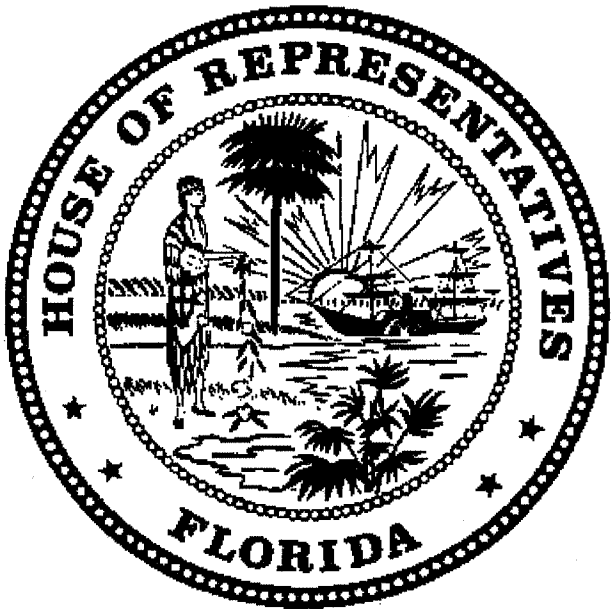


LOCAL & FEDERAL AFFAIRS COMMITTEE

MEETING PACKET

Thursday, April 4, 2013
10:30 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)
Thursday, April 4, 2013, 10:30 a.m.

I. CALL TO ORDER AND WELCOME REMARKS

II. CONSIDERATION OF THE FOLLOWING BILL(S):

HM 151 Haitian Family Reunification Parole Program by Campbell, Rogers

CS/HB 971 Florida Fire Prevention Code by Insurance & Banking Subcommittee, Raburn

CS/HB 997 Animal Shelters and Animal Control Agencies by Agriculture & Natural Resources Subcommittee, Cummings, Patronis

CS/HB 1005 Motorist Safety by Transportation & Highway Safety Subcommittee, Slosberg

HB 1069 Emerald Coast Utilities Authority, Escambia County by Ingram

HB 1127 Pet Services and Welfare Programs by Artiles

HM 1253 Importation of Queen Conch by Diaz, J., Raschein

HB 1287 Tohopekaliga Water Authority, Osceola County by La Rosa

III. Consideration of the following proposed committee substitute(s):

PCS for HB 837 -- Tax Collectors

IV. ADJOURNMENT

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 151 Haitian Family Reunification Parole Program
SPONSOR(S): Campbell and others
TIED BILLS: **IDEN./SIM. BILLS:** SM 1478

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

SUMMARY ANALYSIS

On January 21, 2010, Haiti suffered the largest earthquake in the country's history. The magnitude 7 earthquake caused severe damage throughout the country. The Haitian government estimated that the earthquake was responsible for over 230,000 deaths and up to $14 billion in damage. The Haitian government also estimated that the earthquake affected approximately one-third of the overall population, including over one million that were displaced.

Today, Haitians are still feeling the effects. Countless remain homeless, and the lack of a stable political, health, and economic infrastructure has allowed the country to be especially vulnerable to disease and crime. As a result, many Haitians are seeking to immigrate to the United States.

Currently, to successfully immigrate to the United States by visa, Haitians must first have their petitions for a visa approved. Once their petitions are approved, they have to remain in Haiti until a visa becomes available. The wait for a visa can take anywhere from three to eleven years.

HM 151 urges the United States Secretary of Homeland Security and the United States Department of Homeland Security to use the Immigration and Nationality Act's humanitarian parole authority to allow Haitians that have approved family-based visa petitions to wait for the availability of a visa in the United States.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Immigration and Nationality Act

The Immigration and Nationality Act (INA) is the predominant legal authority governing immigration to the United States.[1] The INA provides for the conditions whereby an alien[2] may be admitted and remain in the United States.[3] It also provides a registration system to monitor the entry and movement of aliens in the United States.[4] An alien may be subject to removal for certain actions, including entering the United States without inspection, presenting fraudulent documents, health reasons, violating conditions of admission, or engaging in certain other prohibited conduct.[5]

There are various categories of legal immigration status that are based on the type and duration of permission granted to be in the United States, and expire based on those conditions. The categories include, but are not limited to: students; workers; tourists; research professors; and diplomats. All lawfully present aliens must have appropriate documentation based on status.

The Secretary of Homeland Security is charged with the administration and enforcement of the INA; however, the Attorney General is responsible for questions of law.[6]

Effect of Earthquake

On January 21, 2010, Haiti suffered the largest earthquake in the country's history.[7] The earthquake had a magnitude of 7 (out of 10) and caused severe damage throughout the country.[8] The Haitian government estimated that the earthquake was responsible for over 230,000 deaths and up to $14 billion in damage.[9] The Haitian government also estimated that the earthquake affected approximately one-third of the overall population, including over one million that were displaced.[10]

Today, Haitians are still feeling the effects. More than 350,000 are still living in tents, and the lack of a stable political, health, and economic infrastructure has allowed the country to be especially vulnerable to disease and crime.[11] In addition, most of the donor-supported cash-for-work programs set up after the quake have ended.[12]

---

[1] 8 U.S.C. s. 1101 et seq.
[2] Section 1101(a)(3) of the INA defines "alien" as a person present in the United States who is not a citizen of the United States.
[3] *Id.* at ss. 1181-1182, 1184.
[4] *Id.* at ss. 1201(b), 1301-1302.
[5] *Id.* at ss. 1225, 1227, 1228, 1229, 1229c, 1231.
[6] *Id.* at s. 1103(a)(1).
[7] Congressional Research Service Report R41023, *Haiti Earthquake: Crisis and Response*, by Rhoda Margesson and Maureen Taft-Morales (February 19, 2010). Available at: http://fpc.state.gov/documents/organization/139280.pdf.
[8] *Id.*
[9] *Id.*
[10] *Id.*
[11] Information obtained from the *Economist* magazine's online archive. The article is titled, "Haiti, Still Waiting for Recovery," from the print edition of the *Economist* on January 5, 2013. Available at: www.economist.com.
[12] *Id.*

Temporary Protected Status for Haitians[13]

In response to the humanitarian crisis in Haiti caused by the earthquake, the DHS announced on January 13, 2010, that it would temporarily halt deportation of Haitians from the United States. This is known as granting Temporary Protected Status (TPS). TPS is a tool available to the DHS when various countries are impacted by civil unrest, violence, or natural disaster. A foreign national who is granted TPS receives a registration document and an employment authorization for the duration of the TPS.

On May 17, 2011, Secretary of Homeland Security, Janet Napolitano, extended the TPS for Haitians to January 22, 2013. The extension allows TPS for Haitians who arrived in the United States up to one year after the earthquake.

The INA's Humanitarian Parole Authority[14]

In addition to TPS, many Haitians are hoping that the INA uses its humanitarian parole authority to allow Haitians that have approved visa petitions to wait for their visas in the United States.

Currently, to successfully immigrate to the United States by visa, Haitians (and all other aliens) must first have their petitions for a visa approved. Once their petitions are approved, they have to remain in Haiti until a visa becomes available. However, there is currently a lengthy worldwide backlog for available visas. As a result, the wait for a visa can take anywhere from three to eleven years. According to the DOS, there were 105,193 Haitians who had approved petitions to immigrate to the United States at the end of FY 2010.

In the context of immigration law, parole means that the foreign national has been granted temporary permission to be present in the United States. Parole does not constitute formal admission to the United States, and parolees are required to leave when the terms of their parole expire, or if otherwise eligible, to be admitted in a lawful status. The INA grants the Secretary of DHS discretionary authority to parole an alien into the United States temporarily on a case-by-case basis for urgent humanitarian reasons, such as to obtain medical treatment not available in his or her home country, visit a dying relative, or reunify young children with relatives.

Cuban Reunification Parole Program[15]

On November 21, 2007, the DHS announced the establishment of the Cuban Family Reunification Program (CFRP), which allows Cuban nationals who have received approved family-based immigrant visa petitions, for which no visa is currently available, an opportunity to come to the United States rather than remain in Cuba to apply for lawful permanent resident status (LPR). The stated purpose of the program is to expedite family reunification through safe, legal, and orderly channels of migration to the United States and to discourage dangerous and irregular maritime migration.

Effect of Proposed Changes

The memorial urges the DHS to create the Haitian Family Reunification Parole program to support Haitian applicants for immigration to join their families in the United States due to the current circumstances in Haiti. The memorial proposes that the program be similar to the CFRP program

[13] The information under this subheading was obtained from: Congressional Research Service Report, *Temporary Protected Status: Current Immigration Policy and Issues*, by Ruth Ellen Wasem and Karma Ester (December 13, 2011). Available at: http://www.fas.org/sgp/crs/RS20844.pdf.

[14] The information under this subheading was obtained from: Congressional Research Service Report RS21349, *U.S. Immigration Policy on Haitian Migrants*, by Ruth Ellen Wasem (January 21, 2011). Available at: http://www.uscg.mil/history/docs/CRS_RS21349.pdf.

[15] The information under this subheading was obtained from the U.S. Department of State Website at: http://www.state.gov/p/wha/rls/fs/2009/115413.htm.

described above. Its goal would be to "hasten the reunification of families and discourage Haitian citizens from resorting to illegal and dangerous means of migration into the United States."

Proponents of expediting the admission of Haitians with family in the United States maintain it would relieve at least some of the humanitarian burden in Haiti. Those opposed to expediting the admission of Haitians assert that it would not be in the national interest, nor would it be fair to other foreign nationals waiting to reunite with their families.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The memorial itself would not have any fiscal impact as it does not have the effect of law. However, a Haitian Family Reunification Parole Program would allow for the influx of an indeterminate amount of Haitian immigrants, who could have an effect on local economies, particularly in South Florida.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

House Memorial

A memorial to the United States Secretary of Homeland Security, urging the United States Department of Homeland Security to create the Haitian Family Reunification Parole Program.

WHEREAS, on January 12, 2010, Haiti experienced a 7.0 magnitude earthquake, which killed 250,000 people and left more than 1 million homeless, injured, and with limited access to potable water and food, and

WHEREAS, Haitians residing in the United States, particularly in Florida, were devastated by the news and were concerned for the well-being of family members still residing in Haiti, and

WHEREAS, the President of the United States issued an executive order to grant temporary protected status to eligible citizens of Haiti, and, on May 17, 2011, the United States Secretary of Homeland Security announced the extension of the temporary protected status for eligible Haitians for another 18 months, and

WHEREAS, human rights advocates have called upon the United States Department of Homeland Security to use the Immigration and Nationality Act's humanitarian parole authority to allow Haitians that have approved visas to immigrate to the United States without waiting extending periods, and

WHEREAS, the policy of the United States Citizenship and Immigration Services has been that family-based immigration petitioners residing in Haiti must remain in Haiti rather than

in the United States while awaiting their visa priority dates to become current, and

WHEREAS, there is currently a Cuban Family Reunification Parole Program that authorizes Cuban applicants for immigration to join their families in this country, and the purpose of this memorial is to call for the establishment of a similar program in support of Haitian immigration applicants to join their families in this country due to the circumstances in Haiti, and

WHEREAS, the purpose of the Haitian Family Reunification Parole Program would be to hasten the reunification of families and discourage Haitian citizens from resorting to illegal and dangerous means of migration into the United States, and

WHEREAS, the Haitian Family Reunification Parole Program is supported by the City of Philadelphia, Pennsylvania, the United States Conference of Mayors, the Committee on Foreign Affairs of the United States House of Representatives, and six United States Senators, NOW, THEREFORE,

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

That the United States Secretary of Homeland Security and the United States Department of Homeland Security are urged to create the Haitian Family Reunification Parole Program for the reasons and purposes provided in this memorial.

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, to each member of the

Florida delegation to the United States Congress, and to the United States Secretary of Homeland Security.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 971 Florida Fire Prevention Code
SPONSOR(S): Insurance & Banking Subcommittee, Raburn and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N	Vanlandingham	Cooper
2) Local & Federal Affairs Committee		Lukis	Rojas
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

The Florida Fire Prevention Code (FFPC) is a complex set of fire code provisions enforced by the local fire official within each county, municipality, and special fire district in the state. The most recent version of the FFPC adopted mandatory fire flow requirements intended to assure an adequate water supply for fire suppression. Some jurisdictions have said they are unwilling or unable to meet these standards and are continuing to build new homes that do not comply with the FFPC fire flow requirements. The Division of State Fire Marshall has begun a rulemaking process intended to resolve such disagreements.

CS/HB 971 preempts the rulemaking by providing that "in rural areas or small communities," fire flow requirements "may be decreased" by the authority that has jurisdiction for isolated buildings or a group of buildings, if that authority determines "that the development of full fire flow requirements is impractical." The bill may significantly reduce costs for local governments that could opt out of costly infrastructure upgrades required to comply with current fire flow standards. It is unknown whether such opt-outs could result in increased risk to firefighters or higher local insurance rates for businesses and homeowners.

The bill also addresses an apparent discrepancy between the FFPC and the Florida Building Code that currently requires costly upgrades of multiuse commercial buildings whenever a mercantile use (for the display and sale of merchandise) adjoins a business use (for the transaction of business other than mercantile). The FFPC requires a two-hour fire rated wall or partition between these two use groups, while the building code does not. The bill provides that for structures of less than three storeys and 10,000 square feet, a fire official shall enforce the less stringent wall fire-rating provisions found in the building code. This may result in significant savings for commercial property owners no longer required to renovate, and it may help such owners to more easily find new tenants to occupy storefronts that may now be vacant. Whether this change may lead to higher insurance rates for owners or tenants of such properties has not been determined.

Existing law exempts "farm outbuildings" from the FFPC. The bill expands this exemption to "farming or ranching structures", so long as they are part of an operation that employs fewer than 25 full-time equivalent workers, the structure is not used by the public for direct sales or as an educational outreach facility, and it is not used for residential or assembly occupancies. This change could result in significant cost savings for farmer or ranchers who own buildings that would no longer be required to comply with the FFPC. However, because it is not clear what type of buildings would be classified as "farming or ranching structures," nor how much broader this exemption would be than the current exemption for "farm outbuildings," the bill's impact on insurance rates and associated fire risks cannot be assessed.

It does not appear that the bill has any fiscal impact on state government.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill and its changes to the Florida Fire Prevention Code

The Florida Fire Prevention Code (FFPC) is adopted by the Division of the State Fire Marshal (SFM), housed within the Department of Financial Services (DFS), at three year intervals as required by s. 633.0215, F.S.[1] This complex set of fire code provisions is enforced by the local fire official within each county, municipality, and special fire district in the state. The county, municipality or special district having jurisdiction within a specific community may also adopt local amendments that are applicable only within that community.

The bill amends s. 633.0215, F.S., in three principal ways:

1) Fire flow requirements

Fire flow requirements are intended to assure an adequate water supply for fire suppression by establishing minimum water flow rates required to control and extinguish fires that may occur within certain types of property subject to specific occupancy classifications. The "required fire flow" is the rate of flow needed for firefighting purposes to confine a major fire to the buildings within a block or other contiguous grouping. The determination of this flow depends upon the size, construction, occupancy, and exposure of buildings within and surrounding the block or group of buildings.

Historically, the determination of required fire flow has been made by local fire authorities having jurisdiction. An important resource in making this determination has been the Guide for Determination of Required Fire Flow, published by the Insurance Services Office (ISO), a private ratings agency that measures the major elements of a community's fire suppression system, including its fire department, emergency communications, and water supply.[2] Following inspection and review of a community's firefighting capabilities, ISO issues a numerical grade, called a Public Protection Classification, which is often used by property and casualty insurers as a tool for calculating insurance rates. This means that a community's investment in fire protection infrastructure often has a direct impact in reducing the community's property insurance rates. In addition to this incentive for adopting adequate fire flow rates, the 2007 edition of the Florida Fire Prevention Code contained recommended standards for fire flow rates that communities were encouraged to adopt.[3]

However, the current 2010 edition of the FFPC, which went into effect on December 31, 2011, made fire flow requirements mandatory for the first time. These requirements apply to both residential and commercial buildings.[4] Some jurisdictions, such as the City of Naples, have said they are unwilling or unable to meet these standards and are continuing to build new homes that do not comply with the FFPC fire flow requirements.[5] This is partly because of aging infrastructure and partly because Naples is building some of the largest homes in Florida, often in excess of 7,000 square feet.[6] The FFPC requires new homes of 5,000 square feet or fewer to have access to water that flows at 1,000 gallons

[1] The FFPC is available online at: http://www.myfloridacfo.com/Division/SFM/BFP/FloridaFirePreventionCode.htm.
[2] http://www.isomitigation.com/fsrs/Fire-Suppression-Rating-Schedule-Overview.html
[3] NFPA 1, Annex H.
[4] NFPA 1:18.4
[5] http://www.naplesnews.com/news/2013/jan/29/naples-officials-push-for-changes-to-water-flow/
[6] *Id.*

per minute for one hour, but larger homes must meet higher requirements on a sliding scale for different gallon and duration requirements.[7]

a. Pending rulemaking

The SFM has begun rulemaking to help resolve this conflict. After conferring with stakeholders, the agency has issued a Notice of Proposed Rule to amend the FFPC to clarify that heightened fire flow requirements "shall be considered a recommendation for construction of one and two-family dwellings located on in-fill lots in existing neighborhoods and subdivisions."[8] SFM is holding a hearing on the proposed rule, which is scheduled for March 27, 2013.[9]

b. Effect of the bill on fire flow requirements

The bill effectively preempts the rulemaking by amending s. 633.0215, F.S., governing the Florida Fire Prevention Code, to provide that "in rural areas or small communities," fire flow requirements "may be decreased" by the authority that has jurisdiction for isolated buildings or a group of buildings, if that authority determines "that the development of full fire flow requirements is impractical."

"Rural areas" is defined by the FFPC as "areas that are not unsettled wilderness or uninhabitable territory but are sparsely populated with densities below 500 persons per square mile."[10] However, "small community" appears to be undefined in the code, presenting a potential drafting issue that is discussed below.

The bill may result in significant cost savings for local governments that opt out of fire flow requirements and avoid costly infrastructure upgrades to boost water flow pressures to current standards.

It is unknown whether such opt-outs could result in increased risk to firefighters or higher local insurance rates for businesses and homeowners.

2) Wall fire-rating requirements

Both the Florida Fire Prevention Code[11] and the Florida Building Code[12] require that where different parts of a building comprise different categories of occupancy, those buildings must passive fire protection systems to slow or prevent a fire from spreading from one part of the building to another. For example, if a restaurant abuts a day care center or a hotel, the codes will require a fire wall between the two occupancies rated to certain wall fire-rating. These fire ratings are often expressed in "hours," expressing how long the wall can resist a fire of a certain temperature. The rules are intended to protect life safety, slow the spread of fire, and reduce insurance rates by restricting the ability of a commercial tenant to offload his or her fire risk onto adjoining tenant occupancies.

The FFPC and the Florida Building Code generally agree on occupancy separation requirements. However, one apparent discrepancy between the codes has perplexed managers of multiuse commercial buildings and apparently has constrained their ability to attract new tenants without engaging in costly building renovations. The two codes differ on the separation between a mercantile occupancy (defined as use for the display and sale of merchandise) and a business occupancy (defined as use for the transaction of business other than mercantile). The FFPC requires a two-hour

---

[7] *Id.*
[8] Notice of Proposed Rule, published in FAR Feb. 7, 2013, amending rule 69A-60.003.
[9] Scheduled for 1 p.m., at the Alexander Building, Conference Room, Suite 230A, 2020 Capital Circle SE, Tallahassee.
[10] NFPA s. 3.3.18
[11] NFPA 101 s. 6.1.14.4.1, as specified in 6.1.14.4.2 and 6.1.14.4.3, and tables 6.1.14.4.1(a) and (b).
[12] Florida Building Code sections 508.1, 508.2, 508.3 and 508.4.

fire rated wall or partition between these two use groups, while the Florida Building Code does not require separation between business and mercantile uses.

This discrepancy can have consequences for building managers seeking to lease commercial space in multiuse buildings. If a single storefront with two commercial tenancies leases its space to two shops, then no fire-wall separation is required because the occupancies are both classified as mercantile. However, if one shop goes out of business and the building leases its space to a barber shop or a law office, then the FFPC requires the wall between the two spaces to be renovated to provide 2-hour rated fire wall protection. Because a fire marshal or inspector could cite the building owner for failing to comply with the code, the FFPC as it currently exists arguably makes it more difficult for building owners to find new tenants for vacant storefronts.

a. Effect of the bill on wall fire-rating requirements

The bill provides that for one-story or two-story structures that are less than 10,000 square feet, whose occupancy is business or mercantile, a fire official shall enforce the less stringent wall fire-rating provisions for occupancy separation as defined in the Florida Building Code. This will remove the apparent discrepancy between the two codes and address the specific problem of vacant storefronts, which may reduce instances where costly renovations are required and make it easier for owners of vacant commercial buildings to find new tenants.

Whether this change may lead to increased fire risks or higher insurance rates for owners or tenants of such properties has not been determined.

3) Farming and ranching structures

Section 633.557(1), F.S., already provides that "owners of property who are building or improving farm outbuildings" are exempt from the FFPC. This means that structures such as barns need not be constructed to the fire code nor are they subject to fine by fire marshals or inspectors. However, it is possible that certain farming and ranching structures that are not deemed to be "outbuildings" are still subject to fire protection standards.

a. Effect of the bill on farming and ranching structures

The bill provides that a "farming or ranching structure" is exempt from the FFPC, so long as it is part of an operation that employs fewer than 25 full-time equivalent workers. Further, the structure must not be used by the public for direct sales or as an educational outreach facility. Moreover, under no circumstances may the structures be used for either residential or assembly occupancies.[13]

This change could result in significant cost savings for farmer or ranchers who own buildings that would no longer be required to comply with the FFPC.

However, because it is not clear what type of buildings would be classified as "farming or ranching structures," nor how much broader this exemption would be than the current exemption for "farm outbuildings," the bill's impact on insurance rates and associated fire risks cannot be assessed.

B. SECTION DIRECTORY:

Section 1: Amends s. 633.0215, F.S., to relax fire prevention standards with regard to fire flow water standards, fire separation in multiuse buildings, and farming or ranching structures.

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

[13] Assembly occupancy includes any gathering of 50 people or more.

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:

The bill may significantly reduce costs for local governments that could opt out of costly infrastructure upgrades required to comply with current fire flow standards.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in significant savings for commercial property owners no longer required to upgrade fire walls between separate occupancies within the same building. This change may also allow such property owners to more easily find new tenants to occupy storefronts that are currently vacant.

The bill may also result in cost savings for owners of farming or ranching structures that are no longer required to comply with the fire code.

It is unknown whether the bill may result in increased insurance rates for local property owners impacted by reduced fire flow rates, for commercial building owners and tenants in multiuse buildings, and for farmers and ranchers whose properties may become exempt from the FFPC.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that 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:

"Small community" appears to be undefined in the FFPC, which could lead to disputes between the SFM and local authorities having jurisdiction, which may argue they are entitled to opt out of the fire flow requirements. Moreover, "isolated buildings" or "group of buildings" are similarly undefined by the code. Further, the language providing that "fire flow requirements may be decreased ... if that authority determines that the development of full fire flow requirements is impractical" fails to communicate how much these flow requirements may be decreased, or what standards the local authority having jurisdiction should use for determining impracticability. To address these issues and to balance the need for state fire flow standards against flexibility for local governments to whom those standards may be ill suited, rulemaking may offer an additional approach.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2013, the Insurance and Banking Subcommittee adopted a proposed committee substitute.

This analysis reflects the bill as amended.

A bill to be entitled

An act relating to the Florida Fire Prevention Code; amending s. 633.0215, F.S.; providing that certain authorities in rural areas or small communities may decrease fire flow requirements; providing that fire officials shall enforce Florida Building Code provisions for occupancy separation for certain structures with certain occupancies; exempting certain farming and ranching structures from the code; providing an effective date.

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

Section 1. Subsection (16) is added to section 633.0215, Florida Statutes, to read:

633.0215 Florida Fire Prevention Code.—

(16)(a) Fire flow requirements may be decreased by the authority that has jurisdiction over isolated buildings or a group of buildings in rural areas or small communities, as defined in the Florida Fire Prevention Code, if that authority determines that the development of full fire flow requirements is impractical.

(b) For one-story or two-story structures that are less than 10,000 square feet, whose occupancy is defined in the Florida Building Code and the Florida Fire Prevention Code as business or mercantile, a fire official shall enforce the wall fire-rating provisions for occupancy separation as defined in the Florida Building Code.

(c) A farming or ranching structure, as part of an operation that employs fewer than 25 full-time equivalent workers, calculated as cumulative hours worked divided by 40 hours, which is not used by the public for direct sales or as an educational outreach facility, is exempt from the Florida Fire Prevention Code, including the national codes and Life Safety Code incorporated by reference. This paragraph does not include structures used for residential or assembly occupancies, as defined in the Florida Fire Prevention Code.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 997 Animal Shelters and Animal Control Agencies
SPONSOR(S): Agriculture & Natural Resources Subcommittee; Cummings and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 674, HB 871

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	9 Y, 0 N, As CS	Kaiser	Blalock
2) Local & Federal Affairs Committee		Nelson	Rojas
3) State Affairs Committee			

SUMMARY ANALYSIS

According to the Humane Society of the United States, animal shelters across the nation take in and care for approximately six to eight million dogs and cats every year, of which approximately half are euthanized due to health issues, behavioral issues, or a lack of space.

Current law provides that to control the over-population of dogs and cats in the state, any public or private animal shelter or animal control agency operated by a humane society or a county, city, or other incorporated political subdivision must sterilize dogs and cats that are sold or released for adoption. Animal shelters may either provide sterilization by a licensed veterinarian before relinquishing custody of the animal or enter into an agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity.

CS/HB 997 provides that each animal shelter must prepare and maintain the following records for the preceding three years and make them available for public inspection and dissemination. Beginning July 31, 2013, such records must be prepared, maintained, and made available for public inspection and dissemination on a monthly basis:

- The total number of dogs and cats taken in by the animal shelter, divided into species, in the following categories: inventory on the first business day of the month, surrendered by owner, stray, impounded, confiscated, transferred from within the state, transferred or imported into the state, and born in shelter. Species other than domestic dogs and cats must be recorded as "other."
- The disposition of all animals taken in by the animal shelter divided into species, in the following categories: adoption, reclamation by owner, death in kennel, euthanasia at the owner's request, transfer to another animal shelter, euthanasia, died in care for reason other than euthanasia, released as part of a "trap, neuter and release" program, lost in care/missing animals or records, and ending inventory at end of the last day of the month.
- An animal shelter that routinely euthanizes dogs based on size or breed alone must provide a written statement of such policy. Dogs euthanized due to breed, temperament, or size must be recorded and included in the calculation of the total euthanasia percentage.

The records of the animal shelter must be made available to the public for a fee of up to 15 cents per one-sided copy and no more than five additional cents for each two sided copy. Animal shelters may make the records available on-line as well as providing hard copies. The records must be maintained onsite for not less than three years.

The bill does not appear to have a fiscal impact on state government, and has only an insignificant fiscal impact on local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

According to the Humane Society of the United States, animal shelters across the nation take in and care for approximately six to eight million dogs and cats every year, of which approximately half are euthanized due to health issues, behavioral issues or a lack of space. One cat and her offspring can produce up to 370,000 kittens in seven years, and one dog and her offspring can produce up to 67,000 puppies in seven years. With the increase of stray, abandoned, and feral cats and dogs on the rise, many communities are implementing programs and services to reduce birthrates, increase adoptions, and keep animals with responsible caretakers.

Section 823.15, F.S., currently provides that to control the over-population of dogs and cats in the state, any animal shelter[1] must sterilize dogs and cats that are sold or released for adoption. Animal shelters may either provide sterilization by a licensed veterinarian before relinquishing custody of the animal or enter into an agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity. The animal shelter must require a sufficient deposit from the adopter or purchaser, which will be refunded when written evidence by the veterinarian performing the sterilization that the animal has been sterilized is provided to the animal shelter. The animal shelter may use recommended guidelines established by the Florida Federation of Humane Societies to set the amount of the deposit or donation. Failure by either party to comply with these provisions is a noncriminal violation, punishable by a fine not to exceed $500, forfeiture, or other civil penalty. In addition, the fine or donation is forfeited to the animal shelter. Any legal fees or court costs incurred in enforcement of these provisions are the responsibility of the adopter. At the request of a licensed veterinarian, and for a valid reason, the animal shelter can extend the time limit within which the animal must be sterilized.

All costs of sterilization must be paid by the prospective adopter unless otherwise provided for by ordinance of the local governing body, with respect to animal control agencies or shelters operated or subsidized by a unit of local government, or provided for by the humane society governing body, with respect to an animal control agency or shelter operated solely by the humane society and not subsidized by public funds.

Effect of Proposed Changes

The bill amends s. 823.15, F.S., to provide a legislative intent that the importation of dogs and cats into, and the uncontrolled breeding of dogs and cats in, the state pose a risk to the well-being of dogs and cats, the health of humans and animals, and the agricultural interests in the state. The bill further states that importation of dogs and cats from outside the United States may result in transmitting diseases that have already been eradicated in the country to dogs, cats, other animals, and humans living in the state. The bill states that determining which programs result in improved adoption rates and in reduced euthanasia rates for animals in shelters and animal control agencies is crucial to reducing uncontrolled breeding.

The bill also requires that each animal shelter prepare and maintain the following records for the preceding three years and make them available for public inspection and dissemination. Beginning July 31, 2013, such records must be prepared, maintained, and made available for public inspection and dissemination on a monthly basis:

[1] "Animal shelter" means any public or private animal shelter, humane organization, or animal control agency operated by a humane organization that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision.

- The total number of dogs and cats taken in by the animal shelter, humane organization, or animal control agency, divided into species, in the following categories: inventory on the first business day of the month, surrendered by owner, stray, impounded, confiscated, transferred from within the state, transferred or imported into the state, and born in the shelter. Species other than domestic dogs and cats must be recorded as "other."
- The disposition of all animals taken in by a public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision, divided into species, in the following categories: adoption, reclamation by owner, death in kennel, euthanasia at the owner's request, transfer to another public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision, euthanasia, died in care for reason other than euthanasia, released as part of a "trap, neuter and release" program, lost in care/missing animals or records, and ending inventory at the end of the last day of the month.
- A public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars, or by a county, municipality, or other incorporated political subdivision which routinely euthanizes dogs based on size or breed alone must provide a written statement of such policy. Dogs euthanized due to breed, temperament, or size must be recorded and included in the calculation of the total euthanasia percentage.

The records of a public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars must be made available to the public at a cost of up to 15 cents per one-sided copy, no more than an additional five cents for each two-sided copy, and the actual cost of duplication of the public records for all other copies. The records may also be downloaded to the entity's website as well as being offered in hard-copy. The records must be maintained onsite for not less than three years.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 823.15, F.S.; relating to dogs and cats released from animal shelters or animal control agencies; sterilization requirement.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See, the FISCAL COMMENTS section, below.

2. Expenditures:

   See, the FISCAL COMMENTS section, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private animal control facilities and shelters may have an increase in costs associated with complying with the reporting requirements of the bill if not currently collecting that information.

D. FISCAL COMMENTS:

City and county animal shelters and animal control agencies may have an increase in costs associated with complying with the reporting requirements of the bill if not currently collecting that information. The bill allows animal shelters and animal control agencies to charge the public a fee not to exceed 15 cents per one-sided copy, no more than an additional five cents for each two-sided copy, and the actual cost of duplication of the public records for all other copies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The mandates provision appears to apply because this bill requires municipalities or counties to expend funds to comply with the provisions of the bill; however, an exemption may apply because the bill has an insignificant fiscal impact.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 27, 2013, the Agriculture & Natural Resources Subcommittee adopted a strike-all amendment to HB 997. The differences between the bill and strike-all amendment are:

- The amendment requires animal shelters and agencies to commence keeping monthly records on July 31, 2013.

- In addition to the criteria included in the bill, the amendment requires animal shelters and agencies to keep track of:
  - the inventory on the first business day of the month;
  - animals transferred from within the state; and
  - animals born in the shelter.

- The amendment removes the separate reporting requirement for feral cats.

- In addition to the criteria included in the bill for the disposition of animals, the amendment requires animal shelters and agencies to keep track of:

- animals that die in the care of the shelter/agency other than euthanasia;
- animals that are released as part of a trap, neuter and release program;
- animals lost in care or missing animals or records; and
- the ending inventory on the last day of the month.

- The amendment allows shelters and agencies to download records to their websites as well as providing hard copies.

- The amendment requires the records to be maintained onsite for not less than three years.

A bill to be entitled

An act relating to animal shelters and animal control agencies; amending s. 823.15, F.S.; declaring legislative priorities relating to the importation and uncontrolled breeding of dogs and cats; requiring that each public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision prepare and maintain specified records; specifying the information that must be included in the records; providing for public availability of such records; providing an effective date.

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

Section 1. Subsection (1) of section 823.15, Florida Statutes, is amended, present subsections (2) and (3) are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

823.15 Dogs and cats released from animal shelters or animal control agencies; sterilization requirement.—

(1) The Legislature has determined that the importation of dogs and cats into, and the uncontrolled breeding of dogs and cats in, this state pose risks to the well-being of dogs and cats, the health of humans and animals, and the agricultural interests in this state. Importation of dogs and cats from outside the United States could result in the transmission of

diseases that have been eradicated in the United States to dogs and cats, other animals, and humans living in this state. Uncontrolled breeding ~~The Legislature has determined that uncontrolled breeding of dogs and cats in the state~~ results in the birth ~~production~~ of many more puppies and kittens than are needed to provide pet animals to new owners or to replace pet animals that ~~which~~ have died or become lost ~~or to provide pet animals for new owners~~. This leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays and suffering privation and death, being impounded and destroyed at great expense to the community, and constituting a public nuisance and public health hazard. It is therefore declared to be the public policy of the state that every feasible means be used to reduce the incidence of birth ~~of reducing the production~~ of unneeded and unwanted puppies and kittens ~~be encouraged~~. Determining which programs result in improved adoption rates and in reduced euthanasia rates for animals in shelters and animal control agencies is crucial to this effort.

(2)(a) Each public or private animal shelter, humane organization, or animal control agency operated by a humane organization that accepts taxpayer dollars or by a county, municipality, or other incorporated political subdivision, shall prepare and maintain the following records for the preceding 3 years and make them available for public inspection and dissemination, and beginning July 31, 2013, such records shall be prepared, maintained, and made available for public inspection and dissemination on a monthly basis:

1. The total number of dogs and cats taken in by the

public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars or by a county, municipality, or other incorporated political subdivision, divided into species, in the following categories:

a. Inventory on the first business day of the month;

b. Surrendered by owner;

c. Stray;

d. Impounded;

e. Confiscated;

f. Transferred from within Florida;

g. Transferred into or imported from outside the state; and

h. Born in shelter.

Species other than domestic cats and domestic dogs should be recorded as "other."

2. The disposition of all animals taken in by the public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars or by a county, municipality, or other incorporated political subdivision, divided into species, in the following categories:

a. Adoption;

b. Reclamation by owner;

c. Death in kennel;

d. Euthanasia at the owner's request;

e. Transferred to another public or private animal

shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars or by a county, municipality, or other incorporated political subdivision;

f. Euthanasia;

g. Died in care for reason other than euthanasia;

h. Released in field and trapped-neutered-released (TNR);

i. Lost in care and missing animals or records; and

j. Ending inventory and shelter count at end of the last day of the month.

3. A public or private animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars or by a county, municipality, or other incorporated political subdivision which routinely euthanizes dogs based on size or breed alone must provide a written statement of such policy. Dogs euthanized due to breed, temperament, or size must be recorded and included in the calculation of the total euthanasia percentage.

(b) The records of a public animal shelter, humane organization, or animal control agency operated by a humane society that accepts taxpayer dollars must be made available to the public pursuant to chapter 119. An animal shelter, humane organization, or animal control agency referenced in this subsection that has a website may post the required records online in addition to making paper copies available. Such records must be maintained onsite for at least 3 years.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1005 Motorist Safety
SPONSOR(S): Transportation & Highway Safety Subcommittee; Slosberg
TIED BILLS: **IDEN./SIM. BILLS:** SB 1376

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	13 Y, 0 N, As CS	Kiner	Miller
2) Local & Federal Affairs Committee		Nelson	Rojas
3) Economic Affairs Committee			

SUMMARY ANALYSIS

CS/HB 1005 authorizes, but does not require, the governing board of a county to create a "yellow dot" critical motorist medical information program for the purpose of assisting emergency medical responders and program participants in the event of a motor vehicle accident or a medical emergency involving a participant's vehicle. Participants in the program receive a yellow dot decal to place on their vehicle's rear window, which alerts emergency services personnel to look for a corresponding yellow folder in the glove box. The yellow folder may include the injured participant's emergency contact and medical information.

Under the bill, a person's participation in the program is voluntary and free. A county, or group of counties, may solicit sponsorships to cover expenditures, including the cost of the yellow dot decals and folders. The bill also authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) to provide education and training to encourage emergency medical responders to participate in the program. DHSMV and DOT may also take reasonable measures to publicize the program.

The bill limits the liability of emergency medical responders, and requires the governing body of a participating county to adopt guidelines and procedures to ensure that confidential information is not made public.

This bill has no fiscal impact, and is effective on July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The "yellow dot" program is a system to alert first responders at an accident scene to search for medical information about the injured–especially if the injured is unconscious or unable to speak.[1] According to the newspaper *USA Today*, the yellow dot program is "...simple but effective: [p]articipants in the free program receive a yellow dot to place on their rear window; it alerts emergency services personnel to look for a corresponding yellow folder in the glove box."[2] The yellow folder may include the injured participant's name, photograph, emergency contact information, medical information, hospital preference, and other vital information.

The program began in Connecticut in 2002, and now, with slight variations, is in counties scattered across at least eight other states: Kansas, Illinois, Iowa, Minnesota, Massachusetts, Virginia, Alabama and New York.[3]

Effect of Proposed Changes

The bill authorizes, but does not require, the governing body of a county to create a yellow dot critical motorist medical information program for the purpose of assisting emergency medical responders and program participants in the event of a motor vehicle accident or a medical emergency involving a participant's vehicle.

Under the bill, a person's participation in the program is voluntary and free. A county, or group of counties, may solicit sponsorships from interested business entities and not-for-profit organizations to cover expenditures, including the cost of the yellow dot decals and folders that are provided free of charge to participants. Two or more counties also may enter into an interlocal agreement to solicit these sponsorships.

The bill also authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) to provide education and training to encourage emergency medical responders to participate in the program. DHSMV and DOT may also take reasonable measures to publicize the program.

Any owner or lessee of a motor vehicle may participate in the program upon submission of an application. The application is created by the county and must include a statement that the information submitted will be disclosed only to authorized personnel of law enforcement and public safety agencies, emergency medical services agencies, and hospitals in the case of a motor vehicle accident or other emergency situation. The application must describe the confidential nature of the medical information voluntarily provided by the participant. The application must also require that the participant give express written consent for the use and disclosure of the yellow folder's contents to authorized personnel for the following purposes:

- to positively identify the participant;
- to ascertain whether the participant has a medical condition that might impede communications between the participant and the responder;

---

[1] *See*, additional information about the Yellow Dot program at www.yellow-dot.com (last viewed on 3/18/2013).
[2] *See*, "Yellow Dot car program speeds to help crash victims." Larry Copeland, USA Today (5/24/2011) at http://usatoday30.usatoday.com/news/nation/2011-05-23-yellow-dot-seniors-drivers-baby-boomers_n.htm (Last viewed on 3/18/13).
[3] *Id.*

- to inform the participant's emergency contacts about the location, condition, or death of the participant;
- to learn the nature of any medical information reported by the participant; and
- to ensure that the participant's current medications and preexisting medical conditions are considered when emergency medical treatment is administered for any injury to or condition of the participant.

After submitting a completed application, the participant is given a yellow dot decal to affix onto the lower left corner of his or her vehicle's rear window (or a clearly visible location on a motorcycle), a yellow dot folder, and a form for the participant's information.

The form, which is to be placed inside the yellow folder, is to contain the following information:

- the participant's name;
- the participant's photograph;
- emergency contact information of no more than two persons;
- the participant's medical information, including medical conditions, recent surgeries, allergies and medications;
- the participant's hospital preference; and
- contact information for no more than two physicians.

When the driver of a vehicle with an affixed yellow dot decal is involved in an accident or emergency situation, an emergency medical responder at the scene is authorized to search the glove compartment of the vehicle for the corresponding yellow dot folder. With regard to liability, the bill provides that–except for wanton or willful conduct–an emergency medical responder, or the employer of a responder, does not incur any liability for:

- failing, in good faith, to make contact with a participant's emergency contact person; or
- disseminating, or failing to disseminate, any information from the yellow dot folder to any other emergency medical responder, hospital, or health care provider who renders emergency medical treatment to the participant.

The governing body of a participating county is required to adopt guidelines and procedures for ensuring that any information that is confidential is not made public through the program.

See, FISCAL COMMENTS, below, for fiscal impact information.

The bill is effective on July 1, 2013.

B. SECTION DIRECTORY:

Section 1: Creates an unnumbered section of law authorizing a motorist medical information program.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None. Neither DHSMV nor DOT is required to provide training, education or to publicize the program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See, FISCAL COMMENTS.

2. Expenditures:

See, FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See, FISCAL COMMENTS.

D. FISCAL COMMENTS:

The bill does not require a county to create a yellow dot program. If the governing body of a county decides to create such a program, the bill authorizes the county's governing body to seek sponsorships to cover costs. Public participation in the program is voluntary and free.

The cost of the program is unknown. One small corporation in Reno, Nevada (Yellow Dot LLC) advertises a booklet with sticker priced at $5.00. *See*, http://www.yellow-dot.com/3301.html.

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:

The bill does not require DHSMV or DOT to create rules, and does not impact either department's rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Line 69: The word "for" should be substituted for the word "with."

Line 74: While the bill provides that a person who rides in a motor vehicle as a passenger may also participate in the program, it provides no guidance for that participation.

Other Comments

Under its home rule powers, a county may enact a yellow dot program without the authority provided by this bill. Nonetheless, a statute, such as the one proposed, may serve to encourage participation in this program, while requiring some uniformity.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On Wednesday, March 20, 2013, the Transportation & Highway Safety Subcommittee adopted one amendment to HB 1005. The amendment revised the bill in the following manner:

- corrected a bill drafting error on line 114 by removing the word "is" from the statement "medical responder or the employer of a responder is does not incur any liability";
- authorized instead of required a medical responder at the scene of an accident to search the glove compartment of the injured person's vehicle for the corresponding yellow dot folder. This amendment made the language consistent with language in the bill that absolves a medical responder of any liability except for wanton or willful conduct.

This bill analysis is drafted to CS/HB 1005.

A bill to be entitled

An act relating to motorist safety; authorizing the governing body of a county to create a yellow dot critical motorist medical information program for certain purposes; authorizing a county to solicit sponsorships for the medical information program and enter into an interlocal agreement with another county to solicit such sponsorships; authorizing the Department of Highway Safety and Motor Vehicles and the Department of Transportation to provide education and training and publicize the program; requiring the program to be free to participants; providing for applications to participate; providing for a yellow dot decal and a yellow dot folder to be issued to participants and a form containing specified information about the participant; providing procedures for use of the decal, folder, and form; providing for limited use of information on the forms by emergency medical responders; limiting liability of emergency medical responders; requiring the governing body of a participating county to adopt guidelines and procedures to ensure that confidential information is not made public; providing an effective date.

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

Section 1. Yellow dot critical motorist medical information programs; yellow dot decal, folder, and information

form.—

(1) The governing body of a county may create a yellow dot critical motorist medical information program to assist emergency medical responders and drivers and passengers who participate in the program by making critical medical information readily available to a responder in the event of a motor vehicle accident or a medical emergency involving a participant's vehicle.

(2)(a) The governing body of a county may solicit sponsorships from interested business entities and not-for-profit organizations to cover costs of the program, including the cost of the yellow dot decals and folders that shall be provided free of charge to participants. Two or more counties may enter into an interlocal agreement to solicit such sponsorships.

(b) The Department of Highway Safety and Motor Vehicles or the Department of Transportation may provide education and training to encourage emergency medical responders to participate in the program and may take reasonable measures to publicize the program.

(3)(a) Any owner or lessee of a motor vehicle may participate in the program upon submission of an application and documentation, in the form and manner prescribed by the governing body of the county.

(b) The application form shall include a statement that the information submitted will be disclosed only to authorized personnel of law enforcement and public safety agencies,

emergency medical services agencies, and hospitals for the purposes authorized in subsection (5).

(c) The application form shall describe the confidential nature of the medical information voluntarily provided by the participant and shall state that, by providing the medical information, the participant has authorized the use and disclosure of the medical information to authorized personnel solely for the purposes listed in subsection (5). The application form shall also require the participant's express written consent for such use and disclosure.

(d) The county may not charge any fee to participate in the yellow dot program.

(4) A participant shall receive a yellow dot decal, a yellow dot folder, and a form with the participant's information.

(a) The participant shall affix the decal onto the rear window in the left lower corner of a motor vehicle or in a clearly visible location on a motorcycle.

(b) A person who rides in a motor vehicle as a passenger may also participate in the program but may not be issued a decal if a decal is issued to the owner or lessee of the motor vehicle in which the person rides.

(c) The yellow dot folder, which shall be stored in the glove compartment of the motor vehicle or in a compartment attached to a motorcycle, shall contain a form with the following information about the participant:

1. The participant's name.

2. The participant's photograph.

3. Emergency contact information of no more than two persons for the participant.

4. The participant's medical information, including medical conditions, recent surgeries, allergies, and medications being taken.

5. The participant's hospital preference.

6. Contact information for no more than two physicians for the participant.

(5)(a) If a driver or passenger of a motor vehicle becomes involved in a motor vehicle accident or emergency situation, and a yellow dot decal is affixed to the vehicle, an emergency medical responder at the scene is authorized to search the glove compartment of the vehicle for the corresponding yellow dot folder.

(b) An emergency medical responder at the scene may use the information in the yellow dot folder for the following purposes only:

1. To positively identify the participant.

2. To ascertain whether the participant has a medical condition that might impede communications between the participant and the responder.

3. To inform the participant's emergency contacts about the location, condition, or death of the participant.

4. To learn the nature of any medical information reported by the participant on the form.

5. To ensure that the participant's current medications and preexisting medical conditions are considered when emergency

medical treatment is administered for any injury to or condition of the participant.

(6) Except for wanton or willful conduct, an emergency medical responder or the employer of a responder does not incur any liability if a responder is unable to make contact, in good faith, with a participant's emergency contact person, or if a responder disseminates or fails to disseminate any information from the yellow dot folder to any other emergency medical responder, hospital, or healthcare provider who renders emergency medical treatment to the participant.

(7) The governing body of a participating county shall adopt guidelines and procedures for ensuring that any information that is confidential is not made public through the program.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1069 Emerald Coast Utilities Authority, Escambia County
SPONSOR(S): Ingram
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The Emerald Coast Utilities Authority (Authority) is an independent special district providing water, wastewater, and sewage services in Escambia County.

This bill grants the Authority the power and ability to purchase fuel under the same terms and conditions as municipalities and counties. This includes a refund of sales tax on motor and diesel fuel, county tax on motor fuel, and sales tax and excise tax on diesel fuel. These terms are not currently applicable to any independent special district.

This bill also reduces the frequency of the management efficiency audits of the Authority from every three years to every five years.

This bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Fuel Tax Exemptions

Municipalities and counties receive certain fuel tax refunds for fuel used in vehicles they operate. These include:

- refund[1] of the fuel sales tax on motor fuel[2] or on diesel fuel[3]
- refund[4] of the county tax[5] on motor fuel
- refund[6] of the fuel sales tax[7] and one cent of the four cent excise tax[8] on diesel fuel

The motor fuel refund is returned to the municipality or county for the construction, reconstruction, and maintenance of roads and streets.[9] For the diesel fuel refund, municipalities or counties licensed as a local government user take a credit on the monthly diesel fuel tax return.[10]

These diesel fuel exemptions are granted to municipalities and counties licensed as a "local government user," which the municipality or county must register as with the Department of Revenue (DOR). Section 206.86(11) defines "local government user of diesel fuel" as "any county, municipality, or school district licensed by the department to use untaxed diesel fuel in motor vehicles."[11]

The Emerald Coast Utility Authority

The Escambia County Utilities Authority was created by special act in 1981 to operate utility, water, and sewer systems in Escambia County, Florida. Chapter 2001-324, L.O.F., codified the enabling legislation and ch. 2004-398, L.O.F., changed the name to Emerald Coast Utilities Authority (Authority). Today the Authority is an independent special district providing water, wastewater, and sanitation services in Escambia County.

Fuel Tax

Last fiscal year, the Authority purchased 582,490 gallons of diesel fuel. The Authority recently invested in vehicles that run on compressed natural gas, so their annual diesel needs are expected to appreciably decrease this year. The Executive Director of the Authority estimates that its remaining diesel vehicles will require approximately 300,000 gallons of diesel fuel in the next fiscal year.[12] Based on current tax rates, the Authority expects to pay $97,500 in fuel taxes this year.

---

[1] Authorized by s. 206.41(4)(d), F.S.
[2] Imposed under s. 206.41(1)(g), F.S.
[3] Imposed under s. 206.87(1)(e), F.S.
[4] Authorized by s. 206.625(1), F.S.
[5] Imposed under s. 206.41(1)(b), F.S.
[6] Authorized by s. 206.874(4), F.S.
[7] Imposed under s. 206.87(1)(e), F.S.
[8] Imposed under s. 206.87(1)(a), F.S.
[9] Section 206.41(4)(d), F.S.
[10] Not to exceed the tax imposed under paragraphs (1)(b) and (g) of s. 206.41, F.S.
[11] Section 206.874(4)(c) specifically requires any county, municipality, or school district not licensed as a local government user of diesel fuel to pay the taxes imposed by s. 206.87(1), F.S. directly to the department for any highway use of untaxed diesel fuels.
[12] However, that number is also expected to decline as the Authority invests in more compressed natural gas vehicles.

Management Efficiency Audits

When the Authority was created, the enabling legislation included a required a management efficiency audit every three years to be conducted by a private firm.[13] These audits were intended to guide the new entity and ensure proper, efficient, and economical operation and maintenance of the Authority's utility systems and facilities.

The management efficiency audits are operational, not financial, and focus on improving the economy and efficiency of the Authority's service and daily operations. These audits are separate from the annual financial audits statutorily required of special districts such as the Authority.

The Authority has completed all 10 management efficiency audits as required since its creation 32 years ago. The audits uncovered major issues during the Authority's infancy; however, the Authority believes more recent audits have been less beneficial as efficiency has improved over the last three decades. Furthermore, the Authority asserts that each management audit requires a substantial investment of principal and time. The last three management audits cost $49,000, $49,000, and $45,000, respectively. The Authority claims the returns on these investments of capital and time were low.

Effect of Proposed Changes

Fuel Tax Exemptions

This bill authorizes a refund to the Authority in the same manner as motor fuel and diesel fuel exemptions are currently granted to municipalities and counties. Given the current tax rates on fuel, proponents claim this bill would provide a tax savings of 32.5 cents per gallon for the Authority. The Executive Director of the Authority expects the Authority to use 300,000 gallons of diesel fuel during the current fiscal year; therefore, this bill would result in an annual savings of approximately $97,500 for the Authority. Proponents argue that such tax refunds are appropriate for the Authority since it is a local government entity and counties and municipalities already enjoy these tax refunds and exemptions. However, these refunds have never been extended to special districts like the Authority, but only to cities, counties, and school districts.

Management Efficiency Audit

This bill reduced the management efficiency audits' required frequency from every three years to every five years. Proponents claim that the Authority successfully and efficiently operated for 32 years and so the triennial audits that were warranted previously are no longer needed. The Authority anticipates an annual savings of approximately $6,355 by conducting management efficiency audits only every five years.[14]

The annual financial reporting requirements are not impacted by this bill.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2001-324, L.O.F., as amended, granting the Authority the power and ability to purchase fuel under the same terms and exemptions as municipalities and counties, reducing the frequency of the management efficiency audit.

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

[13] Section 16 of ch. 2001-324, L.O.F.

[14] The last three audits, covering nine years total, cost an average of $15,888 annually. The Authority claims that conducting the audits every five years would have extended those same expenses over 15 years instead of 9 years and cost approximately $9,533 annually, an annual savings of approximately $6,355 as compared to the triennial audits.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 21, 2013

WHERE? The *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:

This bill authorizes a refund to the Authority in the same manner as motor fuel and diesel fuel exemptions are currently granted to municipalities and counties. These current exemptions are achieved through a partial refund of tax paid to fuel suppliers. In order to grant this exemption to the Authority, an independent special district, ch. 206, F.S., needs to be amended to specify how the Authority would obtain this refund. This bill does not amend ch. 206, F.S.

As an independent special district, the Authority is not included in the s. 206.86(11), F.S., definition of "local government user of diesel fuel." Therefore, the Authority cannot register with DOR as such a user since the proposed language of this bill does not expand the statutory definition.

DOR recommends that the Authority seek these desired tax refunds and exemptions through a general bill to amend ch. 206, F.S., in order to include the Authority. Specifically, DOR recommends amending s. 206.41(4)(d), s. 206.625(1), s. 206.86(11), and s. 206.874 (4), F.S., by including the Authority with municipalities and counties in the refund and exception language.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

1069

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 SPECIAL OR LOCAL LEGISLATION

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

January 21, 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 **21st Day** of **January, 2013**, by **Roshundia Gillis**, who is personally known to me.

R Gillis Affiant

Gillian L Ward Notary Public

GILLIAN L. WARD
NOTARY PUBLIC – STATE OF FLORIDA
COMMISSION #EE835572
MY COMMISSION EXPIRES SEPT. 17, 2016

NOTICE OF INTENT TO SEEK SPECIAL OR LOCAL LEGISLATION

TO WHOM IT MAY CONCERN:

Notice is hereby given that the Emerald Coast Utilities Authority (ECUA) intends to apply to the 2013 Florida Legislature for the passage of special or local legislation in order to amend ECUA's enabling legislation so that it may (1) Purchase fuel under the same terms, conditions, and exemptions enjoyed by municipalities and counties; and (2) conduct management efficiency audits every five years as opposed to every three years, as is currently required, and amending Chapter 2001-324, **Laws of Florida**, accordingly.

Emerald Coast Utilities Authority
Stephen E. Sorrell, P.E., M.P.A.
Executive Director

Legal No. 1588617 1T January 21, 2013

JAN 28 2013

HOUSE OF REPRESENTATIVES

2013 LOCAL BILL CERTIFICATION FORM

BILL #: HB 10109

SPONSOR(S): Rep. Clay Ingram

RELATING TO: Fuel taxes and efficiency audits for the Escambia County Utilities Authority
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: Escambia County Legislative Delegation

CONTACT PERSON: Jennifer Fudala

PHONE NO.: (850) 494-7330 **E-Mail:** jennifer.fudala@myflorida house.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 Jan. 21, 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 [X]

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: 2/20/13

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 1069
SPONSOR(S): **Representative Clay Ingram**
RELATING TO: Emerald Coast Utilities Authority (located in Escambia County, Florida) Concerning fuel taxes and the frequency management efficiency audits must be conducted.

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

Expenditures:	FY 13-14	FY 14-15
	.00	.00

II. ANTICIPATED SOURCE(S) OF FUNDING:

	FY 13-14	FY 14-15
Federal:	.00	.00
State:	.00	.00
Local:	.00	.00

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

	FY 13-14	FY 14-15
Revenues:	.00	.00

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

Advantages:

Given the current tax rates on fuel, the proposed legislation would result in a tax savings of 32.5 cents per gallon for the Emerald Coast Utilities Authority ("ECUA"), a local governmental entity -- a savings already enjoyed by counties and municipalities. In the

current fiscal year, ECUA expects to use 300,000 gallons of diesel fuel, translating into an expected annual savings of approximately $97,500 as a result of the fuel component of the proposed Bill.

As for the management efficiency audit component of the proposed legislation, ECUA would expect to receive an annualized savings of approximately $6,355 by changing the frequency of the required management efficiency audits from every three years to every five years.

Disadvantages:

Not applicable.

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

Passage of the proposed legislation should not affect the employment market. Regarding competition, the fuel component of the proposed legislation would allow ECUA to purchase fuel on the same terms that counties and municipalities currently enjoy.

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

The predicted tax savings to be enjoyed by ECUA is based upon current fuel tax rates. As for ECUA's expected usage of fuel in the future, that is an estimate. In the last fiscal year, ECUA purchased 582,490 gallons of diesel fuel, but that number is expected to decline appreciably due to ECUA's significant investment near the end of the last fiscal year in vehicles running on compressed natural gas. Based upon the remaining vehicles in the ECUA inventory which continue to run on diesel fuel, ECUA estimates that it will use 300,000 gallons of diesel fuel in the next fiscal year. However, that number should decline as ECUA acquires more compressed natural gas vehicles.

The estimated annual savings realized by a reduced frequency in management audits is based upon the costs of the last three management audits ECUA conducted. Specifically, the last three management audits covered nine years and cost ECUA $49,000; $49,000; and $45,000, respectively. On average, those management audits thus cost the organization approximately $15,888 per year. If management audits were done once every five years as opposed to every three years, those same expenses would have been extended over fifteen years as opposed to nine years. Therefore, on average those management audits would have cost

ECUA approximately $9,533 per year. Thus, ECUA projects an annual savings as a result of the reduced frequency of management audits to amount to approximately $6,355 annually.

PREPARED BY: Stephen E. Sorrell 2/8/13
Stephen E. Sorrell, P.E., M.P.A.

TITLE: Executive Director

REPRESENTING: Emerald Coast Utilities Authority

PHONE: (850) 969-3300

E-Mail Address: sorrellse@ecua.fl.gov

A bill to be entitled

An act relating to the Emerald Coast Utilities Authority, Escambia County; amending chapter 2001-324, Laws of Florida; providing that the authority has the power and ability to purchase fuel under the same terms as municipalities and counties; revising the frequency of a management efficiency audit; providing an effective date.

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

Section 1. Paragraph (16) is added to subsection (a) of section 5 of section 3 of chapter 2001-324, Laws of Florida, and section 16 of section 3 of that chapter is amended, to read:

Section 5. Powers.—

(a) The authority shall have all powers and authorities necessary, convenient, or desirable to accomplish the purposes of this act. In furtherance thereof, the authority shall have:

(16) The power and ability to purchase fuel, including, but not limited to, diesel fuel and gasoline, under the same terms, conditions, and exemptions as municipalities and counties.

Section 16. Management efficiency audit.—The authority shall contract for a management efficiency audit by a private firm ~~within 1 year of the effective date of the act, and~~ at intervals of at least 5 ~~3~~ years ~~thereafter,~~ to review program results and make recommendations for the proper, efficient, and

economical operation and maintenance of the utilities systems, facilities, and functions under supervision of the authority.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1127 Pet Services and Welfare Programs
SPONSOR(S): Artiles
TIED BILLS: **IDEN./SIM. BILLS:** SB 1738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Nelson	Rojas
2) Government Operations Subcommittee			
3) Finance & Tax Subcommittee			

SUMMARY ANALYSIS

HB 1127 authorizes counties to create, by ordinance, an independent special district to provide funding for pet services and welfare programs. The funds must be used for:

- spay and neuter programs,
- improvement of animal care,
- providing veterinary medical care for animals with low-income owners,
- pet education,
- surrender prevention,
- adoption programs, and
- prevention of animal cruelty.

In order to levy ad valorem taxes to fund the district, the county governing body must obtain approval from the majority of county electors. The bill provides for the membership of such a district's governing board, its powers and duties, district financial requirements, and dissolution procedures.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Most households in the United States possess at least one pet. Pets are said to provide numerous benefits to humans, including decreased blood pressure, cholesterol levels, triglyceride levels and feelings of loneliness, while increasing opportunities for exercise, outdoor activities and socialization.[1]

Nonetheless, four million cats and dogs—about one every eight seconds—are euthanized in U.S. shelters each year. Often these animals are the offspring of cherished family pets. Spay/neuter is a proven way to reduce pet overpopulation.[2]

Although animal cruelty is illegal in every state (and a felony in 46), such behavior continues to persist.[3] According to the American Society for the Prevention of Cruelty to Animals (ASPCA), one of the most powerful tools available for preventing cruelty to animals is education.[4] Additional factors contribute to the care of our nation's pets, including financial hardship on the part of their owners. Numerous programs exist that provide these individuals with assistance, including pet food and discounted veterinary services.[5]

Sterilization Requirement for Florida Dogs and Cats

Section 823.15, F.S., provides a finding that:

> The Legislature has determined that uncontrolled breeding of dogs and cats in the state results in the production of many more puppies and kittens than are needed to replace pet animals which have died or become lost or to provide pet animals for new owners. This leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays and suffering privation and death, being impounded and destroyed at great expense to the community, and constituting a public nuisance and public health hazard. It is therefore declared to be the public policy of the state that every feasible means of reducing the production of unneeded and unwanted puppies and kittens be encouraged.

In furtherance of this policy, the Legislature required provision for the sterilization of all dogs and cats sold or released for adoption from any public or private animal shelter or animal control agency operated by a humane society or by a county, city, or other incorporated political subdivision, by either:

- providing sterilization by a licensed veterinarian before relinquishing custody of the animal; or
- entering into a written agreement with the adopter or purchaser guaranteeing that sterilization will be performed within 30 days or prior to sexual maturity. Failure by either party to comply with these provisions is a noncriminal violation as defined in s. 775.08(3), F.S.

[1] http://www.cdc.gov/healthypets/health_benefits.htm.
[2] http://www.humanesociety.org/issues/pet_overpopulation/.
[3] http://www.humanesociety.org/issues/abuse_neglect/tips/cruelty_action.html.
[4] http://www.aspca.org/fight-animal-cruelty/.
[5] http://www.humanesociety.org/animals/resources/tips/trouble_affording_pet.html.

All costs of sterilization are paid by the prospective adopter unless otherwise provided for by ordinance of the local governing body, with respect to animal control agencies or shelters operated or subsidized by a unit of local government, or provided for by the humane society governing body, with respect to an animal control agency or shelter operated solely by the humane society and not subsidized by public funds.

The Florida Animal Friend License Plate

Authorized in the 2004 legislative session by SB 2020, the Florida Animal Friend license plate provides a funding mechanism for spaying and neutering initiatives in the state. After reviewing grant applications, the Florida Animal Friend Coalition, comprised of animal care groups such as the Florida Animal Control Association, the Florida Veterinary Medical Association, and the Humane Society of the United States, distributes funds to non-profit organizations and governmental agencies around the state for spaying and neutering programs. In 2012, more than $396,000 was distributed to spay/neuter programs.[6]

Besides the coalition, there are several national and local humane and animal services organizations, such as the Humane Society of the United States, the ASPCA, private and publicly operated animal shelters, various animal rescue organizations, and spaying and neutering clinics currently operating in Florida. Like the coalition, many of these organizations conduct fund-raising activities or provide grants to organizations that further their goals.

Gertrude Maxwell Save a Pet Act

In 2008, the Florida Legislature passed the "Gertrude Maxwell Save a Pet Act," which created the Gertrude Maxwell Save a Pet Direct-Support Organization (DSO) within the Department of Agriculture and Consumer Services.[7] A DSO is a separate, not-for-profit corporation organized and operated exclusively to assist a specific organization by providing supplemental resources from grants, gifts and bequests of money and/or services. These organizations are authorized by Florida statute to receive, hold, invest and administer property, and to make expenditures to or for the benefit of the specific organization.

This direct-support organization was created for the purpose of providing grants to animal shelters for spaying and neutering animals, providing grants for shelters and services during times of emergencies, and developing and disseminating pet care education materials. The bill expressed justification for its provisions in that:

- it is estimated that over 800,000 homeless, discarded, abandoned, stray and unclaimed dogs and cats are euthanized in the state each year;
- in seven years one female cat and her offspring can theoretically produce 420,000 cats, and in six years one female dog and her offspring can theoretically produce 67,000 dogs;
- the cost to spay or neuter a pet or feral cat is about $20-$70 per animal, while the approximate cost to capture, house, feed, and eventually euthanize a homeless animal is about $100; and
- reducing euthanasia of unwanted animals can save lives of companion animals and potential service animals and save tax dollars, and many homeless animals can be trained as service or therapy animals.

Gertrude Maxwell Save a Pet, Inc., entered into a memorandum of agreement with the department on December 19, 2008. Located in Tallahassee, this DSO is governed by a 10-member board, which includes one representative of each of the following groups: the Florida Veterinary Medical Association, the Cat Fanciers' Association, the Florida Association of Kennel Clubs, a humane organization

[6] http://www.floridaanimalfriend.org/freqaskgrantq.html.
[7] Section 570.97, F.S.

designated by the commissioner, the Florida Animal Control Association, the National Rifle Association, a consumer member not affiliated with any of the aforementioned associations, and the commissioner or his or her designee. According to department personnel, this direct-support organization never was fully functional, i.e., board meetings were not held and a bank account was not established. Therefore, on December 17, 2012, the department notified all board members of the department's intent to terminate the memorandum of agreement. As part of that termination, the department indicated that it will be recommending legislation, which will repeal the creation of the DSO.[8]

Pets' Trust Miami, Inc.

Pets' Trust Miami, Inc. is a Florida nonprofit corporation based in Miami, which registered with the Florida Department of State's Division of Corporations on Feb 16, 2012. The Trust was formed to raise awareness about the shelter animals and unacceptable number of pets euthanized, and to improve animal welfare, increase adoptions and decrease overpopulation by providing free and low-cost spay/neuter, low-cost veterinary care and educational programs. Trust members believed that their community wanted change and would be willing to pay for it with a small, designated property tax. After a campaign to educate the public about the issues, the Miami-Dade Board of County Commissioners uniformly expressed support for allowing the tax issue to be placed on the ballot. Subsequently, the following question was included on the November 6, 2012, presidential ballot:

NON-BINDING STRAW BALLOT ON FUNDING IMPROVED ANIMAL SERVICES PROGRAMS

> *Would you be in favor of the County Commission increasing the countywide general fund millage by 0.1079 mills and applying the additional ad valorem tax revenues generated thereby to fund improved animal services, including:*
>
> - *decreasing the killing of adoptable dogs and cats (historically approximately 20,000 annually);*
> - *reducing stray cat populations (currently approximately 400,000 cats); and*
> - *funding free and low-cost spay/neuter programs, low-cost veterinary care programs, and responsible pet ownership educational programs?*

The straw ballot question was approved by 64.47 percent of voters. In other words, 483,284 people voted in favor of imposing an additional property tax to fund the Trust's goals. The Trust has estimated the amount of funds from such a tax at approximately $20 million per year.

Special Districts

Special district governments are limited purpose government units that exist as separate entities and have substantial fiscal administrative independence from general purpose governments. Special district governments have existed in the United States for over 200 years and are found in every state and in the District of Columbia.

In Florida, special districts perform a wide variety of functions, such as providing fire protection services, delivering urban community development services, and managing water resources. Special districts typically are funded through ad valorem taxes, special assessments, user fees or impact fees.

The Uniform Special District Accountability Act, ch. 189 F.S., contains general provisions relating to special districts. Section 189.4031, F.S., provides that all special districts, regardless of the existence of other, more specific provisions of applicable law, must comply with the creation, dissolution and reporting requirements set forth in this chapter.

[8] Department of Agriculture and Consumer Services, Office of Inspector General, Review of Department Direct-Support Organizations, March 4. 2013.

Dependent Special Districts

A "dependent special district" is defined by s. 189.403(2), F.S., as a special district that meets at least one of the following criteria:

- the membership of its governing body is identical to that of the governing body of a single county or a single municipality;
- all members of its governing body are appointed by the governing body of a single county or a single municipality;
- during their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality; or
- the district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

A county is authorized to create, by ordinance, a dependent special district within the county, subject to the approval of the governing body of the incorporated area affected. *See*, s. 189.4041(2), F.S.

Independent Special Districts

An "independent special district" is defined by the ch. 189, F.S., as a special district that is not a dependent special district as defined in statute. Independent special districts do not possess home rule power. Therefore, the only powers possessed by independent special districts are those expressly provided by, or which can be reasonably implied from, the special district's charter or by general law.

General law authorizes the creation of certain types of independent special districts without specific action of the Legislature. General law authorizes counties to create, by local ordinance, several types of independent special districts, including:

- juvenile welfare boards/funding for children's services (s.125.901, F.S.);
- county health or mental health care special districts/funding for indigent health care services (s. 154.331, F.S.);
- public hospital districts (ch.155, F.S.);
- community development districts of less than 1,000 acres (s. 190.005, F.S.); and
- neighborhood improvement districts (part IV, ch. 163, F.S.).

Notwithstanding any general law, special act or ordinance of a local government to the contrary, all independent special district charters are required contain the information required by s. 189.404, F.S. This section provides that it is the intent of the Legislature that, at a minimum, the requirements of s. 189.404 (3), F.S., must be satisfied when an independent special district is created.

General laws or special acts that create or authorize the creation of independent special districts and are enacted after September 30, 1989, must address and require the following minimum requirements in their charters:

- the purpose of the district;
- the powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements;
- the methods for establishing the district;
- the method for amending the charter of the district;
- the membership and organization of the governing board of the district;
- the maximum compensation of a governing board member;

- the administrative duties of the governing board of the district;
- the applicable financial disclosure, noticing, and reporting requirements;
- if a district has authority to issue bonds, the procedures and requirements for issuing bonds;
- the procedures for conducting any district elections or referenda required and the qualifications of an elector of the district;
- the methods for financing the district;
- if an independent special district has the authority to levy ad valorem taxes, other than taxes levied for the payment of bonds and taxes levied for periods not longer than two years when authorized by vote of the electors of the district, the millage rate that is authorized;
- the method or methods for collecting non-ad valorem assessments, fees, or service charges;
- planning requirements; and
- geographic boundary limitations.

Dissolution of Independent Special Districts

Section 189.4042, F.S., provides general merger and dissolution procedures for special districts. Section 189.4042 (3)(a), F.S., describes voluntary dissolution of an active independent special district:

> If the governing board of an independent special district created and operating pursuant to a special act elects, by a majority vote plus one, to dissolve the district, the voluntary dissolution of an independent special district created and operating pursuant to a special act may be effectuated only by the Legislature unless otherwise provided by general law.

Provision also is made for "other dissolutions." If an independent special district was created by a county (or municipality) by referendum or any other procedure, the county (or municipality) that created the district may dissolve the district pursuant to a referendum or any other procedure by which the independent special district was created. However, if the independent special district has ad valorem taxation powers, the same procedure required to grant the independent special district ad valorem taxation powers is required to dissolve the district.

Section 189.4042(3)(d), F.S., provides that financial allocation of the assets and indebtedness of a dissolved independent special district will be pursuant to s. 189.4045, F.S. Section 189.4045 (2), F.S., provides that unless otherwise provided by law or ordinance, the dissolution of a special district government transfers the title to all property owned by the preexisting special district government to the local general-purpose government, which also assumes all indebtedness of the preexisting special district.

Effect of Proposed Changes

HB 1127 creates a new part VII in ch. 125, F.S. ("County Government"), which authorizes counties to create independent special districts to provide funding for pet services and welfare programs. Many of the provisions in the bill are similar to those provided in s. 125.901, F.S., relating to children's services independent special districts.

Pursuant to the bill, each county may, by ordinance, create an independent special district to provide funding for pet services and welfare programs throughout the county. The boundaries of the district are coterminous with the boundaries of the county.

The county governing body must obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes which may not exceed 0.10 mills. Once the millage is approved by the electors, the district must seek approval of the electors in future years to levy the previously approved millage.

Any district created will be governed by a council on pet services and welfare, which is designated as the county "Pets' Trust." The council is established by the governing body of the county and consists of 14 members as follows:

- two representatives from a private not-for-profit animal shelter located in the county or from the county animal shelter;
- three members of the county governing body appointed by the county commission, except that if a county has a mayor who is not a member of the county commission, one member of the county governing body appointed by the county mayor and two members of the county governing body appointed by the county commission;
- two veterinarians practicing in the county;
- one representative from a not-for-profit animal welfare and education or rescue group with a presence in the county;
- one expert in targeted spay and neuter programs;
- one certified public accountant practicing in the county;
- one attorney practicing in the county;.
- one representative from a not-for-profit animal rescue organization in good financial standing that actively rescues animals in the county; and
- two at-large members elected by the electors of the county.

Members are appointed or elected for two-year terms, except that the length of the terms of the initial members at-large are adjusted to stagger the terms.

Council members must be residents of the county in which the council is located for a period of at least 24 months before appointment or election to the council. The council may remove a member for cause by majority vote or upon the written petition of the county governing body.

Members of the council serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses consistent with the provisions of s. 112.061, F.S. The council is required to maintain minutes of each meeting, including a record of all votes cast, and make such minutes available to any interested person.

The council has the powers and duty to:

1. Allocate funds to not-for-profit or municipal organizations in good financial standing that will deliver the services such a way as to:

   - create the greatest impact on the animal overpopulation crisis in the county;
   - improve animal care in the county;
   - provide veterinary medical care for animals with low-income owners;
   - implement pet education, surrender prevention, and adoption programs; and
   - address the prevention of animal cruelty.

   Each council must develop an application process for organizations eligible to provide services within the county.

2. Lease real estate and buy equipment and personal property, provided such leases and purchases are not made unless paid for with cash on hand or secured by funds deposited in financial institutions.

3. Collect information and statistical data that will be helpful to the council and the county in deciding the needs of pets in the county.

4. Allocate an amount not to exceed five percent of the revenue generated to employ, compensate, and provide benefits for any part-time or full-time personnel, including office space for such personnel and associated administrative costs.

5. Fund spay and neuter programs, including the provision of these services by existing providers, and building additional spay and neuter facilities that are targeted specifically at low-income pet owners.

   Up to 80 percent of the council's revenue must be used for the spay and neuter programs in each of the first three years of the council's existence, or until shelter deaths reach half the volume of the current state average, whichever time period is longer.

   Additionally, the council must allocate a portion of the remaining 10 percent of its revenue to pet retention, surrender prevention, adoption, and animal welfare education programs for both children and adults.

   The council must decide how the revenue is allocated to most significantly impact the animal overpopulation problem in the community and to address the root causes of animal abuse and abandonment.

   If the current animal welfare and spay and neuter organizations in the county are unable to provide all services that may be funded during any one year, revenues may be rolled over and used by the council in the following year.

6. Allocate up to five percent of the revenue to assist rescue groups that specialize in the transport, impound and care of victims of large animal cruelty and neglect each year.

7. Ensure that all animals adopted from or sent to a rescue partner from an animal shelter are sterilized, if medically feasible, pursuant to the time periods specified in applicable law.

8. Ensure that funds are allocated only to those organizations providing services in the county served by the council.

9. Allocate the appropriate budget for a yearly professional audit to ensure effectiveness and transparency.

10. Allocate a portion not to exceed two percent for public relations, including notifying the public of locations and services provided.

Each council is required to:

1. Elect a chair and a vice chairs, and elect other officers as deemed necessary by the council.

2. Hire a staff to identify and assess the needs of the pets in the county served by the council, and pay them reasonable compensation. The bill specifies that compensation for any lobbyists hired to represent a council must be capped at $50,000 annually. Staff must submit to the governing body of the county a written description of:

   a. The activities, services, and opportunities that will be provided to pets.

   b. The anticipated schedule for providing activities, services and opportunities.

   c. The manner in which pets will be served, including a description of arrangements and agreements that will be made with community organizations.

d. The manner in which the council will seek and provide funding for unmet needs.

e. The strategy that will be used for interagency coordination to maximize existing human and fiscal resources and reduce the duplication of services.

3. Provide training and orientation to all new members sufficient to allow them to perform their duties.

4. Adopt bylaws, rules and regulations.

5. Provide a biannual written report, to be presented no later than January 1 and July 1 of each year, to the governing body of the county.

On or before July 1 of each year, the council is required to prepare a tentative annual written budget of the district's expected income and expenditures, including a contingency fund.[9] The council must compute a proposed millage rate within the voter-approved cap necessary to fund the tentative budget and, fix the final millage rate by resolution. The adopted budget and final millage rate must be certified and delivered to the governing body of the county. A district levy millage may not exceed a maximum of 0.10 mills of assessed valuation of all properties within the county that are subject to ad valorem county taxes.

The certified district budget is not subject to change or modification by the governing body of the county or any other authority. All tax money collected is paid directly to the council by the tax collector of the county, or the clerk of the circuit court if the clerk collects delinquent taxes.

All moneys received by the council are required to be deposited in qualified public depositories with separate and distinguishable accounts established specifically for the council, and withdrawn only by checks signed by the chair of the council and countersigned by a chief executive officer. District funds may not be expended except by check, except that expenditures not exceeding $100 may be made from a petty cash account. All expenditures from petty cash must be recorded in the books and records of the Pets' Trust. Funds of the district, except expenditures from petty cash, may not be expended without prior approval of and budgeting by the council.

Within 10 days after the expiration of each quarter annual period, the council is required to file a financial report with the governing body of the county that includes:

1. the total expenditures of the council for the quarter annual period;
2. the total receipts of the council during the quarter annual period;
3. a statement of the funds the council has on hand, has invested, or has deposited with qualified public depositories at the end of the quarter annual period; and
4. the total administrative costs of the council for the quarter annual period.

A pet welfare district may be dissolved by a special act of the Legislature, or the county governing body may, by ordinance, dissolve the district subject to the approval of the electors. The governing body of the county must submit the question of retention or dissolution of a district with voter-approved taxing authority to the electors in the next available election after four years of the district's existence.

If a district is dissolved, each county must first obligate itself to assume the debts, liabilities, contracts and outstanding obligations of the district within the total millage available to the county governing body for all county and municipal purposes pursuant to s. 9, Art. VII of the State Constitution. A district may also be dissolved pursuant to s. 189.4042, F.S.

[9] The fiscal year of the district is the same as that of the county.

After or during the first year of operation of the council, the governing body of the county, at its option, may fund in whole or in part the budget of the council from its own funds. However, any current allocations for shelter operations from revenue generated by the county shelter must continue.

Any district created pursuant to the bill must comply with all other statutory requirements of general application that relate to the filing of any financial reports or compliance reports required under part III of ch. 218, F.S., or any other report or documentation required by law, including the requirements of ss. 189.415, 189.417 and 189.418, F.S.

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

B. SECTION DIRECTORY:

Section 1: Creates part VII of ch.125, F.S., consisting of s. 125.98, F.S., relating to pet services and welfare programs.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Property owners in a county that establishes a pet services and welfare special district will pay additional property taxes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Line 28: the provision requiring the district to seek approval of the electors in future years to levy the previously approved millage is unusual, and will require multiple referendums.

Line 59: the mechanism for staggering the terms of members is not included in the bill.

Line 63: the provision stating that the council may remove a member upon the written petition of the county governing body could be viewed as allowing county officials to exert unintended control over an independent special district.

Line 114: the revenue roll-over provision contains no spending allocations in keeping with the regular budgets for such special districts.

Line 152: although it does not appear that a council has the power to seek additional funds, this provision requires the council to describe how it will seek and provide funding for unmet needs.

Line 240: the provision allowing for dissolution of a special district by the Legislature appears to not require a referendum.

Line 246: the provision requiring the governing body of the county to submit the question of retention or dissolution of a district with voter-approved taxing authority to the electors in the next available election after four years of the district's existence is unclear as to whether this is required every four years (it is also unnecessary as the county may do so at any time pursuant to s. 189.4042, F.S.).

Line 264: the language providing that after or during the first year of operation of the council, the governing body of the county may fund the budget of the council from its own funds seems unwarranted if the council has its own ad valorem funding.

Line 267: the language regarding county shelter allocations is unclear.

No provision is included that provides the method for amending the charter of an independent special district, or for conducting district elections.

Other Comments

A county currently has the authority to create a dependent pet special district without legislative authorization.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

A bill to be entitled

An act relating to pet services and welfare programs; creating part VII of chapter 125, F.S.; authorizing counties to create independent special districts to provide funding for pet services and welfare programs; creating a Pets' Trust council; providing for council membership, powers, and functions; providing an effective date.

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

Section 1. Part VII of chapter 125, Florida Statutes, consisting of section 125.98, is created to read:

PART VII

PET SERVICES AND WELFARE PROGRAMS

125.98 Pet services and welfare programs; independent special district; Pets' Trust council.-

(1) Each county may, by ordinance, create an independent special district, as defined in ss. 189.403(3) and 200.001(8)(e), to provide funding for pet services and welfare programs throughout the county pursuant to this section. The boundaries of the district shall be coterminous with the boundaries of the county. The county governing body shall obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes which may not exceed the maximum millage rate authorized by this section. Any district created pursuant to this subsection shall levy and fix millage pursuant to s. 200.065. Once such millage is approved by

the electors, the district shall seek approval of the electors in future years to levy the previously approved millage.

(a) The governing board of the district shall be a council on pet services and welfare, which shall be known as the Pets' Trust of the county in which the council is located. The council shall be established by the governing body of the county and shall consist of 14 members, as follows:

1. Two representatives from a private not-for-profit animal shelter located in the county or from the county animal shelter.

2. Three members of the county governing body appointed by the county commission, except that, if a county has a mayor who is not a member of the county commission, one member of the county governing body shall be appointed by the county mayor and two members of the county governing body shall be appointed by the county commission.

3. Two veterinarians practicing in the county.

4. One representative from a not-for-profit animal welfare and education or rescue group with a presence in the county.

5. One expert in targeted spay and neuter programs.

6. One certified public accountant practicing in the county.

7. One attorney practicing in the county.

8. One representative from a not-for-profit animal rescue organization in good financial standing that actively rescues animals in the county.

9. Two at-large members elected by the electors of the county.

(b) Members shall be appointed or elected for 2-year terms, except that the length of the terms of the initial members at-large shall be adjusted to stagger the terms. Council members must be residents of the county in which the council is located for a period of at least 24 months before appointment or election to the council. The council may remove a member for cause by majority vote or upon the written petition of the county governing body.

(2)(a) The council shall have the following powers and duties:

1. To allocate funds to not-for-profit or municipal organizations in good financial standing that will deliver the services listed in this paragraph in such a way as to create the greatest impact on the animal overpopulation crisis in the county; improve animal care in the county; provide veterinary medical care for animals with low-income owners; implement pet education, surrender prevention, and adoption programs; and address the prevention of animal cruelty. Each council shall develop an application process for the organizations eligible to provide services within the county.

2. To lease real estate and buy equipment and personal property as needed to execute the powers and duties under this paragraph, provided such leases and purchases are not made unless paid for with cash on hand or secured by funds deposited in financial institutions. This subparagraph does not authorize a district to issue bonds of any nature or to require the imposition of any bond by the county governing body.

3. To collect information and statistical data that will

be helpful to the council and the county in deciding the needs of pets in the county.

4. To allocate an amount not to exceed 5 percent of the revenue generated to employ, compensate, and provide benefits for any part-time or full-time personnel needed to execute the powers and duties listed in this paragraph, including office space for such personnel and associated administrative costs.

5. To fund spay and neuter programs, including the provision of spay and neuter services by existing community and private providers and building additional spay and neuter facilities that are targeted specifically at low-income pet owners, as measured by the poverty index of the county in which the council is located, pet owners in high shelter-intake areas, and pet owners of community cats and animals that are adopted out, transferred, or released in any way by the county animal shelter. Up to 80 percent of the council's revenue must be used for the types of spay and neuter programs listed in this subparagraph in each of the first 3 years of the council's existence, or until shelter deaths reach half the volume of the current state average, whichever time period is longer. Additionally, the council shall allocate a portion of the remaining 10 percent of its revenue to pet retention, surrender prevention, adoption, and animal welfare education programs for both children and adults. The council shall decide how the revenue is allocated to most significantly impact the animal overpopulation problem in the community and to address the root causes of animal abuse and abandonment. If the current animal welfare and spay and neuter organizations in the county are

unable to provide all services that may be funded during any one year, revenues may be rolled over and used by the council in the following year.

6. To allocate up to 5 percent of the revenue to assist rescue groups that specialize in the transport, impound, and care of victims of large animal cruelty and neglect each year.

7. To ensure that all animals adopted from or sent to a rescue partner from an animal shelter are sterilized, if medically feasible, pursuant to the time periods specified in applicable law.

8. To ensure that funds are allocated only to those organizations providing services in the county served by the council.

9. To allocate the appropriate budget line item for a professional audit each year to ensure effectiveness and transparency and to gain the trust of the community.

10. To allocate a portion not to exceed 2 percent for public relations, including notifying the public of locations and services provided. Allocations in this subparagraph may not be used for political purposes, including, but not limited to, get-out-the-vote efforts.

(b) Each council shall:

1. Immediately after the members are appointed, elect a chair and a vice chair from among its members, and elect other officers as deemed necessary by the council.

2. Immediately after the members are appointed and the officers are elected, hire a staff to identify and assess the needs of the pets in the county served by the council. Staff

shall receive reasonable compensation which may vary by county. Compensation for any lobbyists hired to represent a council must be capped at $50,000 annually. Staff shall submit to the governing body of the county a written description of:

a. The activities, services, and opportunities that will be provided to pets.

b. The anticipated schedule for providing such activities, services, and opportunities.

c. The manner in which pets will be served, including a description of arrangements and agreements that will be made with community organizations.

d. The manner in which the council will seek and provide funding for unmet needs.

e. The strategy that will be used for interagency coordination to maximize existing human and fiscal resources and reduce the duplication of services.

3. Provide training and orientation to all new members sufficient to allow them to perform their duties.

4. Adopt bylaws, rules, and regulations for the council's guidance, operation, governance, and maintenance, provided such bylaws, rules, and regulations are not inconsistent with applicable federal or state laws or county ordinances.

5. Provide a biannual written report, to be presented no later than January 1 and July 1 of each year, to the governing body of the county. The report shall contain, but is not limited to, the following information:

a. Information on the effectiveness of activities, services, and programs offered by the council, including the

cost-effectiveness of such activities, services, and programs.

b. A detailed, anticipated budget for continuation of activities, services, and programs offered by the council.

c. A description of the degree to which the council's objectives and activities are consistent with the goals of this section.

(c) The council shall maintain minutes of each meeting, including a record of all votes cast, and shall make such minutes available to any interested person.

(d) Members of the council shall serve without compensation, but shall be entitled to receive reimbursement for per diem and travel expenses consistent with the provisions of s. 112.061.

(3)(a) The fiscal year of the district shall be the same as that of the county.

(b) On or before July 1 of each year, the council shall prepare a tentative annual written budget of the district's expected income and expenditures, including a contingency fund. The council shall, in addition, compute a proposed millage rate within the voter-approved cap necessary to fund the tentative budget and, prior to adopting a final budget, comply with the provisions of s. 200.065, relating to the method of fixing millage, and shall fix the final millage rate by resolution of the council. The adopted budget and final millage rate shall be certified and delivered to the governing body of the county as soon as possible following the council's adoption of the final budget and millage rate pursuant to chapter 200. Included in each certified budget shall be the millage rate, adopted by

resolution of the council, necessary to be applied to raise the funds budgeted for district operations and expenditures. In no circumstances, however, shall any district levy millage to exceed a maximum of 0.10 mills of assessed valuation of all properties within the county that are subject to ad valorem county taxes.

(c) The budget of the district so certified and delivered to the governing body of the county is not subject to change or modification by the governing body of the county or any other authority.

(d) All tax money collected under this section, as soon after the collection thereof as is reasonably practicable, shall be paid directly to the council by the tax collector of the county, or the clerk of the circuit court if the clerk collects delinquent taxes.

(e)1. All moneys received by the council shall be deposited in qualified public depositories, as defined in s. 280.02, with separate and distinguishable accounts established specifically for the council and shall be withdrawn only by checks signed by the chair of the council and countersigned by a chief executive officer who shall be so authorized by the council.

2. Funds of the district may not be expended except by check as provided in subparagraph 1., except expenditures may be made from a petty cash account but may not at any time exceed $100. All expenditures from petty cash shall be recorded in the books and records of the Pets' Trust council. Funds of the district except expenditures from petty cash, shall not be

expended without prior approval of and budgeting by the council.

(f) Within 10 days, exclusive of weekends and legal holidays, after the expiration of each quarter annual period, the council shall prepare and file with the governing body of the county a financial report that includes the following:

1. The total expenditures of the council for the quarter annual period.

2. The total receipts of the council during the quarter annual period.

3. A statement of the funds the council has on hand, has invested, or has deposited with qualified public depositories at the end of the quarter annual period.

4. The total administrative costs of the council for the quarter annual period.

(4)(a) A district created pursuant to this section may be dissolved by a special act of the Legislature, or the county governing body may, by ordinance, dissolve the district subject to the approval of the electors.

(b)1. Notwithstanding paragraph (a), the governing body of the county shall submit the question of retention or dissolution of a district with voter-approved taxing authority to the electors in the next available election after 4 years of the district's existence.

2. This paragraph does not limit the authority to dissolve a district pursuant to paragraph (a) or preclude the governing board of a district from requesting that the governing body of the county submit the question of retention or dissolution of a district with voter-approved taxing authority to the electors at

a date earlier than the year provided in subparagraph 1. If the governing body of the county accepts the request and submits the question to the electors, the governing body satisfies the requirement provided in subparagraph 1.

(c) If a district is dissolved pursuant to this subsection, each county must first obligate itself to assume the debts, liabilities, contracts, and outstanding obligations of the district within the total millage available to the county governing body for all county and municipal purposes pursuant to s. 9, Art. VII of the State Constitution. A district may also be dissolved pursuant to s. 189.4042.

(5) After or during the first year of operation of the council, the governing body of the county, at its option, may fund in whole or in part the budget of the council from its own funds. However, if revenue generated by the county shelter is already allocated for the shelter operations, that allocation must remain.

(6) Any district created pursuant to this section shall comply with all other statutory requirements of general application that relate to the filing of any financial reports or compliance reports required under part III of chapter 218, or any other report or documentation required by law, including the requirements of ss. 189.415, 189.417, and 189.418.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1253 Importation of Queen Conch
SPONSOR(S): Diaz and others
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The queen conch, a protected species of concern, cannot be harvested in Florida or adjacent Federal waters. Conch is a popular menu item in south Florida, where it is imported from other countries that have not imposed a harvesting ban. The National Marine Fisheries Service is considering listing queen conchs as threatened or endangered, which would ban importation into the United States. This decision must be made solely on the basis of the best available scientific and commercial information, not possible economic impacts of the listing.

This memorial urges Congress to direct the National Marine Fisheries Service to withdraw its consideration of listing the queen conch as a threatened or endangered species. This memorial notes the economic impact such a listing might have on south Florida and refers to current protective measures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Queen Conch: *Strombus gigas*

The queen conch is a large marine mollusk with a spiral-shaped shell with a pink or orange interior. They generally live 20-30 years, but can survive for up to 40 years. By age 5, they grow to full size of about 12 inches in length and weigh about 5 pounds. These conchs live in sand, seagrass beds, and coral reef habitats in warm, shallow waters of the Caribbean Sea and Gulf of Mexico from Bermuda to Brazil. Prized for its edible meat and attractive shell, queen conchs are overfished and poached throughout their range.

Florida Conch Supply and Prohibitions

Harvesting queen conch is prohibited in Florida and adjacent Federal waters. All conch meat legally served in the United States must be imported from the Caribbean and South America.

Queen conch once constituted significant commercial and recreational fisheries in Florida. In 1975, the commercial fishery was closed due to overfishing.[1] In 1985, this ban was extended to the recreational fishery in state waters[2] and 1986 in contiguous federal waters for those aboard vessels registered in Florida.[3] Possession of live queen conch at any time in Florida is prohibited. It is not unlawful to possess the shells if they do not contain any living queen conch at the time of collection, and if a living queen conch is not killed, mutilated, or removed from its shell prior to collection. Possession of conch meat or a queen conch shell having an off-center hole larger than 1/16 inch in diameter through its spire is prohibited.[4]

Conservation Efforts

Queen conchs are managed under national regulation. In the United States, all takes of queen conch are prohibited in Florida and adjacent Federal waters. No international regional fishery management organization exists in the Wider Caribbean. However, in Puerto Rico and the Virgin Islands, queen conch is regulated under the auspices of the Caribbean Fishery Management Council.[5]

In 1990, the Parties to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention) included queen conch in Annex II of its Protocol Concerning Specially Protected Areas and Wildlife (SPAW Protocol) as a species that may be used on a rational and sustainable basis and that requires protective measures. Because of this recognition, the United States proposed queen conch for listing in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1992. Appendix II lists species that are not necessarily now threatened with extinction but that may become so unless trade is closely controlled.[6] This proposal was adopted, and queen conch became the first large-scale fisheries product to be regulated by CITES.[7]

---

[1] *See* Queen Conch Stock Restoration by Robert Glazer of the Fish and Wildlife Research Institute, available at http://myfwc.com/media/201241/conch_report_sept2001_3352.pdf.
[2] Chapter 68b-16.003, F.A.C., available at http://fac.dos.state.fl.us/.
[3] Chapter 68b-16.005, F.A.C., available at http://fac.dos.state.fl.us/.
[4] *See* Recreational Shell Collecting: Prohibited Species, available at http://myfwc.com/fishing/saltwater/recreational/sea-shells/.
[5] *See* http://www.caribbeanfmc.com/.
[6] *See* http://www.cites.org/eng/app/.
[7] *See* http://www.nmfs.noaa.gov/ia/agreements/global_agreements/cites_page/cites.html.

Since 1995, CITES has been reviewing the biological and trade status of queen conch under its Significant Trade Review process, which is undertaken when there is concern about levels of trade in an Appendix II species. The Queen Conch Significant Trade Review is available from CITES.[8] Based on this review, CITES recommended that all countries prohibit the importation of queen conch from Honduras, Haiti, and the Dominican Republic.[9] Queen conch continues to be available from many other Caribbean countries, including Jamaica and the Turks and Caicos Islands (British West Indies), which have well-managed queen conch fisheries.

In 1996, the first meeting of the International Queen Conch Initiative[10] was convened in San Juan, Puerto Rico, supported by the Caribbean Fishery Management Council, U.S. Department of Commerce, the Government of the Commonwealth of Puerto Rico, and the Food and Agriculture Organization of the United Nations. At that meeting, the Declaration of San Juan was adopted, meaning countries in the region pledged to work together to strengthen bilateral, sub-regional, and regional mechanisms to establish common management regimes for the sustainable use of queen conch.

Possible Listing Under Endangered Species Act

The queen conch is a candidate for listing under the Endangered Species Act of 1973 (ESA).[11] The ESA protects plants and animals that are listed by the federal government as "endangered" or "threatened."[12] Any interested person may submit a written petition requesting the listing of a species as "endangered" or "threatened" under the ESA.[13] An "endangered species" is "any species that is in danger of extinction throughout all or a significant portion of its range."[14] A "threatened species" is defined as "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range."[15]

The ESA provides listing factors under which a species can qualify for protection, only one of which need to be met in order to qualify for federal listing.[16] These include:

1. The present or threatened destruction, modification, or curtailment of habitat or range.
2. Overutilization for commercial, recreational, scientific, or educational purposes.
3. Disease or predation.
4. The inadequacy of existing regulatory mechanisms.
5. Other natural or manmade factors affecting its continued existence.

Making the Official Determination

The decision to list, reclassify, or delist a species must be made "*solely* on the basis of the best available scientific and commercial information regarding a species' status, without reference to possible economic or other impacts of such determination."[17]

---

[8] *See* http://www.cites.org/eng/com/ac/19/E19-08-3.pdf.
[9] *See* Standing Committee Recommendations from CITES, available at http://www.cites.org/eng/notif/2003/057.shtml.
[10] *See* http://www.strombusgigas.com/about_strombus_gigas_page.htm.
[11] *See* petition submitted by WildEarth Guardians to the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service, available at http://www.nmfs.noaa.gov/pr/pdfs/petitions/queenconch_petition2012.pdf . *See also* Notice subsequently issued by the National Marine Fisheries Service, available at https://www.federalregister.gov/articles/2012/08/27/2012-21090/endangered-and-threatened-wildlife-90-day-finding-on-a-petition-to-list-the-queen-conch-as.
[12] 16 U.S.C. § 1531 et seq.
[13] 50 C.F.R. § 424.14(a)
[14] 16 U.S.C. § 1532(6)
[15] 16 U.S.C. § 1532(20)
[16] 16 U.S.C. § 1533(a)(1)
[17] 50 C.F.R. § 424.11(b), emphasis in original.

Proponents for Listing

According to supporters of the proposed listing, the queen conch is threatened by four factors identified in the ESA:

1. Their habitat is affected by a range of threats, including water pollution, degradation of seagrass beds, and destruction of essential nursery habitat.
2. The species is over-utilized for commercial purposes, primarily the harvest of conch meat for growing local and international markets.
3. Existing regulatory mechanisms are inadequate to manage the unsustainable harvest or to eliminate the widespread practice of illegal fishing.
4. Conchs are particularly biologically vulnerable to human exploitation and the resulting low adult densities limits population recovery.

Proponents for the listing the queen conch argue that its habitat and behavioral characteristics make it particularly vulnerable to exploitation because it is slow moving, easily identifiable, and often gathers in large aggregations in shallow water. Furthermore, they point out that loss of the species could negatively affect seagrass communities and other ecologically valuable species. Listing the queen conch under the ESA would protect this species by limiting or restricting U.S. take and import and provide protection of critical habitat important for queen conch recovery.

Opponents to Listing

Coastal restaurant owners serving conch oppose the proposed listing of queen conch as an endangered species. Located mostly in the Florida Keys, these restaurateurs argue that their conch dishes – such as conch fritters and conch chowder – attract tourists to their establishments. Even though listing would prohibit their competitors from serving conch as well, they are concerned about losing business and having to change their menus. These business owners also claim that conch is healthy as it is high in protein and low in fat.

Opponents also argue that conch populations can be grown in aquaculture programs. However, researchers point out that while this method might be successful in a limited program, it cannot support a commercial food level.[18]

Listing the conch would result in banning the importation of conch, which opponents claim would have a detrimental impact on tourism in southern Florida.

Effect of Proposed Changes

This memorial urges the Congress of the United States to direct the National Marine Fisheries Service to withdraw its consideration of listing the queen conch as a threatened or endangered species.

B. SECTION DIRECTORY:

None.

[18] *See* Queen Conch Restoration by Robert Glazer of the Fish and Wildlife Research Institute, available at http://myfwc.com/media/201241/conch_report_sept2001_3352.pdf. More information regarding his research is available at http://www.gulfbase.org/project/view.php?pid=qcr.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
   None.

2. Expenditures:
   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
   None.

2. Expenditures:
   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:
None.

D. FISCAL COMMENTS:
None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:
   None.

2. Other:
   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 Congress of the United States, urging Congress to direct the National Marine Fisheries Service to withdraw its consideration of listing the queen conch as a threatened or endangered species.

WHEREAS, the importation, distribution, and sale of queen conch accounts for a significant percentage of the commerce and tourism industry in the southern region of Florida, and

WHEREAS, queen conch is a popular local delicacy that attracts millions of tourists to local restaurants, and

WHEREAS, Florida currently has long-term conservation measures to sustainably manage queen conch populations, and

WHEREAS, the harvesting of the queen conch in state waters and adjacent federal waters is prohibited, and

WHEREAS, the importation of queen conch from countries that do not have similar long-term conservation measures is prohibited, and

WHEREAS, those fisheries from which queen conch is currently imported are located in limited areas of federal and United States territorial waters and operate under strict regulations, and

WHEREAS, listing the queen conch as a threatened or endangered species would ban the legal importation of queen conch and have a detrimental impact on commerce and tourism in the southern region of Florida, NOW, THEREFORE,

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

That Congress is urged to direct the National Marine Fisheries Service to withdraw its consideration of listing the queen conch as a threatened or endangered species.

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 LOCAL BILL STAFF ANALYSIS

BILL #: HB 1287 Tohopekaliga Water Authority, Osceola County
SPONSOR(S): La Rosa
TIED BILLS: **IDEN./SIM. BILLS:** SB 996

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

SUMMARY ANALYSIS

The Tohopekaliga Water Authority (Authority) provides water, wastewater, and reclaimed water services to Osceola County, Polk County, and a portion of Orange County. The Authority was established in 2003 and is governed by a six member board, appointed by the City of Kissimmee City Commission and the Osceola County Board of County Commissioners.

This bill grant these appointing bodies the option to appoint the Authority's current chair, who has served since 2003, for an additional 3-year term.

This bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Tohopekaliga Water Authority

Purpose

The Tohopekaliga Water Authority (Authority) was created by 2003-368, L.O.F., to provide regional stewardship over water resources in Osceola County, Florida. The Poinciana System, serving Polk and Osceola Counties, transferred to the Authority in 2007. The Authority also provides services to a small section of Orange County through an interlocal agreement.

Today, the Authority is the largest provider of water, wastewater, and reclaimed water services in Osceola County, serving 73,000 water, 71,000 wastewater and 10,000 reclaimed water customers in Kissimmee, Poinciana, and unincorporated areas of Osceola County. The Authority owns and operates 20 water plants and 10 wastewater plants while maintaining 1,174 miles of water mains, 980 miles of wastewater mains, 242 miles of reclaimed water mains, and 357 wastewater pump stations. With a 165 person workforce, the Authority treats and distributes approximately 35 million gallons of potable water and reclaims 21 million gallons of wastewater each day.

Board of Supervisors: Structure

The Authority is governed by a six-member board of supervisors, including a chairperson. The Osceola Board of County Commissioners appoints supervisors for positions one and three. The City Commission of the City of Kissimmee appoints positions two and four. Both entities collectively appoint by joint resolution position five, who also serves as the chairperson. Chapter 2007-287, L.O.F., allows for the appointment of an additional supervisor by each general purpose local government that has adopted a resolution authorizing the Authority to provide services within its boundary and entered an interlocal agreement with the Authority. Pursuant to this, Polk County Board of County Commissioners appointed the sixth board position in 2007.

Board of Supervisors: Payment

Board members are compensated for their services by $100 per meeting, not to exceed three meetings per month. Additionally, supervisors are reimbursed for expenses as provided in s. 112.061, F.S., or otherwise approved by the board for travel on Authority business outside of the boundaries and service area of the District. The board generally meets twice a month, but may hold a special meeting if needed.

Board of Supervisors: Term Limits

The Authority's charter limits each supervisor to no more than three consecutive 3-year terms, not including any initial term of less than 3 years. The charter staggered the terms of the first five positions by providing for varying initial terms. Positions one and three had 2-year initial terms; three and four, 3-year; five, 4-year. Therefore, consecutive term limits for the original five appointees are 11 years for positions one and two,[1] 12 years for positions three and four,[2] and 13 years for position five.[3]

[1] Initial term of 2 years, plus a maximum of three consecutive 3-year terms: 2 + 9 = 11 years.
[2] Initial term of 3 years, plus a maximum of three consecutive 3-year terms: 3 + 9 = 12 years.
[3] Initial term of 4 years, plus a maximum of three consecutive 3-year terms: 4 + 9 = 13 years.

Similar water and wastewater authorities generally have lower maximum term limits. For example, the South Seminole and North Orange County Wastewater Transmission Authority allowed a maximum of 8 years for one original board position and now limits all positions to 4-year terms.[4] The Alligator Point Water Resources District is limited to 4-year board positions.[5] The Pinellas Park Water Management District limits the position to 3 years.[6] However, the Lake County Water Authority allows a maximum of 10 years for certain initial positions.[7]

The Authority's current six board members have served for the following terms:

- Position 1: March 2012 – Present
- Position 2: October 2011 – Present
- Position 3: December 2010 – Present
- Position 4: June 2009 – Present
- Position 5: October 2003 – Present.

The current chair has served that position since the Authority's inception in 2003. Based on the charter language, the governing bodies are unable to appoint that supervisor for another term as he has served three consecutive 3-year terms after an initial term of more than 3 years.

Effect of Proposed Changes

This bill allows the City of Kissimmee City Commission and the Osceola County Board of County Commissioners to appoint the current chair for an additional 3-year term. If these appointing bodies had and exercised that ability, the current chair's tenure would extend through September 2016.

Although the language is broad enough to allow positions three, four, and the chair the possibility of an additional term, operationally this bill will only impact the chair position as the others have already been replaced.

Proponents argue that recent board turnover warrants allowing the option to maintain the board's most senior member for another term as this will provide a continuum of institutional knowledge. Additionally, supporters of this bill point out that these proposed changes only give the appointing bodies the option to maintain the chair for another term, not the obligation to do so.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2003-368, L.O.F., limiting board members of the Tohopekaliga Water Authority to three consecutive, 3-year terms but not including initial terms.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? January 23, 2013 and February 2, 2013

WHERE? The *Orlando Sentinel*, a daily newspaper published in Osceola County, Florida; *The Ledger*, a daily newspaper published at Lakeland in Polk County, Florida; the *Osceola News-Gazette*, a twice-weekly newspaper published at Kissimmee, in Osceola County, Florida.

[4] Chapter 78-617, L.O.F.
[5] Chapter 2005-351, L.O.F.
[6] Chapter 2001-325, L.O.F.
[7] Chapter 2005-314, L.O.F.

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

1287

Orlando Sentinel

Tohopekaliga Water
951 Martin Luther King Boulevard

Kissimmee, FL, FL 34741

RECEIVED JAN 28 2013

Before the undersigned authority personally appeared Pam L. Davis/Tamela Vargas/Deborah M. Toney, who on oath says that s/he is the Legal Advertising Representative of Orlando Sentinel, a daily newspaper published in Osceola County, Florida; that the attached copy of advertisement, being a Legal Notices in the matter of Tohopekaliga Water Authority's Intent to Apply to the 2013 Session of Florida Legislature in the Osceola County _, was published in said newspaper in the issue(s); of

01/23/13

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

NOTICE OF LOCAL LEGISLATION

Notice is hereby given of the Tohopekaliga Water Authority's intent to apply to the 2013 Session of the Florida Legislature for passage of an act; amending Chapter 2003-368, Laws of Florida; an act relating to the Tohopekaliga Water Authority, located in Osceola County, Polk County, and Orange County; providing that Board members shall [redacted]; and providing an effective date.

Tohopekaliga Water Authority
951 Martin Luther King Blvd
Kissimmee, Florida 34741

OSC1221798 01/23/2013

The foregoing instrument was acknowledged before me this 24 day of January, 2013, Pam L. Davis/Tamela Vargas/Deborah M. Toney, who is personally known to me and who did take an oath.

Tamela Vargas

(seal) DEBORAH M. TONE
NOTARY PUBLIC
STATE OF FLORID
Comm# DD938521
Expires: 1/18/20

1221798

AFFIDAVIT OF PUBLICATION
THE LEDGER
Lakeland, Polk County, Florida

STATE OF FLORIDA)
COUNTY OF POLK)

Before the undersigned authority personally appeared Rhonda Gentle, who on oath says that she is an Sales Executive at The Ledger a daily newspaper published at Lakeland in Polk County, Florida; that the attached copy of advertisement, being a

PUBLIC NOTICE

In the matter of **LOCAL LEGISLATION**

Concerning **TOHOPEKALIGA WATER AUTHORITY**

said newspaper in the issues of

1-23; 2013

Affiant further says that said The Ledger is a newspaper published at Lakeland, in said Polk County, Florida, and that the said newspaper has heretofore been continuously published in said Polk County, Florida, daily, and has been entered as second class matter at the post office in Lakeland, in said Polk County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

NOTICE OF LOCAL LEGISLATION

Notice is hereby given of the Tohopekaliga Water Authority's intent to apply to the 2013 Session of the Florida Legislature for passage of an act; amending Chapter 2003-368, Laws of Florida; an act relating to the Tohopekaliga Water Authority, located in Osceola County, Polk County, and Orange County; providing that Board members shall [illegible]; and providing an effective date.

Tohopekaliga Water Authority
951 Martin Luther King Blvd
Kissimmee, Florida 34741

L8045 1-23; 2013

Signed Rhonda Gentle
Rhonda Gentle
Sales Executive
Who is personally known to me.

Sworn to and subscribed before me this 23rd

day of January A.D. 2013

Patricia Ann Rouse
Notary Public

(SEAL)

PATRICIA ANN ROUSE
MY COMMISSION EXPIRES
October 17, 2016
#EE 220383
Bonded thru Notary Public Underwriters
NOTARY PUBLIC, STATE OF FLORIDA

My Commission Expires - October 17, 2016

PROOF OF PUBLICATION

From

OSCEOLA NEWS-GAZETTE
AroundOsceola.com

STATE OF FLORIDA
COUNTY OF OSCEOLA

Before me, the undersigned authority, personally appeared Claudia Neisius, who on oath says that she is the Legal Clerk of the Osceola News-Gazette, a twice-weekly newspaper published at Kissimmee, in Osceola County, Florida; that the attached copy of the advertisement was published in the regular and entire edition of said newspaper in the following issues:

February 2, 2013

Affiant further says that the Osceola News-Gazette is a newspaper published in Kissimmee, in said Osceola County, Florida, and that the said newspaper has heretofore been continuously published in said Osceola County, Florida, each week and has been entered as periodicals postage matter at the post office in Kissimmee, in said Osceola County, Florida, for a period of one year 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 and subscribed before me by Claudia Neisius, who is personally known to me, this 4th day of February, 2013

Claudia Neisius

GARY LUGO
Notary Public State of Florida
My Comm Expires Oct 23 2
Commission # EE 818[illegible]

IN THE MATTER OF: NOTICE OF LOCAL LEGISLATION

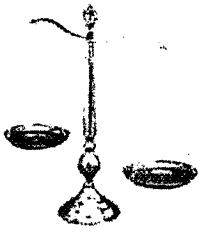
FIRST PUBLICATION: February 2, 2013

LAST PUBLICATION: February 2, 2013

NOTICE OF LOCAL LEGISLATION

Notice is hereby given of the Tohopekaliga Water Authority's intent to apply to the 2013 Session of the Florida Legislature for passage of an act; amending Chapter 2003-368, Laws of Florida; an act relating to the Tohopekaliga Water Authority, located in Osceola County, Polk County, and Orange County; providing that Board members shall serve no more than three (3) consecutive 3-year terms, not including any initial term; and providing an effective date.

Tohopekaliga Water Authority
951 Martin Luther King Blvd
Kissimmee, Florida 34741
February 2, 2013



Make remittance to: Osceola News-Gazette, 108 Church Street, Kissimmee, FL 34741
Phone: (407) 846-7600 Fax: (321) 402-2946
Email: legalads@osceolanewsgazette.com
You can also view your Legal Advertising on www.AroundOsceola.com or www.FloridaPublicNotices.com

HOUSE OF REPRESENTATIVES

2013 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1287

SPONSOR(S): Senator Darren Soto Representative Mike LaRosa

RELATING TO: Tohopekaliga (Toho) Water Authority
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: Osceola County

CONTACT PERSON: Rebekah Hurd

PHONE NO.: (850) 717-5042 **E-Mail:** rebekah.hurd@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: December 20, 2012

Location: Osceola County Administration Building (Kissimmee)

(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 January 23, 2013 and February 2, 2013

Where? Orlando Sentinel, Lakeland Ledger, Osceola News Gazette **County** Osceola, Polk, Orange

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 [ ] NOT APPLICABLE [X]

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

YES [ ] NO [ ] NOT APPLICABLE [X]

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

YES [ ] NO [X]

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: 2/20/13

Michael LaRosa, Florida House of Representatives
Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES

2013 ECONOMIC IMPACT STATEMENT FORM

House local bill policy requires that no 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 1287

SPONSOR(S): Rep. Mike La Rosa Senator Darren Soto

RELATING TO: Tohopekaliga Water Authority – Amendment to Subsection (3) of Section 6 of Chapter 2003-368 relative to the terms of the Board members

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

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

	FY 13-14	FY 14-15
Expenditures:	$0.00	$0.00

II. ANTICIPATED SOURCE(S) OF FUNDING:

		FY 13-14	FY 14-15
Federal:	No Funding Required	N/A	N/A
State:	No Funding Required	N/A	N/A
Local:	No Funding Required	N/A	N/A

III. ANTICIPATED NEW, INCREASED OR DECREASED REVENUES:

		FY 13-14	FY 14-15
Revenues:	No Revenue Impact	$0.00	$0.00

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

Advantages: No Economic Impact from Amendment

Disadvantages: No Economic Impact from Amendment

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

No impact upon competition or market for employment. Local bill only modifies the definition of the term limits of the Board members.

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

There is no cost associated with amending the definition of the term limit of the Board members.

PREPARED BY: _____ January 3, 2013
[Must be signed by Preparer] **Date**

TITLE: Executive Director
REPRESENTING: Tohopekaliga Water Authority
PHONE: 407-944-5131
E-Mail Address: bwheeler@tohowater.com

A bill to be entitled

An act relating to the Tohopekaliga Water Authority, Osceola County; amending chapter 2003-368, Laws of Florida; revising the terms of members of the authority; providing an effective date.

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

Section 1. Subsection (3) of section 6 of chapter 2003-368, Laws of Florida, is amended to read:

Section 6. Governing Body.

(3) Board members shall serve no more than 3 consecutive 3-year terms, not including any initial term as provided for herein ~~of less than 3 years~~.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 837 Tax Deeds
SPONSOR(S):
TIED BILLS: **IDEN./SIM. BILLS:** SB 1026

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local & Federal Affairs Committee		Nelson	Rojas

SUMMARY ANALYSIS

Florida law authorizes tax collectors to issue tax certificates against parcels of real property for delinquent taxes. When a tax certificate is not redeemed by a property owner, the certificate holder may apply for a tax deed on the property.

The PCS for HB 837 allows tax collectors to recover the costs for providing online tax deed application services. Under this bill, applicants for tax deeds have the option of using the electronic tax deed process, or may file applications without using this service.

The bill is effective July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 197, F.S., governs tax collections, sales and liens.

Tax Certificates

A tax certificate is a legal document, representing unpaid delinquent real property taxes, non-ad valorem assessments, including special assessments, interest, and related costs and charges, issued in accordance with ch.197, F.S., against a specific parcel of property.[1]

Property taxes are due and payable on November 1 of each year or as soon thereafter as the certified tax roll is received by the tax collector and tax notices are mailed to taxpayers notifying them of the amount of taxes due and any available discounts.[2] Taxes are considered delinquent if not paid by April 1 following the year in which assessed.[3] By April 30, the tax collector mails an additional tax notice to each taxpayer whose payment has not been received, notifying the taxpayer that a tax certificate on the property will be sold for delinquent taxes that are not paid in full.[4]

On or before June 1 or 60 days after the date of delinquency, tax collectors are required to hold tax certificate auctions to sell tax certificates on properties with delinquent taxes to the person who will pay the taxes, interest, cost and charges, and demand the lowest rate of interest under the maximum rate of interest. Tax certificates that are not sold are issued to the county at the maximum interest rate (18 percent).[5] The sale of the tax certificate acts as a first lien on the property that is superior to all other liens, but does not convey any property rights to the investor.[6]

A property owner may redeem a tax certificate any time before a tax deed is issued or the property is placed on the "list of lands available for sale." The person redeeming or purchasing the tax certificate is required to pay the investor or county "all taxes, interest, costs, charges, and [any] omitted taxes" and a $6.25 fee to the tax collector.[7]

Tax Deeds

If the property owner does not redeem the tax certificate, a tax certificate holder may apply for a tax deed on the property on or after the second year following the sale of the certificate and before the expiration of seven years from issuance, by filing the certificate with the county tax collector and paying all amounts required for redemption or purchase of all other outstanding tax certificates, any omitted taxes or delinquent taxes, and any current taxes due, plus interest. The tax collector is authorized to collect a fee of $75 at the time of application for the tax deed.[8] The property is then placed on the list of lands available for sale and sold to the highest bidder at a public auction held by the clerk of the circuit court.[9] If property is not sold within three years after the public auction, the land escheats to the county

[1] Section 197.102(1) (f), F.S.
[2] Section 197.322, F.S.
[3] Section 197.333, F.S.
[4] Section 197.343(1), F.S.
[5] Sections 197.402, 197.432 and 197.172, F.S.
[6] Sections 197.122 and 197.432, F.S.
[7] Sections 197.472 and 197.4725, F.S.
[8] Section 197.502, F.S.
[9] Section 197.542(1), F.S.

in which the property is located free and clear of all liens.[10] Tax certificates that are not redeemed or for which a tax deed has not been applied for after a period of seven years become null and void.[11]

Electronic Tax Certificate and Tax Deed Sales, and Tax Deed Applications

Tax collectors are authorized pursuant to s. 197.432, F.S., to conduct the sale of tax certificates by electronic means. A tax collector who chooses to conduct electronic tax certificate sales may receive electronic deposits and payments related to the sales. Currently, there are four vendors serving 55 counties that conduct online tax certificate sales. The cost ranges from $10 to $15 per parcel, depending on the vendor, and is paid by the investor when the tax certificate is purchased.[12]

Additionally, s.197.542 (4)(a), F.S., provides that circuit court clerks may conduct electronic tax deed sales, and add the cost of this process to the sale. The cost is paid by the certificate holder when filing a tax deed application. The clerk is required to provide access to the electronic sale by computer terminals open to the public at a designated location.

Currently, there is no statutory provision regarding electronic tax deed applications. There are two vendors that offer electronic tax deed applications in Florida, and 28 tax collectors who use this service.[13] The tax collectors who use the online tax deed application program do not have authority to charge an additional fee for this service.

Where an online tax deed application service is not offered, tax certificate holders must call or physically travel to the tax collector's office to ascertain whether the certificates they hold are eligible for a tax deed application.

Effect of Proposed Changes

The PCS for HB 837 amends s. 197.502, F.S., to provide authorization for tax collectors to receive reimbursement for electronic tax deed application services. It is anticipated that vendors will charge approximately $20-$49 per tax deed application.[14] When a tax certificate holder applies for a tax deed electronically, the fee will be added to the application and paid for by the applicant.

Under this bill, applicants for tax deeds have the option of using the electronic tax deed process, or may file applications without using this service.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 197.502, F.S., relating to tax deeds.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

[10] Section 197.502(8), F.S.
[11] Section 197.482, F.S.
[12] April 2, 2013, e-mail from W. Dale Summerford, Gadsden County Tax Collector.
[13] *Ibid.*
[14] *Ibid.*

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Tax collectors would be authorized to charge for reimbursement of costs associated with providing an electronic tax deed application service.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals applying for tax deeds electronically may be charged for the costs of providing this service.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not estimated the fiscal impact of this bill.

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N./A.

A bill to be entitled

An act relating to tax deeds; amending s. 197.502, F.S.; authorizing the tax collector to charge for reimbursement of the costs for providing online tax deed application services; providing an effective date.

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

Section 1. Subsection (1) of section 197.502, Florida Statutes, is amended to read:

197.502 Application for obtaining tax deed by holder of tax sale certificate; fees.—

(1) The holder of a tax certificate at any time after 2 years have elapsed since April 1 of the year of issuance of the tax certificate and before the cancellation of the certificate, may file the certificate and an application for a tax deed with the tax collector of the county where the property described in the certificate is located. The tax collector may charge a tax deed application fee of $75 and for reimbursement of the costs for providing online tax deed application services. Applicants shall have the option of using the electronic tax deed application process, or may file applications without using this service.

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