emergency rescue services, first response medical aid, emergency medical services, and emergency transport services constitute a benefit to real property "the same as any other improvement performed by a district, such as fire suppression services, fire protection services, and fire prevention services."

Lastly, the bill removes the requirement that assessments be levied on benefitted property and the requirement that the rate of the assessments be based on the specific benefit accruing such benefitted property.

The bill does not compel residents living in an independent special fire control district to pay any new non-ad valorem assessment. Section 191.009(2), F.S., requires that an independent special fire control district board receive elector approval via referendum before it levies any new non-ad valorem assessment within its district.

B. SECTION DIRECTORY:

**Section 1:** Amends s. 191.009, F.S., authorizing independent special fire control districts to levy non-ad valorem assessments for emergency rescue services, first response medical aid, emergency medical services, and emergency transport services.

**Section 2:** Amends s. 191.011, F.S., providing that emergency rescue services, first response medical aid, emergency medical services, and emergency transport services constitute a benefit to real property.

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

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill authorizes an additional source of income for independent special fire control districts. However, as mentioned above, s. 191.009(2), F.S., requires electors in a district to approve by referendum any first-time levy of a non-ad valorem assessment.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**Drafting Issues**

It may be appropriate to place the word "emergency" before the phrase "transport services" on line 60 of the bill (i.e., to read "emergency transport services" as opposed to "transport services").

**Other Comments**

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to independent special fire control districts; amending s. 191.009, F.S.; clarifying provisions that authorize a district to levy non-ad valorem assessments to construct, operate, and maintain specified district facilities and services; amending s. 191.011, F.S.; revising provisions relating to district authority to provide for the levy of non-ad valorem assessments on lands within the district rather than benefited real property; eliminating provisions relating to rate of assessment for benefited real property, to conform; providing an effective date.

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

Section 1. Subsection (2) of section 191.009, Florida Statutes, is amended to read:

191.009 Taxes; non-ad valorem assessments; impact fees and user charges.—

(2) NON-AD VALOREM ASSESSMENTS.—A district may levy non-ad valorem assessments as defined in s. 197.3632 to construct, operate, and maintain <u>those</u> district facilities and services <u>provided pursuant to the general powers listed in s. 191.006, the special powers listed in s. 191.008, any applicable general laws of local application, and a district's enabling legislation, including emergency rescue services, first response medical aid, emergency medical services, and emergency transport</u>

services. The rate of such assessments must be fixed by resolution of the board pursuant to the procedures contained in s. 191.011. Non-ad valorem assessment rates set by the board may exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous 5 years. Non-ad valorem assessment rate increases within the personal income threshold are deemed to be within the maximum rate authorized by law at the time of initial imposition. Proposed non-ad valorem assessment increases that ~~which~~ exceed the rate set the previous fiscal year or the rate previously set by special act or county ordinance, whichever is more recent, by more than the average annual growth rate in Florida personal income over the last 5 years, or the first-time levy of non-ad valorem assessments in a district, must be approved by referendum of the electors of the district. The referendum on the first-time levy of an assessment shall include a notice of the future non-ad valorem assessment rate increases permitted by this act without a referendum. Non-ad valorem assessments shall be imposed, collected, and enforced pursuant to s. 191.011.

Section 2. Subsection (1) of section 191.011, Florida Statutes, is amended to read:

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

(1) A district may provide for the levy of non-ad valorem assessments under this act on the lands within the district for ~~and real estate benefited by~~ the exercise of the powers

authorized by this act, or any part thereof, for all or any part of the cost thereof. It is recognized that the provision of emergency rescue services, first response medical aid, emergency medical services, and transport services constitutes a benefit to real property the same as any other improvement performed by a district, such as fire suppression services, fire protection services, and fire prevention services. ~~Non-ad valorem assessments may be levied only on benefited real property at a rate of assessment based on the special benefit accruing to such property from such services or improvements.~~ The district may use any assessment apportionment methodology that meets fair apportionment standards.

Section 3. This act shall take effect July 1, 2013.

**The Analysis for**

**HB 1127 – Pet Services and Welfare Programs**

**will be available before the meeting**

# HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1271 Central County Water Control District, Hendry County
**SPONSOR(S):** Hudson
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1178

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Local & Federal Affairs Committee | | Dougherty SDD | Rojas |
| 2) State Affairs Committee | | | |

## SUMMARY ANALYSIS

This bill amends the legal boundary description of the Central County Water Control District in Hendry County, Florida to include the Woodland Subdivision. This area was inadvertently omitted from the description in the enabling act and codification. Both the residents of the subdivision and the District intended for this area to be included in the District. The residents pay for and receive District services.

This bill is effective upon becoming law.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

The Central County Water Control District ("District") serves an approximately 17.125 square mile area, known as Montura Ranch Estates, in Hendry County, Florida. The District was created by special act in 1970, which was codified with all other related special laws in 2000. Both the enabling act and the codification contained the legal boundaries of the District. A small area known as the Woodland Subdivision[1] borders the northeast section of the District but is not included in the boundary description. The Woodland Subdivision residents and the District intended for this area to be included in the District's service area. The residents pay for and receive District services.

**Effect of Proposed Changes**

This bill amends the codified description of the District's boundaries to include the Woodland Subdivision. This corrects the scrivener's error made in the enabling and subsequent acts.

B. SECTION DIRECTORY:

**Section 1:** Amends ch. 2000-415, L.O.F., as amended, to include an area inadvertently omitted from the codified boundary description of the Central County Water Control District in Hendry County, Florida.

**Section 2:** Provides that the Act takes effect upon becoming a law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 31, 2013

WHERE? *The News-Press*, a daily and Sunday newspaper published in Fort Myers, Florida.

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

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

[1] As recorded in Plat Book 4, Page 1 of the Public Records of Hendry County, Florida.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

1271

# THE NEWS-PRESS

*Published every morning*
*Daily and Sunday*
*Fort Myers, Florida*

## Affidavit of Publication

STATE OF FLORIDA
COUNTY OF LEE

Before the undersigned authority, personally appeared **Kathy Allebach** who on oath says that he/she is the **Legal Assistant** of the News-Press, a daily newspaper, published at Fort Myers, in Lee County, Florida; that the attached copy of advertisement, being a

**Notice of Action**
In the matter of:
**Correction of an error in the legal description of the boundary for the District**
In the court was published in said newspaper in the issues of

**January 31, 2013**

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

Kathy Allebach

Sworn to and subscribed before me this 31st day of January, 2013.

by **Kathy Allebach**
personally known to me or who has produced

_____

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

Notary Public Milagros A. Isberto

Print Name: **Milagros A. Isberto**
My commission Expires: **July 11, 2016**

MILAGROS A. ISBERTO
Notary Public - State of Florida
My Comm. Expires Jul 11, 2016
Commission # EE 215800
Bonded Through National Notary Assn.

**NOTICE OF INTENT TO SEEK LEGISLATION**

TO WHOM IT MAY CONCERN: Notice is hereby given of Central County Water Control District's intent to apply to the 2013 Legislature, in regular, special or extended sessions, for passage of an act relating to Central County Water Control District, "the District," located in Hendry County, amending chapter 2000-415, Laws of Florida, relating to the correction of an error in the legal description of the boundary for the District; providing an effective date.
No.1467738
January 31, 2013

## HOUSE OF REPRESENTATIVES

## 2013 LOCAL BILL CERTIFICATION FORM

**BILL #:** 1271

**SPONSOR(S):** Representative Matt Hudson

**RELATING TO:** Central County Water Control District, a Fla. 298 water control district of the Old
[Indicate Area Affected (City, County, or Special District) and Subject]

**NAME OF DELEGATION:** Hendry County Local Delegation

**CONTACT PERSON:** Angela Hill, Esq.

**PHONE NO.:** (941) 952-7996 or Mobile (239) 822-9457 **E-Mail:** angelahill1@earthlink.net

I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.*

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

**YES** [X] **NO** [ ]

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

**YES** [X] **NO** [ ]

**Date hearing held:** January 7, 2013

**Location:** Central County Water Control District, 475 S. Cabbage Palm Street, Montura Ranch Estates, Clewiston, FL (Hendry County)

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

**YES** [X] **NO** [ ]

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

**Has this constitutional notice requirement been met?**

**Notice published: YES** [X] **NO** [ ] **DATE** February 1, 2013 in Fort Myers News Press in general, paid circulation in

**Where?** Central County Water Control District **County** Hendry

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

**Date of Referendum** - NA -

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

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

**YES [ ] NO [X] NOT APPLICABLE [ ]**

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

**YES [ ] NO [X] NOT APPLICABLE [X]**

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

**YES [ ] NO [ ]**

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

Delegation Chair (Original Signature) Date

MATTHEW HUDSON
Printed Name of Delegation Chair

## HOUSE OF REPRESENTATIVES

## 2013 ECONOMIC IMPACT STATEMENT FORM

***House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.***

**BILL #:** 1271

**SPONSOR(S):** Representative Matt Hudson

**RELATING TO:** Central County Water Control District, a Fla. 298 water control district, "the District"
[Indicate Area Affected (City, County or Special District) and Subject]

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

| | FY13-14 | FY 14-15 |
|---|---|---|
| Expenditures: | -0- | -0- |

### II. ANTICIPATED SOURCE(S) OF FUNDING:

| | FY 13-14 | FY 14-15 |
|---|---|---|
| Federal: | -0- | -0- |
| State: | -0- | -0- |
| Local: | -0- | -0- |

### III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

| | FY 13-14 | FY 14-15 |
|---|---|---|
| Revenues: | -0- | -0- |

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

Advantages: Corrects a scrivenor's error/glitch in legal description of the District.

-0- impact

Disadvantages:

-0- impact

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

-0-

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

Personal knowledge of District infrastructure, water control plan, budget, assessment rolls and information from District's Chief Engineer.

PREPARED BY: Angela M. Hull 3-15-13
**[Must be signed by Preparer]** **Date**

TITLE: Attorney for the District

REPRESENTING: Central County Water Control District

PHONE: (239) 822-9457, (941) 952-7996

E-Mail Address: angelahill1@earthlink.net

A bill to be entitled

An act relating to the Central County Water Control District, Hendry County; amending chapter 2000-415, Laws of Florida; revising the legal description of the boundaries of the district; providing an effective date.

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

Section 1. Subsection (a) of section 1 of section 3 of chapter 2000-415, Laws of Florida, is amended to read:

Section 1. District created; boundaries; validation.—

(a) For the purpose of reclamation, drainage, irrigation, water control, and development of lands hereinafter described and to protect said lands from the effects of water by means of the construction and maintenance of canals, ditches, levees, dikes, pumping plants, and other drainage, irrigation, and water control works and improvements, and to make the lands within said district available and habitable for settlement and agriculture, and for the public convenience, welfare, utility and benefit, and for the other purposes stated in this act a drainage district is hereby created and established in Hendry County to be known as the Central County Water Control District, the territorial boundaries of which shall be as follows:

Sections 13, 14, 15, the West 1/2 of Section 18, Sections 22, 23, 24, 25, 26 and 27, the North 1/2 of Section 34 except the SE 1/4 of the NE 1/4 of said Section 34 and all of Sections 35 and

36 in Township 44 South, Range 32 East; and all of Sections 19, 29, 30, 31, 32, and a portion of Section 7 described as that portion of the Woodland Subdivision recorded in Plat Book 4, Page 1 of the Public Records of Hendry County, Florida, in Township 44 South, Range 33 East in Hendry County, Florida.

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

# HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1281 East County Water Control District, Hendry and Lee Counties
**SPONSOR(S):** Caldwell
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Local & Federal Affairs Committee | | Dougherty SDD | Rojas |
| 2) State Affairs Committee | | | |

## SUMMARY ANALYSIS

The East County Water Control District (District) is an independent special district that covers the eastern portions of Lee County and the western portion of Hendry County.

This bill authorizes the District to finance, plan, construct, and operate street lights and sidewalks in Lee County and provides for non-ad valorem assessments on per-project basis requiring majority approval of electors who will be benefited and obligated to pay.

The bill is effective upon becoming a law.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

History of Water Control Districts

Water control districts have a long history in Florida. As early as the 1830s, the Legislature passed a special act authorizing landowners to construct drainage ditches across adjacent lands to discharge excess water. Following the passage of several special acts creating drainage districts, the Legislature passed the state's first general drainage law, the General Drainage Act of 1913, to establish one procedure for creating drainage districts – through circuit court decree – and to provide general law provisions governing the operation of these districts.

Between 1913 and 1972, the General Drainage Act remained virtually unchanged. In 1972 and 1979, the Legislature amended the act to change the name of these districts to water management districts and then to water control districts. In neither year did the Legislature enact a major reform of the act, although the 1979 act did repeal provisions authorizing the creation of water control districts by circuit court decree.

Limitation on Special or Local Legislation

Today, ch. 298, F.S., contains provisions governing drainage and water control, including a limitation on special legislation. Section 298.76, F.S., provides that there shall be no special law or general law of local application granting additional authority, powers, rights, or privileges to any water control district formed pursuant to ch. 298, F.S., with certain enumerated exceptions not relevant here.

East County Water Control District

The East County Water Control District (District) is an independent special district that covers the eastern portions of Lee County and the western portion of Hendry County. The District is responsible for the maintenance of drainage infrastructure for 70,000 acres in these counties.

According to the codification of the District's special laws and charter, pursuant to s. 189.429, F.S., in ch. 2000-423, L.O.F., the District may exercise all powers, functions, and duties in chs. 189, 197, and 298, F.S., and ch. 2000-423, L.O.F. Pursuant to these authorities, the codification was accompanied by additional grants of power relating to public improvements and community facilities, specifically conservation, parks, and navigation.

The proposed additional powers regarding street lights and sidewalks are statutorily authorized in ch. 189, F.S. Section 189.438(3)(b), F.S., provides that with the majority approval of qualified electors via referendum, the board may finance, plan, develop, construct, and maintain facilities in their District that are reasonably related to projects such as roads, bridges, parking, and other transportation facilities.

As these powers related to roads are provided for in the District's codified charter, authorizing the District to finance, plan, construct, and operate street lights and sidewalk facilities is not a statutorily prohibited special law.

**Effect of Proposed Changes**

This bill amends ch. 2000-423, L.O.F., as amended, granting the District's board of commissioners the powers to finance, plan, construct, and operate street lights and related facilities and sidewalks in the Lee County portion of the District. Further, this bill provides for funding of said projects by non-ad valorem assessments on a per-project basis. These assessments require a majority approval of those

electors that would be benefited and obligated to pay. This bill adds street lighting and sidewalk powers to the board's current additional powers relating to conservation, parks, and navigation.

B. SECTION DIRECTORY:

**Section 1:** Amends ch. 2000-423, L.O.F., as amended; grants powers to the District relating to public improvements and community facilities in the Lee County, Florida portion of the District; authorizes the District to finance, plan, construct, and operate (a) street lights and associated facilities, and (b) sidewalks; provides for non-ad valorem assessments on per-project basis for these street lighting or sidewalk facilities; provides District with statutory authority options with which the implementation of said projects must apply; requires majority approval of electors who will be benefited and obliged to pay non-ad valorem assessments for said projects.

**Section 2:** Provides that the act takes effect upon becoming a law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? February 2, 2013

WHERE? *The News-Press*, a daily and Sunday paper published in Lee County, Florida.

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

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

1281

# THE NEWS-PRESS

*Published every morning*
*Daily and Sunday*
*Fort Myers, Florida*

## Affidavit of Publication

STATE OF FLORIDA
COUNTY OF LEE

Before the undersigned authority, personally appeared **Jessica Hanft** who on oath says that he/she is the **Legal Assistant** of the News-Press, a daily newspaper, published at Fort Myers, in Lee County, Florida; that the attached copy of advertisement, being a

**Notice of Action**

In the matter of: **Intention to Seek Enactment of Special Legislation**

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

**February 2, 2013**

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

Jessica Hanft

Sworn to and subscribed before me this 4th day of February, 2013.

by **Jessica Hanft**
personally known to me or who has produced

_____

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

Notary Public Milagros A. Isberto

Print Name: **Milagros A. Isberto**
My commission Expires: **July 11, 2016**

MILAGROS A. ISBERTO
Notary Public - State of Florida
My Comm. Expires Jul 11, 2016
Commission # EE 215800
Bonded Through National Notary Assn

**NOTICE OF INTENTION TO SEEK ENACTMENT OF SPECIAL LEGISLATION**

Pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, the Board of Commissioners of the East County Water Control District does hereby give notice of its intention to seek the enactment of special legislation during the 2013 session of the Florida Legislature. The special legislation will amend Chapter 2000-423, Laws of Florida, as amended, adds new special powers for street lights and sidewalks; sets forth the conditions and requirements for the exercise of additional special powers; and provide effective dates.

BY ORDER OF THE BOARD OF COMMISSIONERS
EAST COUNTY WATER CONTROL DISTRICT
No.1467732
February 2, 2013

## HOUSE OF REPRESENTATIVES

## 2013 LOCAL BILL CERTIFICATION FORM

**BILL #:** 1281

**SPONSOR(S):** Representative Matt Caldwell (79)

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

**NAME OF DELEGATION:** Lee County

**CONTACT PERSON:** Charlotte Gammie

**PHONE NO.:** ( 239) 694-0161 **E-Mail:** charlotte.gammie@myfloridahouse.gov

I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.*

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

**YES [X] NO [ ]**

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

**YES [X ] NO [ ]**

**Date hearing held:** January 29, 2013

**Location:** Edison State College, 8099 College Parkway, Fort Myers, FL 33919

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

**YES [X ] NO [ ]**

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

**Has this constitutional notice requirement been met?**

**Notice published: YES [X ] NO [ ] DATE** February 2, 2013

**Where?** News-Press **County** Lee

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

**Date of Referendum** N/A

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

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

**YES [ ] NO [X] NOT APPLICABLE [ ]**

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

**YES [ ] NO [X] NOT APPLICABLE [ ]**

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

**YES [ ] NO [ ]**

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

Delegation Chair (Original Signature)

Date 01/28/13

Matt Caldwell

Printed Name of Delegation Chair

# HOUSE LOCAL AND FEDERAL AFFAIRS COMMITTEE
# 2013 ECONOMIC IMPACT STATEMENT

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Local and Federal Affairs Committee as soon as possible after a bill is filed.*

**BILL #:** 1281

**SPONSOR(S):** Representative Matt Caldwell

**RELATING TO:** East County Water Control District
(Indicate Area Affected (City, County, Special District) and Subject)

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

| | FY 13-14 | FY 14-15 |
|---|---|---|
| Expenditures: | $2,500.00 | $2,500.00 |

**II. ANTICIPATED SOURCE(S) OF FUNDING:**

| | FY 13-14 | FY 14-15 |
|---|---|---|
| Federal: | None | None |
| State: | None | None |
| Local: | Non-Ad Valorem Assessments | |

**III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:**

| | FY 13-14 | FY 14-15 |
|---|---|---|
| Revenues: | $2,500.00 | $2,500.00 |

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

Advantages:

Grants additional methods to provide for the safety and welfare of the District's residents and landowners.

Disadvantages:

**None**

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

**None of any material or substantive nature**

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

**Prior experience in the operation of independent special districts**

PREPARED BY: _____ 2/6/13
[Must be signed by Preparer] Date

TITLE: **Attorney**

REPRESENTING: **East County Water Control District**

PHONE: **(561) 655-0620**

E-MAIL ADDRESS: **viator@caldwellpacetti.com**

A bill to be entitled

An act relating to East County Water Control District, Hendry and Lee Counties; amending chapter 2000-423, Laws of Florida; authorizing the board of commissioners to exercise additional powers relating to public improvements and community facilities and their funding; providing for applicability; providing an effective date.

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

Section 1. Subsections (4) and (5) are added to section 7 of section 3 of chapter 2000-423, Laws of Florida, to read:

Section 7. Public improvements and community facilities.—In addition to the powers provided in chapter 298, Florida Statutes, the District shall have, and the Board may exercise, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies, and special districts having authority with respect to any area included therein, any or all of the following special powers relating to public improvements and community facilities authorized by this act:

(4) Street lighting and sidewalk facilities.—The power to finance, fund, plan, establish, design, acquire, install, construct or reconstruct, enlarge or extend, equip, operate, and maintain at the District's discretion:

(a) Street lights and associated facilities and appurtenances thereto, including electrical utilities required for their operation.

(b) Sidewalk facilities that complement or are situated within or adjacent to public road rights-of-way.

The special powers relating to public improvements and community facilities described in this subsection do not apply within any portion of Hendry County.

(5) Funding.—In order for the District to initially commence the assessment and subsequent levy or multiple year levies of non-ad valorem assessments in order to fund, on a per-project basis, the acquisition, installation, construction, or maintenance of improvements and facilities described in subsection (4), the District shall, for each such project:

(a) Conclude the selection between and comply with the applicable implementation provisions of:

1. Sections 190.021(2) through (10) and 190.022, Florida Statutes; or

2. Sections 298.225 and 298.301, Florida Statutes.

(b) Obtain approval from a majority of the qualified electors who will be benefited and obligated to pay such subsequently levied non-ad valorem assessments with the process by which such approval is demonstrated to be determined by the Board of Commissioners.

Prior to the District having the powers described in subsection (2), the additional power granted to the District must receive

approval by a majority vote of the qualified electors of the district voting in a referendum election to be called by the District at the next general election, with the exception of the following three parks:

(a) Lake Camille Park

(b) Williams Park

(c) Eco Park.

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

# HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1283 Nassau County
**SPONSOR(S):** Adkins
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Local & Federal Affairs Committee | | Lukis AL | Rojas JR |
| 2) Regulatory Affairs Committee | | | |

## SUMMARY ANALYSIS

HB 1283 amends a special act relating to Nassau County liquor sales.

Florida's Beverage Law requires a person to obtain a license prior to engaging in the sale of alcoholic beverages. There is no limit on the number of licenses that may be issued to sell beer or wine; however, state law limits the number of liquor licenses issued in any county to one for each 7,500 residents. One exception to this limit is that it cannot prevent the issuance of a special license to any restaurant with a certain size, which derives at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

A 1981 special act lays out Nassau County's limits for liquor licenses. That special act provides a similar exception to the state license limit for certain restaurants; however, it is more restrictive because it requires the restaurant be larger in size than the state standard. This bill amends the 1981 special act to align the Nassau County restaurant size requirement for liquor sales with the state standard.

The Economic Impact Statement reflects that Nassau County officials anticipate this bill would have a positive effect on the Nassau County restaurant industry.

This act has an effective date of upon becoming law.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

The regulation of alcoholic beverages within the State of Florida is governed by federal, state, and local laws. HB 1283 aligns a provision of local law with the state standard.

Florida's "Beverage Law" requires a person to obtain a license prior to engaging in the sale of alcoholic beverages.[1] The Florida Department of Business and Professional Regulation's Division of Alcoholic Beverages and Tobacco is responsible for licensing the alcoholic beverage industry, collecting and auditing taxes and fees paid by the licensees, and for enforcing alcoholic beverage laws and regulations.[2]

There is no limit on the number of licenses that may be issued to sell beer or wine. However, s. 561.20(1), F.S., limits the number of liquor licenses that can be issued in any county to one for each 7,500 residents based on the last regular population estimate prepared pursuant to s. 186.901, F.S., for each county. One exception to this limit is that it cannot prevent the issuance of a special license to any "restaurant having 2,500 square feet of service area and equipped to serve 150 persons full course meals at tables at one time, and deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages."[3]

Throughout Florida, most county alcoholic beverage laws mirror this exception.[4] That is, most counties set their requirements for restaurants to meet the exception for liquor sales to the state minimum. However, some counties, including Nassau County, have more restrictive requirements for restaurants to qualify for the exception.[5] These counties require the restaurants to have a larger square footage of service area and capacity to serve more patrons.[6]

Nassau County, via special act, currently requires restaurants to have at least 4,000 square feet of service area and the ability to serve at least 200 people full course meals in order to qualify for the liquor license exception.[7] The Nassau County Board of County Commissioners believes such stricter requirements are burdensome and prevent people from opening restaurants within Nassau County.[8] Therefore, the St. Lucie County Board of County Commissioners wants to lower those qualifications to equal state law and align with the majority of Florida's counties.[9]

**Effect of Proposed Changes**

HB 1283 amends ch. 81-440, L.O.F., to decrease Nassau County's restaurant size requirement to qualify for the liquor sale exception. Specifically, it amends the restaurant square footage requirement from 4,000 square feet to 2,500 square feet and the service capacity requirement from 200 people to 150 people.

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[1] Chapters 561-565, 567 and 568, F.S.
[2] This information was obtained from the DBPR website at: http://www.myfloridalicense.com/dbpr/abt/index.html.
[3] Section 561.20(2)(a)4, F.S.
[4] Currently, about 47 out of the 61 Florida counties that allow restaurants to serve alcohol have laws that mirror the state exception for restaurants. This information was obtained from the DBPR website at: http://www.myfloridalicense.com/dbpr/abt/Laws.html.
[5] *Id.*
[6] *Id.*
[7] Chapter 81-440, L.O.F.
[8] *See*, Economic Impact Statement Form attached (and filed in Local and Federal Affairs Committee).
[9] *Id.*

The Economic Impact Statement reflects that Nassau County officials anticipate this bill would have a positive effect on the Nassau County restaurant industry, and therefore economy in general. By creating a more attractive landscape for opening a restaurant, the Economic Impact Statement suggests that the bill could ultimately create more jobs.

B. SECTION DIRECTORY:

Section 1: Amends ch. 81-440, L.O.F., to align a provision of the Nassau County beverage law with state standard.

Section 2: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? February 1, 2013; February 6, 2013

WHERE? The *Florida Times-Union*, a daily newspaper of general circulation, published in Duval County, Florida; and the *Fernandina Beach News-Leader*, a weekly newspaper of general circulation, published in Nassau County, Florida.

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

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1283

THE FLORIDA TIMES-UNION
Jacksonville, FL
Affidavit of Publication

2013 FEB -3 P. 2:15

Florida Times-Union

NASSAU CTY BOARD OF COUNTY COM

96135 NASSAU PLACE STE 5
YULEE FL 32097

Reference: 1000238556
Ad Number: C14733756

State of Florida
County of Duval

Before the undersigned authority personally appeared Sharon Walker who on oath says he/she is a Legal Advertising Representative of The Florida Times-Union, a daily newspaper published in Duval County, Florida; that the attached copy of advertisement is a legal ad published in The Florida Times-Union. Affiant further says that The Florida Times-Union is a newspaper published in Duval County, Florida, and that the newspaper has heretofore been continuously published in Duval County, Florida each day, has been entered as second class mail matter at the post office in Jacksonville, in Duval County, Florida for a period of one year preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission, or refund for the purpose of securing this advertisement for publication in said newspaper.

PUBLISHED ON: 02/01/2013

FILED ON: 02/01/2013

**NOTICE OF INTENT TO SEEK LEGISLATION**

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2013 Legislature for passage of an act relating to Nassau County; repealing Chapter 81-440, Section 2(2), Laws of Florida relating to the minimum square footage and seating requirements for the issuance of a special license to serve intoxicating liquors in a bona fide restaurant deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

Name: Sharon Walker Title: Legal Advertising Representative
In testimony whereof, I have hereunto set my hand and affixed my official Seal, the day and year aforesaid.

NOTARY: Sally W. Willis

SALLY W. WILLIS
Commission # DD 934386
Expires January 30, 2014
Bonded Thru Troy Fain Insurance 800-385-7019

FLORIDA'S GEMS, WEEKLY NEWSPAPERS

NEWS LEADER

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

**STATE OF FLORIDA**
**COUNTY OF NASSAU:**

Before the undersigned authority personally appeared
**Michael B. Hankins**
Who on oath says that he is the Advertising Director of the Fernandina Beach News-Leader, a weekly newspaper published at Fernandina Beach in Nassau County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter of

**NOTICE OF INTENT TO SEEK LEGISLATION**

Was published in said newspaper in the issues of
**02/06/2013**
**Ref# 1198**

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

Michael B. Hankins

Sworn to and subscribed before me
**This 6th day of February, A.D. 2013.**

Robert O. Fiege

Robert O. Fiege, Notary Public

Personally Known

Notary Public State of Florida
Robert O Fiege
My Commission EE 184155
Expires 05/31/2016

**NOTICE OF INTENT TO SEEK LEGISLATION**
TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2013 Legislature for passage of an act relating to Nassau County; repealing Chapter 61-440, Section 2(2), Laws of Florida relating to the minimum square footage and seating requirements for the issuance of a special license to serve intoxicating liquors in a bona fide restaurant deriving at least 51 percent of its gross revenue from the sale of food and non-alcoholic beverages.
1t 02-06-2013
1198

## HOUSE OF REPRESENTATIVES

## 2013 LOCAL BILL CERTIFICATION FORM

**BILL #:** HB 1283

**SPONSOR(S):** Rep. Janet Adkins; Sen. Aaron Bean

**RELATING TO:** Nassau County

[Indicate Area Affected (City, County, or Special District) and Subject]

**NAME OF DELEGATION:** Nassau County Delegation

**CONTACT PERSON:** Dee Alexander

**PHONE NO.:** (850) 487-5004 **E-Mail:** alexander.dee@flsenate.gov

I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.*

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

**YES [X] NO [ ]**

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

**YES [X] NO [ ]**

**Date hearing held:** January 18, 2013

**Location:**

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

**YES [X] NO [ ]**

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

**Has this constitutional notice requirement been met?**

**Notice published: YES [X] NO [ ] DATE** 1/31/13

**Where?** Florida Times Union **County** Nassau

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

**Date of Referendum**

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

Nassau County borders the State of Georgia. The change will attract restaurant business to Nassau County, increase competition, and increase jobs. No firm data is available, but shopping center owners have anecdotally relayed that they have lost prospective tenants due to Nassau County's regionally unique and burdensome restaurant size requirements.

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

See "V" above.

PREPARED BY: _____ 1-31-13
**[Must be signed by Preparer]** **Date**

TITLE: Nassau County Attorney

REPRESENTING: Nassau County, Florida

PHONE: (904) 548-4590

E-Mail Address: dhallman@nassaucountyfl.com

## HOUSE OF REPRESENTATIVES

## 2013 ECONOMIC IMPACT STATEMENT FORM

***House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.***

**BILL #:** HB 1283

**SPONSOR(S):**

**RELATING TO:** Nassau County, Florida

[Indicate Area Affected (City, County or Special District) and Subject]

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

| | FY13-14 | FY 14-15 |
|---|---|---|
| Expenditures: | None | None |

### II. ANTICIPATED SOURCE(S) OF FUNDING:

| | FY 13-14 | FY 14-15 |
|---|---|---|
| Federal: | None | None |
| State: | None | None |
| Local: | None | None |

### III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

| | FY 13-14 | FY 14-15 |
|---|---|---|
| Revenues: | None | None |

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

Advantages: The legislation will align Nassau County restaurant size requirement for liquor sale with state standard, eliminating non-competitive, non-business friendly requirements. This change will make Nassau County competitive for and consistent with major national restaurant franchise floor plans.

Disadvantages: None.

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

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

**YES [ ] NO [X] NOT APPLICABLE [ ]**

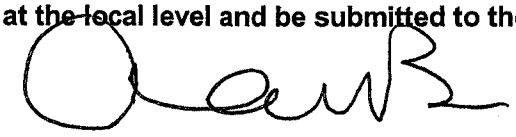
**(2) Does this bill change the authorized ad valorem millage rate for an existing special district?**

**YES [ ] NO [X] NOT APPLICABLE [ ]**

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

**YES [ ] NO [ ]**

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



Delegation Chair (Original Signature)

2-27-13

Date

Aaron Bean

Printed Name of Delegation Chair

A bill to be entitled

An act relating to Nassau County; amending chapter 81-440, Laws of Florida; revising criteria for special alcoholic beverage licenses for restaurants within the county; providing an effective date.

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

Section 1. Section 2 of chapter 81-440, Laws of Florida, is amended to read:

Section 2. Such limitation of the number of licenses issued, anything in general law notwithstanding, shall not prohibit the issuance of a special license to:

1. Any bona fide hotel, motel, or motor court which has at least 50 guest rooms;

2. Any bona fide restaurant having not less than 2,500 ~~4,000~~ square feet of service area and equipped to serve at least 150 ~~200~~ persons full course meals at one time and deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages.

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

# HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1367 Tampa Port Authority, Hillsborough County
**SPONSOR(S):** Young
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Local & Federal Affairs Committee | | Dougherty DD | Rojas JR |
| 2) Economic Affairs Committee | | | |

## SUMMARY ANALYSIS

This bill removes the requirement that the Tampa Port Authority approve any expenditure over $15,000 made by the port director, allowing the port authority to establish port director spending policies.

The Port of Tampa is Florida's largest cargo port as measured by annual tons throughput, followed by the Port of Jacksonville. However, the Tampa port director is restricted to one of the lowest spending limits of all Florida ports at $15,000. In comparison, the Jacksonville limit is $250,000. Proponents of the bill claim this limitation hinders the Tampa port director's ability to respond efficiently to commercial opportunities as a vote must be held before any more than $15,000 is spent.

This takes effect upon becoming law.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Present Situation**

Chapter 95-488, L.O.F., as amended, contains the enabling legislation and serves as the governing document of the Tampa Port Authority in Hillsborough County, Florida. Section 4(i) requires that four of the seven members constituting the port authority board must affirmatively vote to allow

(1) incurring indebtedness in excess of $15,000,
(2) spending any funds or money in excess of $15,000, and
(3) establishing policy for the port director's expenditure of funds.

The provision relating to spending limits the port director's ability to respond to commercial opportunities as a meeting must be called and vote held before the director may make a purchase or enter a contract over $15,000. This spending limit was established in 1995. Furthermore, this provision may be interpreted as requiring four votes even if a policy has been adopted relating to the port director's spending limits.

Of Florida's 15 ports, the Port of Tampa has the highest annual volume of cargo throughput at 37.15 million tons, followed by the Port of Jacksonville with 23.21 million tons.[1] The Port of Tampa sees the fifth highest volume of cruise revenue passengers in the state.[2] The other ports most comparable to that of Tampa in terms of annual cargo amounts and cruise passengers are those in Miami, Jacksonville, and Everglades. The port directors at these facilities have significantly higher spending limits than the Tampa port director: Miami, $5 million; Jacksonville, $250,000; Everglades, $250,000 (supplies) and $100,000 (services).[3] Port Manatee is a Gulf port south of Tampa with a $50,000 spending limit, 8.03 million tons of cargo annually, and no cruise passengers.

Spending limits vary widely throughout the state as the ports are structured differently, some being county entities (such as Port Everglades and Miami) and others are governed by local bill authorities (such as Tampa).

**Effect of Proposed Changes**

This bill amends ch. 95-488, L.O.F., by eliminating the requirement for four affirmative votes for port director expenditures in excess of $15,000. This modification of the Tampa Port Authority Enabling Act leaves the four vote requirement for establishing port director spending policy, allowing the port authority to determine the spending limit instead of the Legislature. This bill does not change the procurement procedures involving notice and competitive bidding for purchases over $15,000, but only removes the requirement of a favorable vote before the port director spends over $15,000.

B. SECTION DIRECTORY:

**Section 1:** Amends ch. 95-488, L.O.F., as amended, removing language requiring an affirmative vote of the port authority to allow any expenditure in excess of $15,000.

**Section 2:** Provides that the Act takes effect upon becoming a law.

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[1] http://www.flaports.org
[2] http://www.flaports.org
[3] Tampa Port Authority Board meeting document on "Proposed Change to Tampa Port Authority Enabling Act"

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? February 3, 2013

WHERE? *The Times*, a daily published newspaper in Hillsborough County, Florida.

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

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

1003901358

1367

# The Times

**Published Daily**

**Tampa, Hillsborough County, Florida**

STATE OF FLORIDA
COUNTY OF Hillsborough } S.S.

Before the undersigned authority personally appeared **J. Murry** who on oath says that he/she is **Legal Clerk** of the The Times, an edition of the ***Tampa Bay Times*** a daily newspaper published at Tampa, in Hillsborough County, Florida; that the attached copy of advertisement, being a **Legal Notice** in the matter **RE: TAMPA PORT AUTHORITY: NOTICE OF LOCAL LEGISLATION** was published in said newspaper in the issues of **Classified Tampa , 2/3/2013 .**

Affiant further says the said **The Times, an edition of the Tampa Bay Times** is a newspaper published at Tampa, in said Hillsborough County, Florida: and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida:, each day and has been entered as second class mail matter at the post office in Tampa, in said Hillsborough County, Florida:, for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he /she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

**NOTICE OF LOCAL LEGISLATION**

**TO WHOM IT MAY CONCERN:**
Notice is hereby given of intent to apply to the 2013 Session of the Florida Legislature and any Special or Extended Sessions, for passage of an act relating to the Hillsborough County Port District; amending chapter 95-488, Laws of Florida, amending the authority of the Tampa Port Authority, the governing body of the Hillsborough County Port District to expend District funds; providing an effective date.

(1003901358) 2/03/2013

D. Murry
**Signature of Affiant**

Sworn to and subscribed before me
this **5th** day of **February A.D.2013**

Joseph F. Fish
**Signature of Notary Public**

Personally known X or produced indentification ___

Type of indentification produced _____

JOSEPH F. FISH
MY COMMISSION #DD976007
EXPIRES: JUN 23, 2014
Bonded through 1st State Insurance

02-11-13A09:08 RCVD

## HOUSE OF REPRESENTATIVES

## 2013 LOCAL BILL CERTIFICATION FORM

**BILL #:** HB 1367

**SPONSOR(S):** Dana Young

**RELATING TO:** Hillsborough County Port District/Tampa Port Authority - amending chapter 95-488 Laws of Florida

[Indicate Area Affected (City, County, or Special District) and Subject]

**NAME OF DELEGATION:** Hillsborough County

**CONTACT PERSON:** Sydney Ridley

**PHONE NO.:** ( 813) 835-2270 Tallahassee 850-717-5060 **E-Mail:** sydney.ridley@myfloridahouse.gov

I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.*

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

**YES [X] NO [ ]**

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

**YES [X] NO [ ]**

**Date hearing held:** Thursday, January 31, 2013

**Location:** Tampa Port Authority, 1101 Channelside Drive, Tampa, FL 33602

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

**YES [X] NO [ ]**

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

**Has this constitutional notice requirement been met?**

**Notice published: YES [X] NO [ ] DATE** Sunday, February 3, 2013

**Where?** Tampa Bay Times newspaper **County** Hillsborough County

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

**Date of Referendum** _____

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

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

**YES [ ] NO [X] NOT APPLICABLE [ ]**

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

**YES [ ] NO [X] NOT APPLICABLE [ ]**

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

**YES [ ] NO [ ]**

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

Delegation Chair (Original Signature) — Date: 2/12/13

Dana Young

Printed Name of Delegation Chair

# HOUSE OF REPRESENTATIVES

## 2013 ECONOMIC IMPACT STATEMENT FORM

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

**BILL #:** ~~Local Bill 3~~ HB 1367

**SPONSOR(S):** Dana Young

**RELATING TO:** Tampa Port Authority

[Indicate Area Affected (City, County or Special District) and Subject]

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

| Expenditures: | FY 13-14 | FY14-15 |
|---|---|---|
| | $0 | $0 |

**II. ANTICIPATED SOURCE(S) OF FUNDING:**

| | FY 13-14 | FY14-15 |
|---|---|---|
| Federal: | $0 | $0 |
| State: | $0 | $0 |
| Local: | $0 | $0 |

**III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES**

| | FY 13-14 | FY 14-15 |
|---|---|---|
| Revenues: | Unknown | Unknown |

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

Advantages: Clarifies the authority of the Tampa Port Authority Board of Commissioners to establish policies governing the expenditure of funds by the Port Director and eliminates ambiguity in the existing language.

Disadvantages: None

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

Will allow the Tampa Port Authority to react quickly to market changes and be better able to address market opportunities, therefore, bolstering our regional economy.

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

Tampa Port Authority internal information.

PREPARED BY: _____ 1-22-13

**[Must be signed by Preparer]** **Date**

TITLE: Senior Director of Communications and Board Coordination

REPRESENTING: Tampa Port Authority

PHONE: 813-905-5120

E-Mail Address: jtt@tampaport.com

A bill to be entitled

An act relating to the Tampa Port Authority, Hillsborough County; amending chapter 95-488, Laws of Florida, as amended; deleting a requirement that certain expenditures be approved by an affirmative vote of a specified number of members of the authority; providing an effective date.

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

Section 1. Subsection (i) of section 4 of chapter 95-488, Laws of Florida, as amended by chapter 2005-332, Laws of Florida, is amended to read:

Section 4. TAMPA PORT AUTHORITY.—There is created the Tampa Port Authority, which shall be the governing body and port authority of the Hillsborough County Port District. The port authority constitutes a body politic and a body corporate; it shall have perpetual existence; its operation shall be deemed a proper governmental function; it shall adopt and use an official seal and may alter the same; it may contract and be contracted with; in its corporate name it may sue in any of the courts in the various states and the courts of the United States; and it may be sued in the courts of the State of Florida and in the courts of the United States for the Middle District of the State of Florida, except as may be limited by the provisions of section 768.28, Florida Statutes, or any succeeding enactment.

(i) Four members shall constitute a quorum. An affirmative vote of four members is required for any action to be taken by

the port authority involving the incurring of any indebtedness ~~or the expenditure of any funds or money~~ in excess of the monetary amount specified in section 15 and for the establishment of policy governing the expenditure of any funds by the port director and his or her staff. These requirements are not affected by any vacancy in the port authority.

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

# HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 4053 City of Pensacola, Escambia County
**SPONSOR(S):** Ford
**TIED BILLS:** **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---|---|---|
| 1) Local & Federal Affairs Committee | | Dougherty SDD | Rojas |
| 2) State Affairs Committee | | | |

## SUMMARY ANALYSIS

This bill repeals the Civil Service Act of the City of Pensacola. This Civil Service Act was codified by the Legislature in 1985, but a 2009 referendum replaced many of its provisions with a new charter and strong mayor. Today, collective bargaining agreements have replaced most contracts and issues previously encompassed by the Civil Service Act. Over 80 percent of Pensacola's city employees do not rely on any facet of the Civil Service Act. For those employees still reliant on the Civil Service Act, the city intends to adopt a new policy that largely mirrors this Act but also reflects the changes made in the city's form of government. This replacement policy also gives broader rights to the employees, including an administrative appeal process for non-disciplinary complaints, mediation before disciplinary appeals, merit-based employment and promotions, the prohibition of nepotism, and an outlined method for lay-offs.

This shall take effect upon becoming law.

## FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

**Current Situation**

The Pensacola Civil Service Act

The Pensacola Civil Service Act (Civil Service Act) originated in the 1931 city charter, which was codified as a special act in 1984. In 2009, the electors repealed by referendum the 1931 charter and replaced it with the current charter. The current charter reformed the local government by adopting a "strong mayor" format, in which the mayor employs all city employees at will. The mayor has also implemented an updated structure that is intended to supersede many of the anachronistic provisions in the Civil Service Act. The current charter also repealed all provisions in the Civil Service Act that conflicted with the charter.

The Civil Service Board

The Civil Service Board was codified in the 1984 act and is still in service today. This board consists of three members each serving two year terms. The first member is elected by the city council; the second, by the classified service employees; the third, by the other two. The board approves minimum qualification changes, handles employee appeals for disciplinary actions, and executes the provisions in the Civil Service Act not repealed by the 2009 charter.

Employee Reliance on the Civil Service Act

Currently, 125 of 728 (approximately 17 percent) filled positions of Pensacola city employees are still covered by the Civil Service Act. The other 83 percent removed themselves from the Civil Service Act's coverage by collectively bargaining separate, exclusive procedures into their contracts. Now these unions – the Fraternal Order of the Police, the International Association of Firefighters, and the American Federation of State, County and Municipal Employees – do not rely on the Civil Service Board or any provision of the Civil Service Act.

**Effect of Proposed Changes**

Repeal of the Civil Service Act

This bill repeals chs. 84-510, 86-447, 86-450, 88-537, and 90-437, L.O.F., collectively known as the Civil Service Act of the City of Pensacola. Many provisions therein were repealed by a local referendum and are now duplicative of the systems used by the new strong mayor. This bill would eliminate all provisions of the Civil Service Act, both used and unused, and remove Pensacola civil service rules from the purview of the Legislature.

Independent Personnel Board

Upon repeal of the Civil Service Act, the City of Pensacola's human resources office intends to create an Independent Personnel Board (Personnel Board). Like the current Civil Service Board, this board would:

(1) handle minimum qualification changes,
(2) hear disciplinary appeals from city employees not otherwise protected by collective bargaining contracts, and
(3) be provided an attorney.

The Personnel Board would be composed of three members: one selected by the mayor, one by the employees, and one by the first two. Each would serve two year terms. The existing Civil Service Board would assume the role of the new Personnel Board, where the members would finish their current terms and then hold elections according the policies governing the Personnel Board.

Personnel Administration Policy

Upon repeal of the Civil Service Act, the City of Pensacola's human resources office intends to implement a replacement policy known as the Personnel Administration Policy (Policy). This Policy, a merit-based personnel system, would apply to all city employees not otherwise covered by a collective bargaining agreement. This Policy was written to largely mirror the currently used provisions of the Civil Service Act, with a few changes that give employees more employment-based rights. These include an administrative appeal process to resolve non-disciplinary complaints, mediation before hearing disciplinary appeals, merit-based employment and promotions, the prohibition of nepotism, and an outlined method for lay-offs.

The Policy also varies from the Civil Service Act in that it reflects the governmental structure change from the council-manager form to the strong mayor-council form. For example, the Policy states that all city employees are at will and the mayor is the official responsible for all employment. Therefore, the mayor may alter the Policy or the terms of any city employee's employment. All employees currently covered by the Civil Service Act would continue their employment under this Policy at the time of its adoption unless discharged for cause or by a lay-off.

B. SECTION DIRECTORY:

**Section 1:** Repeals ch. 84-510, L.O.F., as amended, known as the Pensacola Civil Service Act.

**Section 2:** Provides that the Act takes effect upon becoming a law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? February 2, 2013

WHERE? *Pensacola News Journal*, a daily newspaper published in Escambia County, Florida.

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

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

4053

PENSACOLA News Journal pnj.com

Published Daily-Pensacola, Escambia County, FL

# PROOF OF PUBLICATION

State of Florida

County of Escambia:

Before the undersigned authority personally appeared **Roshundia Gillis** who, on oath, says that she is a personal representative of the Pensacola News Journal, a daily newspaper published in Escambia County, Florida; that the attached copy of advertisement, being a Legal in the matter of:

**NOTICE OF INTENT TO SEEK ENACTMENT OF LEGISLATION PUBLIC HEARING**

Was published in said newspaper in the issue(s) of:

**FEBRUARY 2, 2013**

Affiant further says that the said Pensacola News Journal is a newspaper published in said Escambia County, Florida, and that the said newspaper has heretofore been published in said Escambia County, Florida, and has been entered as second class matter at the Post Office in said Escambia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this **8th Day** of **February, 2013**, by **Roshundia Gillis**, who is personally known to me.

R Gillis Affiant

Nikki E Nichols Notary Public

**NIKKI E. NICHOLS**
Notary Public-State of FL
Comm. Exp. Aug. 01, 2016
Comm. No EE 215743

**NOTICE OF INTENT TO SEEK ENACTMENT OF LEGISLATION**

**TO WHOM IT MAY CONCERN:**

NOTICE IS HEREBY GIVEN that the City of Pensacola intends to seek enactment before the 2013 Legislature, or 2013 Legislative Sessions, or 2013 Legislature and any Special or Extended Sessions, of an Act relating to the repeal of the Civil Service System of the City of Pensacola, Escambia County Florida; repealing Chapter 84-510, Laws of Florida, as subsequently amended by Chapter 86-447, Laws of Florida, as subsequently amended by Chapter 86-450, Laws of Florida, as subsequently amended by Chapter 88-537, Laws of Florida, as subsequently amended by Chapter 90-473; providing an effective date.

CITY OF PENSACOLA
Ericka L. Burnett, City Clerk

Legal No 1590052 1T February 2, 2013

## HOUSE OF REPRESENTATIVES

## 2013 LOCAL BILL CERTIFICATION FORM

**BILL #:** HB 4053

**SPONSOR(S):** Rep. Clay Ford

**RELATING TO:** Repeal of the Pensacola Civil Service Act
[Indicate Area Affected (City, County, or Special District) and Subject]

**NAME OF DELEGATION:** Escambia County Legislative Delegation

**CONTACT PERSON:** Brittany Hamel

**PHONE NO.:** (850) 717-5002 **E-Mail:** brittany.hamel@myfloridahouse.gov

I. *House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.*

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

**YES [X] NO [ ]**

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

**YES [X] NO [ ]**

**Date hearing held:** January 10, 2013

**Location:** WSRE Performance Studio, Pensacola, FL 32504

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

**YES [X] NO [ ]**

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

**Has this constitutional notice requirement been met?**

**Notice published: YES [X] NO [ ] DATE** Feb. 2, 2013

**Where?** Pensacola News Journal **County** Escambia

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

**Date of Referendum** N/A

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

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

**YES [ ] NO [X] NOT APPLICABLE [ ]**

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

**YES [ ] NO [X] NOT APPLICABLE [ ]**

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

**YES [ ] NO [ ]**

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

Delegation Chair (Original Signature) — Date: Feb. 20, '13

Rep. Clay Ingram
Printed Name of Delegation Chair

## HOUSE OF REPRESENTATIVES

## 2013 ECONOMIC IMPACT STATEMENT FORM

***House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed.***

**BILL #:** HB 4053

**SPONSOR(S):** (CITY OF PENSACOLA) Rep. Clay Ford, District 2

**RELATING TO:** CITY CHARTER AND VARIOUS SPECIAL ACTS
[Indicate Area Affected (City, County or Special District) and Subject]

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

| | FY13-14 | FY 14-15 |
|---|---|---|
| Expenditures: | Not Applicable | |

### II. ANTICIPATED SOURCE(S) OF FUNDING:

| | FY 13-14 | FY 14-15 |
|---|---|---|
| Federal: | Not Applicable | |
| State: | | |
| Local: | | |

### III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

| | FY 13-14 | FY 14-15 |
|---|---|---|
| Revenues: | None | None |

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

Advantages:

Repeals, provisions of the Charter of the City of Pensacola which are obsolete or superseded by general or special law

Disadvantages:

None

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

None

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

Not Applicable

PREPARED BY: _____ 2-6-13
**[Must be signed by Preparer]** **Date**

TITLE: Chief of Staff

REPRESENTING: City of Pensacola

PHONE: (850) 435-1629

E-Mail Address: jasmar@cityofpensacola.com

A bill to be entitled

An act relating to the City of Pensacola, Escambia County; repealing chapters 84-510, 86-447, 86-450, 88-537, and 90-473, Laws of Florida; repealing the Civil Service System for city employees; providing an effective date.

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

Section 1. Chapters 84-510, 86-447, 86-450, 88-537, and 90-473, Laws of Florida, are repealed.

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