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# State Affairs Committee

Thursday, March 13, 2014

9:00 AM

Morris Hall (17 HOB)

**Will Weatherford**  
Speaker

**Jim Boyd**  
Chair

**Committee Meeting Notice**  
**HOUSE OF REPRESENTATIVES**

**State Affairs Committee**

**Start Date and Time:** Thursday, March 13, 2014 09:00 am  
**End Date and Time:** Thursday, March 13, 2014 10:00 am  
**Location:** Morris Hall (17 HOB)  
**Duration:** 1.00 hrs

**Consideration of the following bill(s):**


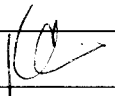
CS/HB 21 County Employees by Government Operations Subcommittee, Porter  
CS/HB 47 Spiny Lobster by Agriculture & Natural Resources Subcommittee, Raschein  
CS/HM 81 Congressional Term Limits by Local & Federal Affairs Committee, Caldwell  
HB 915 Board of Trustees of Bay Medical Center, Bay County by Patronis

**NOTICE FINALIZED on 03/11/2014 15:59 by Love.John**



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 21 County Employees  
**SPONSOR(S):** Government Operations Subcommittee; Porter and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/SB 106

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	13 Y, 0 N, As CS	Stramski	Williamson
2) Local & Federal Affairs Committee	17 Y, 0 N	Dougherty	Rojas
3) State Affairs Committee		 Stramski	Camechis 

**SUMMARY ANALYSIS**

Florida counties have broad home rule authority under the State Constitution. The Florida Statutes further outline the powers and duties of counties, including the power to employ personnel.

This bill clarifies that the existing authority of counties to employ personnel includes the ability to determine available benefits for different types of positions, including, but not limited to, insurance coverage and paid leave. The bill also clarifies that ch. 121, F.S., governs the participation of county employees in the Florida Retirement System.

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

The bill provides an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### County Government

The State Constitution contains provisions specifically related to the county form of government in Florida, and requires the state to be divided by law into political subdivisions called "counties."<sup>1</sup> It provides that counties may be created, abolished, or changed by law, with provision for payment or apportionment of the public debt.<sup>2</sup> Pursuant to general or special law, a county government may be established by charter, which must be adopted, amended, or repealed only upon a vote of the electors of the county in a special election called for that purpose.<sup>3</sup>

The State Constitution recognizes two types of county government in Florida: charter and non-charter. Subsections 1(f) and (g), Art. VIII of the State Constitution, respectively, provide as follows:

**NON-CHARTER GOVERNMENT.** Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

**CHARTER GOVERNMENT.** Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

The most significant distinction between charter and non-charter county power is that the State Constitution provides a direct constitutional grant of the power of self-government to a county upon charter approval, whereas a non-charter county has "such power of self-government as is provided by general or special law."<sup>4</sup> While all counties have broad home rule authority, charter counties possess greater home rule authority than non-charter counties.

The Florida Statutes outline the powers and duties of charter and non-charter counties. The enumeration of powers is not deemed exclusive or restrictive, but is deemed to incorporate the implied powers necessary to carry out the enumerated powers.<sup>5</sup> The powers include, but are not limited to, the powers to:

- establish civil service systems and boards;<sup>6</sup>
- employ personnel;<sup>7</sup>

<sup>1</sup> See, Art. VIII, s. 1 of the State Constitution.

<sup>2</sup> Art. VIII, s. 1(a) of the State Constitution.

<sup>3</sup> Art. VIII, s. 1(c) of the State Constitution.

<sup>4</sup> Art. VIII, s. 1(f) of the State Constitution.

<sup>5</sup> See, ss. 125.01(1) and (3), F.S.

<sup>6</sup> Section 125.01(1)(u), F.S.

<sup>7</sup> Section 125.01(3)(a), F.S.

- expend funds;<sup>8</sup>
- enter into contractual obligations;<sup>9</sup>
- perform any other acts not inconsistent with law, which acts are in the common interest of the people of the county;<sup>10</sup> and
- exercise all powers and privileges not specifically prohibited by law.<sup>11</sup>

## Employment Benefits

### *Federal Law*

Federal law provides certain requirements regarding employee benefits that may be applicable to counties, including requirements relating to insurance and leave. For example, the “Patient Protection and Affordable Care Act” requires employers with more than 50 employees to provide health insurance to their full-time employees or pay a penalty.<sup>12,13</sup> Federal law also sets forth certain minimum requirements with respect to family and medical leave under the “Family Medical Leave Act,” and overtime under the “Fair Labor Standards Act.”<sup>14</sup>

### *Florida Law*

Florida law provides various benefits to certain county employees.

Specific to county law enforcement officers and firefighters, Florida law provides that:

- A county law enforcement officer is entitled to travel expenses if he or she appears as a witness at any legal proceeding resulting from that employment.<sup>15</sup>
- A county firefighter or law enforcement officer is entitled to certain presumptions in disability proceedings if the firefighter or officer suffers death or disability due to certain causes<sup>16</sup> and, under certain circumstances, is entitled to death benefits if killed while performing his or her duties.<sup>17</sup>

Current law also provides that:

- Travel expenses of county employees are subject to minimum requirements set by statute.<sup>18</sup>
- The establishment of county deferred compensation programs is governed by statute.<sup>19</sup>
- Those county employees who are called to active military service receive certain leave of absence protections.<sup>20</sup>
- Florida’s established state minimum wage is applicable to all employers, including counties.<sup>21</sup>

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> Section 125.01(1)(w), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> 26 U.S.C. s. 4980H.

<sup>13</sup> The implementation and enforcement of the employer mandate has been postponed until 2015. Statement by Mark Mazur, Assistant Secretary for Tax Policy at the U.S. Department of Treasury, available at <http://www.treasury.gov/connect/blog/Pages/Continuing-to-Implement-the-ACA-in-a-Careful-Thoughtful-Manner-.aspx> (last visited January 8, 2014).

<sup>14</sup> “Family and Medical Leave Act,” 29 U.S.C. s. 2601, *et seq.*, and the “Fair Labor Standards Act,” 29 U.S.C. s. 201, *et seq.*

<sup>15</sup> Section 92.141, F.S.

<sup>16</sup> Section 112.18, F.S.

<sup>17</sup> Sections 112.19 and 112.191, F.S.

<sup>18</sup> Section 112.061, F.S.

<sup>19</sup> Section 112.215, F.S.

<sup>20</sup> Sections 115.14, F.S and 250.48, F.S.

<sup>21</sup> Section 448.110, F.S.

Additionally, current law authorizes counties to provide health and other insurance benefits to employees.<sup>22</sup>

### Florida Retirement System

The Florida Retirement System (FRS) is a multi-employer, contributory plan that provides retirement income benefits.<sup>23</sup> It is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities.

Membership in the FRS is compulsory for all county officers and employees, except for certain elected officials, who are employed in a regularly established position.<sup>24</sup> With respect to a county employer, a regularly established position is one that will be in existence for a period beyond six consecutive months, except as provided by rule.<sup>25</sup> A temporary position is a position that will exist for less than six consecutive months, or other positions as determined by rule, regardless of whether they will exist for six consecutive months or longer.<sup>26</sup> An employee in a temporary position may not be a member of the FRS.

### **Effect of the Bill**

The bill clarifies that the existing authority of counties to employ personnel includes the ability to determine available benefits for different types of positions, including, but not limited to, insurance coverage and paid leave. As this appears to be a clarification of current law, the bill would not impact any county employee benefits required by state or federal law.

The bill also clarifies that the provisions of ch. 121, F.S., govern the participation of county employees in the FRS.

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

Section 1: amends s. 125.01, F.S., authorizing the governing body of a county to determine available benefits of county employees, and providing for the applicability of ch. 121, F.S., to county employees in the FRS.

Section 2: provides an effective date of July 1, 2014.

## **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.

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<sup>22</sup> See, s. 112.08, F.S.

<sup>23</sup> See, ch. 121, F.S.

<sup>24</sup> Section 121.051(1), F.S.

<sup>25</sup> Section 121.021(52)(b), F.S.

<sup>26</sup> Section 121.021(53)(b), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take 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 state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create a need for additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 14, 2014, the Government Operations Subcommittee adopted an amendment, and reported the bill favorably with committee substitute. The amendment clarifies that ch. 121, F.S., governs the participation of county employees in the Florida Retirement System.

This analysis is drafted to the Committee Substitute.



1                                   A bill to be entitled  
 2           An act relating to county employees; amending s.  
 3           125.01, F.S.; authorizing the governing body of a  
 4           county to determine available benefits of county  
 5           employees; providing for applicability of certain  
 6           provisions relating to the Florida Retirement System;  
 7           providing an effective date.

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

10  
 11           Section 1. Paragraph (a) of subsection (3) of section  
 12           125.01, Florida Statutes, is amended to read:

13           125.01 Powers and duties.—


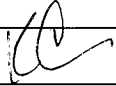
14           (3)(a) The enumeration of powers herein may ~~shall~~ not be  
 15           deemed exclusive or restrictive, but is ~~shall~~ be deemed to  
 16           incorporate all implied powers necessary or incident to carrying  
 17           out such powers enumerated, including, specifically, authority  
 18           to employ personnel, expend funds, enter into contractual  
 19           obligations, and purchase or lease and sell or exchange real or  
 20           personal property. The authority to employ personnel includes,  
 21           but is not limited to, the authority to determine the benefits  
 22           available to different types of positions. Such benefits may  
 23           include, but are not limited to, insurance coverage and paid  
 24           leave. The provisions of chapter 121 govern the participation of  
 25           county employees in the Florida Retirement System.

26           Section 2. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 47 Spiny Lobster  
**SPONSOR(S):** Agriculture & Natural Resources Subcommittee; Raschein and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 194

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	11 Y, 0 N, As CS	Renner	Blalock
2) Criminal Justice Subcommittee	12 Y, 0 N	Cunningham	Cunningham
3) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N	Massengale	Massengale
4) State Affairs Committee		Renner 	Camechis 

### SUMMARY ANALYSIS

Pursuant to the Florida Fish and Wildlife Conservation Commission's (FWC) rules, both the commercial and recreational spiny lobster seasons run from August 6 through March 31. In addition, spiny lobsters may be harvested recreationally during the recreational two-day "sport season," which occurs on the last consecutive Wednesday and Thursday of July each year. FWC's rules also require spiny lobsters harvested in Florida to remain in a whole condition at all times while on or below the waters of the state. Possession of spiny lobster tails that have been wrung or separated, on or below the waters of the state, is prohibited.

Current law requires any person, firm, or corporation who violates FWC rule relating to the conservation of marine resources to be punished:

- Upon a first conviction, by imprisonment for not more than 60 days or by a fine of no less than \$100 or more than \$500, or by both fine and imprisonment.
- Upon a second or subsequent conviction within 12 months, by imprisonment for not more than 6 months or by a fine of no less than \$250 or more than \$1,000, or by both fine and imprisonment.

The bill makes it a major violation to possess spiny lobsters during the closed season or, while on the water, to possess spiny lobster tails that have been wrung or separated from the body, unless the possession is allowed by FWC rule. Any person, firm, or corporation that violates this provision is subject to the following penalties:

- A first violation is a second degree misdemeanor. If the violation involves 25 or more lobster, the violation is a first degree misdemeanor.
- A second violation is a first degree misdemeanor, and the violator is subject to a suspension of all license privileges for a period not to exceed 90 days.
- A third violation is a first degree misdemeanor with a mandatory minimum term of imprisonment of 6 months. The violator may be assessed a civil penalty of up to \$2,500 and is subject to a suspension of all license privileges for a period not to exceed 6 months.
- A third violation within one year after a second violation is a third degree felony with a mandatory minimum term of imprisonment of one year. The violator must be assessed a civil penalty of \$5,000 and all license privileges must be permanently revoked.
- A fourth or subsequent violation is a third degree felony with a mandatory minimum term of imprisonment of one year. The violator must be assessed a civil penalty of \$5,000 and all license privileges must be permanently revoked.

Although there is an increase in assessed fines based on certain offenses relating to spiny lobsters, the number of potential violators is unknown. Therefore, the amount of revenue to be collected by FWC is indeterminate. The Criminal Justice Impact Conference met on January 30, 2014, and determined that this bill will have an insignificant negative prison bed impact on the Department of Corrections. The bill may also have a negative jail bed impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Spiny Lobsters**

One hundred percent of spiny lobsters commercially harvested<sup>1</sup> in the U.S. come from Florida, with approximately 90 percent harvested in the Florida Keys.<sup>2</sup> Chapter 379, F.S., imposes regulations to ensure the long-term sustainability of the spiny lobster, including regulations that require licensure, establish closed seasons and areas, create a lobster trap certificate program, and that impose minimum size limits, gear restrictions, and trap specifications. The Florida Fish and Wildlife Conservation Commission (FWC) regulates spiny lobster fishing that occurs in Florida waters.<sup>3</sup>

##### Harvest Season

According to FWC's rules, both the commercial and recreational<sup>4</sup> spiny lobster seasons run from August 6 through March 31.<sup>5</sup> Consequently, no person is allowed to harvest, attempt to harvest, or have in his possession, regardless of where taken, any spiny lobster during the closed season of April 1 through August 5 of each year.<sup>6</sup> FWC's rules provide one exception to this prohibition by allowing spiny lobsters to be harvested recreationally during the recreational two-day "sport season," which occurs on the last consecutive Wednesday and Thursday of July each year.<sup>7</sup>

##### Wrung Tails

FWC's rules require spiny lobsters harvested in Florida to remain in a whole condition at all times while on or below the waters of the state.<sup>8</sup> Possession of spiny lobster tails that have been wrung or separated, on or below the waters of the state, is prohibited.<sup>9</sup>

##### Penalties

Section 379.407, F.S., requires any person, firm, or corporation who violates any provision of ch. 379, F.S., or any FWC rule relating to the conservation of marine resources to be punished:

- Upon a first conviction, by imprisonment for not more than 60 days or by a fine of no less than \$100 or more than \$500, or by both fine and imprisonment.
- Upon a second or subsequent conviction within 12 months, by imprisonment for not more than 6 months or by a fine of no less than \$250 or more than \$1,000, or by both fine and imprisonment.

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<sup>1</sup> "Harvest" means the catching or taking of spiny lobster by any means whatsoever, followed by a reduction of such spiny lobster to possession. Spiny lobsters that are caught but immediately returned to the water free, alive and unharmed are not harvested. In addition, temporary possession of a spiny lobster for the purpose of measuring it to determine compliance with the minimum size requirements does not constitute harvesting, provided that it is measured immediately after taking, and immediately returned to the water free, alive and unharmed if undersized. Rule 68B-24.002(6), F.A.C.

<sup>2</sup> FWC 2014 analysis. On file with the Agriculture & Natural Resources Subcommittee.

<sup>3</sup> *Id.*

<sup>4</sup> In Florida, in order to commercially harvest spiny lobster, a person must possess a Saltwater Products License, a Restricted Species Endorsement, and either a Spiny Lobster Endorsement (C) or a Lobster Dive Endorsement (CD). Recreational harvesting requires a valid recreational saltwater fishing license and a spiny lobster permit. FWC 2014 analysis. On file with the Agriculture & Natural Resources Subcommittee.

<sup>5</sup> Rule 68B-24.005(1), F.A.C.

<sup>6</sup> *Id.*

<sup>7</sup> During the two-day sport season, persons may not harvest spiny lobster by any means other than by diving or with the use of a bully net or hoop net. In Monroe County, persons may not harvest spiny lobster by diving at night (from one hour after official sunset until one hour before official sunrise), or in or from the waters of John Pennekamp Coral Reef State Park. Rule 68B-24.005(2), F.A.C.

<sup>8</sup> Rule 68B-24.003, F.A.C.

<sup>9</sup> *Id.* Unless the spiny lobster are being imported pursuant to Rule 68B-24.0045, F.A.C., or were harvested outside the waters of the state and the wringing or separation was pursuant to a federal permit allowing such wringing or separation.

A court must assess additional penalties against any commercial harvester convicted of major violations.<sup>10</sup> For purposes of spiny lobster, a major violation is a violation of statute or FWC rules that involves more than 100 illegal spiny lobsters. In such instances, the court must impose an additional penalty of \$10 for each illegal spiny lobster, or part thereof, involved in the violation.<sup>11</sup>

### **Effect of the Bill**

The bill creates s. 379.407(5), F.S., to specify that it is a major violation to possess spiny lobsters during the closed season or, while on the water, to possess spiny lobster tails that have been wrung or separated from the body, unless the possession is allowed by FWC rule. Any person, firm, or corporation that violates this provision is subject to the following penalties:

- A first violation is a second degree misdemeanor.<sup>12</sup> If the violation involves 25 or more lobster, the violation is a first degree misdemeanor.<sup>13</sup>
- A second violation is a first degree misdemeanor, and the violator is subject to a suspension of all license privileges for a period not to exceed 90 days.
- A third violation is a first degree misdemeanor with a mandatory minimum term of imprisonment of 6 months. The violator may also be assessed a civil penalty of up to \$2,500 and is subject to a suspension of all license privileges for up to six months.
- A third violation within one year after a second violation is a third degree felony<sup>14</sup> with a mandatory minimum term of imprisonment of one year. The violator must also be assessed a civil penalty of \$5,000 and all license privileges must be permanently revoked.
- A fourth or subsequent violation is a third degree felony with a mandatory minimum term of imprisonment of one year. The violator must also be assessed a civil penalty of \$5,000 and all license privileges must be permanently revoked.

The bill also amends s. 379.401, F.S., to conform a cross-reference.

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

**Section 1.** Amends s. 379.407, F.S., relating to penalties for certain violations relating to spiny lobsters.

**Section 2.** Amends s. 379.401, F.S., conforming a cross-reference.

**Section 3.** Provides an effective date of July 1, 2014.

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

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

##### **1. Revenues:**

Although there is an increase in assessed fines based on certain offenses relating to spiny lobsters, the number of potential violators is unknown. Therefore, the amount of revenue to be collected by FWC is indeterminate.

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<sup>10</sup> Section 379.407(2), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> A second degree misdemeanor is punishable by up to 60 days in county jail and a \$500 fine. Sections 775.082 and 775.083, F.S.

<sup>13</sup> A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>14</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

2. Expenditures:

The Criminal Justice Impact Conference met on January 30, 2014, and determined that this bill will have an insignificant negative prison bed impact on the Department of Corrections.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The number of potential violators is unknown. Therefore, the amount of revenue to be collected for court costs is indeterminate.

2. Expenditures:

The bill imposes minimum mandatory terms of imprisonment for certain offenses relating to spiny lobsters, which could have an indeterminate, negative jail bed impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Commercial and recreational violators of the provisions of this bill will be subject to significant increased penalties, fines, and imprisonment.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not appear to create a need for rulemaking or require additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 14, 2014, the Agriculture & Natural Resources Subcommittee adopted a strike-all amendment and passed HB 47 favorably as a committee substitute. The amendment creates s. 379.407(5), F.S., to prohibit the possession of spiny lobster during the closed season or, while on the water, the possession of spiny lobster tails that have been wrung or separated from the body, unless the possession is allowed by FWC rule. The amendment also increases criminal penalties, imposes minimum mandatory terms of imprisonment, imposes civil fines, and requires suspension or revocation of licenses for those who violate s. 379.407(5), F.S.

This analysis is drafted to the committee substitute as passed by the Agriculture & Natural Resources Subcommittee.

1 A bill to be entitled  
 2 An act relating to spiny lobster; amending s. 379.407,  
 3 F.S.; providing penalties for certain violations  
 4 relating to possession of spiny lobster; amending s.  
 5 379.401, F.S.; conforming a cross-reference; providing  
 6 an effective date.

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

9  
 10 Section 1. Subsections (5) through (8) of section 379.407,  
 11 Florida Statutes, are renumbered as subsections (6) through (9),  
 12 respectively, and a new subsection (5) is added to that section  
 13 to read:

14 379.407 Administration; rules, publications, records;  
 15 penalties; injunctions.—

16 (5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED  
 17 SEASON AND WRUNG TAILS.—It is a major violation under this  
 18 section for any person, firm, or corporation to be in possession  
 19 of spiny lobster during the closed season or, while on the  
 20 water, to be in possession of spiny lobster tails that have been  
 21 wrung or separated from the body, unless such possession is  
 22 allowed by commission rule. Any person, firm, or corporation  
 23 that violates this subsection is subject to penalties as  
 24 follows:

25 (a) A first violation is a misdemeanor of the second  
 26 degree, punishable as provided in s. 775.082 or s. 775.083. If

27 the violation involves 25 or more lobster, the violation is a  
 28 misdemeanor of the first degree, punishable as provided in s.  
 29 775.082 or s. 775.083.

30 (b) A second violation is a misdemeanor of the first  
 31 degree, punishable as provided in s. 775.082 or s. 775.083, and  
 32 such person is subject to a suspension of all license privileges  
 33 under this chapter for a period not to exceed 90 days.

34 (c) A third violation is a misdemeanor of the first  
 35 degree, punishable as provided in s. 775.082 or s. 775.083, with  
 36 a mandatory minimum term of imprisonment of 6 months, and such  
 37 person may be assessed a civil penalty of up to \$2,500 and is  
 38 subject to a suspension of all license privileges under this  
 39 chapter for a period not to exceed 6 months.

40 (d) A third violation within 1 year after a second  
 41 violation is a felony of the third degree, punishable as  
 42 provided in s. 775.082 or s. 775.083, with a mandatory minimum  
 43 term of imprisonment of 1 year, and such person shall be  
 44 assessed a civil penalty of \$5,000 and all license privileges  
 45 under this chapter shall be permanently revoked.

46 (e) A fourth or subsequent violation is a felony of the  
 47 third degree, punishable as provided in s. 775.082 or s.  
 48 775.083, with a mandatory minimum term of imprisonment of 1  
 49 year, and such person shall be assessed a civil penalty of  
 50 \$5,000 and all license privileges under this chapter shall be  
 51 permanently revoked.

52 Section 2. Paragraph (a) of subsection (2) of section



53 | 379.401, Florida Statutes, is amended to read:

54 |       379.401 Penalties and violations; civil penalties for  
55 | noncriminal infractions; criminal penalties; suspension and  
56 | forfeiture of licenses and permits.—

57 |       (2) (a) LEVEL TWO VIOLATIONS.—A person commits a Level Two  
58 | violation if he or she violates any of the following provisions:

59 |           1. Rules or orders of the commission relating to seasons  
60 | or time periods for the taking of wildlife, freshwater fish, or  
61 | saltwater fish.

62 |           2. Rules or orders of the commission establishing bag,  
63 | possession, or size limits or restricting methods of taking  
64 | wildlife, freshwater fish, or saltwater fish.

65 |           3. Rules or orders of the commission prohibiting access or  
66 | otherwise relating to access to wildlife management areas or  
67 | other areas managed by the commission.

68 |           4. Rules or orders of the commission relating to the  
69 | feeding of wildlife, freshwater fish, or saltwater fish.

70 |           5. Rules or orders of the commission relating to landing  
71 | requirements for freshwater fish or saltwater fish.

72 |           6. Rules or orders of the commission relating to  
73 | restricted hunting areas, critical wildlife areas, or bird  
74 | sanctuaries.

75 |           7. Rules or orders of the commission relating to tagging  
76 | requirements for wildlife and fur-bearing animals.

77 |           8. Rules or orders of the commission relating to the use  
78 | of dogs for the taking of wildlife.

- 79 |       9. Rules or orders of the commission which are not
- 80 | otherwise classified.
- 81 |       10. Rules or orders of the commission prohibiting the
- 82 | unlawful use of finfish traps.
- 83 |       11. All prohibitions in this chapter which are not
- 84 | otherwise classified.
- 85 |       12. Section 379.33, prohibiting the violation of or
- 86 | noncompliance with commission rules.
- 87 |       13. Section 379.407(7) ~~379.407(6)~~, prohibiting the sale,
- 88 | purchase, harvest, or attempted harvest of any saltwater product
- 89 | with intent to sell.
- 90 |       14. Section 379.2421, prohibiting the obstruction of
- 91 | waterways with net gear.
- 92 |       15. Section 379.413, prohibiting the unlawful taking of
- 93 | bonefish.
- 94 |       16. Section 379.365(2)(a) and (b), prohibiting the
- 95 | possession or use of stone crab traps without trap tags and
- 96 | theft of trap contents or gear.
- 97 |       17. Section 379.366(4)(b), prohibiting the theft of blue
- 98 | crab trap contents or trap gear.
- 99 |       18. Section 379.3671(2)(c), prohibiting the possession or
- 100 | use of spiny lobster traps without trap tags or certificates and
- 101 | theft of trap contents or trap gear.
- 102 |       19. Section 379.357, prohibiting the possession of tarpon
- 103 | without purchasing a tarpon tag.
- 104 |       20. Rules or orders of the commission prohibiting the

CS/HB 47

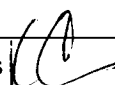
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105 | feeding or enticement of alligators or crocodiles.  
106 |       21. Section 379.105, prohibiting the intentional  
107 | harassment of hunters, fishers, or trappers.  
108 |       Section 3. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HM 81 Congressional Term Limits  
**SPONSOR(S):** Local & Federal Affairs Committee; Caldwell and others  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	15 Y, 1 N, As CS	Kelly	Rojas
2) State Affairs Committee		Davison JD	Camechis 

### SUMMARY ANALYSIS

HM 81 urges the United States Congress to propose an amendment to the U.S. Constitution to limit the number of consecutive terms that a member of Congress may serve in the same office. Currently, there is no limit on the number of terms a U.S. Senator or Representative can serve. As a result, incumbent congressional members are able to stay in office for an undetermined amount of time. This memorial does not specify a particular term limit. Instead, it advocates for *some limit*, which it states would allow for better service of this nation's interests.

In the early 1990s, twenty-three states, including Florida, passed laws imposing term limits on their respective federal legislators. In 1995, the states' efforts were soon rendered void, when the U.S. Supreme Court held that states could not impose term limits on federal legislators and that such limitation could only be accomplished by amending the U.S. Constitution.

To amend the U.S. Constitution each house of Congress must approve a proposal for an amendment by a two-thirds majority. Then, three-fourths of the states must ratify that proposal. Since 1995, congressional members have filed over seventy bills proposing an amendment to limit their terms, but none have been successful.

A similar memorial, HM 83, passed the Florida House of Representative on February 29, 2012 and the Florida Senate on March 1, 2012.

This memorial is identical to HM 763, a memorial filed with the Florida House of Representatives for the 2013 Legislative Session. HM 763 passed in the House, but died in the Senate.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The United States Constitution governs congressional membership.<sup>1</sup> Specifically, it states that members of the U.S. House of Representatives serve two-year terms and members of the U.S. Senate serve six-year terms.<sup>2</sup> However, the Constitution does not limit the number of terms or years a member of Congress may serve.<sup>3</sup> Thus, the only check or limit on the length of congressional membership is the possibility of not being reelected.

Supporters of congressional term limits find this check inadequate. They argue that given the ease at which incumbents are often reelected, members of Congress can become too insulated and isolated from the interests of their constituents.<sup>4</sup> In particular, these supporters claim that so called "career politicians" tend to become too consumed with the perks of their jobs and too indebted to lobbyists and special interests that they lose sight of their duty as representatives of their constituency.<sup>5</sup>

Conversely, opponents to congressional term limits argue that the ability to vote a member of Congress out of office is a sufficient check on their performance as lawmakers.<sup>6</sup> Opponents further argue that term limits would produce a more novice congressional membership that would not reduce the power of lobbyists and special interests.<sup>7</sup> Some opponents even argue that term limits would increase the power of special interests.<sup>8</sup>

##### Background on the Term Limit Debate

In the early 1990s, twenty-three states, including Florida, passed laws imposing term limits on their respective federal legislators.<sup>9</sup> These efforts were eventually rendered void, however, with the 1995 Supreme Court case, *U.S. Term Limits, Inc. v. Thornton*.<sup>10</sup> In that case, the Supreme Court held the following:

- 1) State-imposed candidacy limitations on federal legislative office violates the U.S. Constitution's "qualifications clauses;" and
- 2) Term limits on federal legislators may only be imposed by amendment to the Constitution.<sup>11</sup>

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<sup>1</sup> U.S. CONST. art. I., § 2, cl. 2; U.S. CONST. art. I, § 3, cl. 3.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> See *Citizens for Term Limits*, <http://termlimits.com/why>; *U.S. Term Limits*, <http://www.termlimits.org>; Kristi Keck, *Anti-Incumbent Mood Fuels Term Limit Debate*, CNN.COM (July 19, 2010), available at <http://www.cnn.com/2010/POLITICS/07/19/term.limits/index.html>.

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

<sup>6</sup> Kristi Keck, *Anti-Incumbent Mood Fuels Term Limit Debate*, CNN.COM (July 19, 2010), available at <http://www.cnn.com/2010/POLITICS/07/19/term.limits/index.html>; see also Thomas Suddes, *The Case Against Legislative Term Limits*, [http://www.cleveland.com/opinion/index.ssf/2012/07/the\\_case\\_against\\_legislative\\_t.html](http://www.cleveland.com/opinion/index.ssf/2012/07/the_case_against_legislative_t.html).

<sup>7</sup> *Id.* See also *Arguments for Term Limits*, Restart Congress, <http://restartcongress.org/revolution/arguments-for-term-limits/>.

<sup>8</sup> *Id.*

<sup>9</sup> Sula P. Richardson, U.S. Congressional Research Service. *Term Limits for Members of Congress: State Activity* (June 4, 1998), available at [http://digital.library.unt.edu/ark:/67531/metacrs582/m1/1/high\\_res\\_d/96-152\\_1998Jun04.pdf](http://digital.library.unt.edu/ark:/67531/metacrs582/m1/1/high_res_d/96-152_1998Jun04.pdf) (finding that passed some form of congressional term limits include the following: AK, AR, AZ, CA, CO, FL, ID, ME, MA, MI, MO, MT, NE, NH, NV, ND, OH, OK, OR, SD, UT, WA, WY).

<sup>10</sup> *Thornton*, 514 U.S. 779 (1995).

<sup>11</sup> *Id.*

To successfully amend the U.S. Constitution each side of Congress must approve a proposal for amendment by a two-thirds majority.<sup>12</sup> Then, three-fourths (38 states) of the states must ratify the proposal.<sup>13</sup> Since 1995, congressional members have filed over seventy bills proposing an amendment to limit their terms, but none have been successful.<sup>14</sup>

### **Effect of Proposed Changes**

HM 81 urges Congress to propose an amendment to the U.S. Constitution to limit the number of consecutive terms that a member of Congress may serve in the same office. The memorial does not advocate for a permanent ban from service of congressional members once their term limits expire. Under the memorial's approach, a member could be reelected to the same position as long as there is a break between periods of service. In addition, the memorial does not specify a particular term limit. Instead, it advocates for *some limit*, which it states would allow for better service of the Nation's interests.

A similar memorial, HM 83, passed the Florida House of Representatives on February 29, 2012 and the Florida Senate on March 1, 2012. HM 83 was filed with the Secretary of State on March 23, 2012.

This memorial is identical to HM 763, a memorial filed with the Florida House of Representatives for the 2013 Legislative Session. HM 763 passed in the House, but died in the Senate.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

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: None.

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<sup>12</sup> U.S. Const., art V.

<sup>13</sup> *Id.*

<sup>14</sup> CONGRESS.GOV (Feb. 3, 2014), available at <http://beta.congress.gov/>.

### **III. COMMENTS**

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

1. Applicability of Municipality/County Mandates Provision: Not applicable.
2. Other: None.

#### **B. RULE-MAKING AUTHORITY: None.**

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

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

On March 6, 2014, the Local & Federal Affairs Committee adopted one amendment, which deleted at the "et al." in case name in line 27. This analysis is updated to reflect this amendment.



House Memorial

A memorial to the Congress of the United States, urging Congress to propose to the states an amendment to the Constitution of the United States that would limit the consecutive terms of office which a member of the United States Senate or the United States House of Representatives may serve.

WHEREAS, Article V of the Constitution of the United States authorizes Congress to propose amendments to the Constitution which shall become valid when ratified by the states, and

WHEREAS, a continuous and growing concern has been expressed that the best interests of this nation will be served by limiting the terms of members of Congress, a concern expressed by the Founding Fathers and incorporated into the Articles of Confederation, and

WHEREAS, the voters of the State of Florida, by the gathering of petition signatures, placed on the general election ballot of 1992 a measure to limit the consecutive years of service for several offices, including the offices of United States Senator and United States Representative, and

WHEREAS, the voters of Florida incorporated this limitation into the State Constitution as Section 4, Article VI, by an approval vote that exceeded 76 percent in the general election of 1992, and

26 WHEREAS, in 1995, the United States Supreme Court ruled in  
 27 *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995), a five-  
 28 to-four decision, that the individual states did not possess the  
 29 requisite authority to establish term limits, or additional  
 30 qualifications, for persons elected to the United States Senate  
 31 or United States House of Representatives, and

32 WHEREAS, upon reflecting on the intent of the voters of  
 33 this state and their overwhelming support of congressional term  
 34 limits, the Legislature, in its 114th Regular Session since  
 35 Statehood in 1845, did express through a memorial to Congress  
 36 the desire to receive an amendment to the Constitution of the  
 37 United States to limit the number of consecutive terms that a  
 38 person may serve in the United States Senate or the United  
 39 States House of Representatives, and

40 WHEREAS, the Legislature, in its 116th Regular Session  
 41 since Statehood in 1845, does again express the same desire to  
 42 receive such an amendment, NOW, THEREFORE,

43

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

45

46 That the Florida Legislature respectfully petitions the  
 47 Congress of the United States to propose to the states an  
 48 amendment to the Constitution of the United States to limit the  
 49 number of consecutive terms which a person may serve in the  
 50 United States Senate or the United States House of  
 51 Representatives.

CS/HM 81


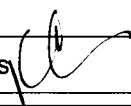
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52           BE IT FURTHER RESOLVED that copies of this memorial be  
53    dispatched to the President of the United States, to the  
54    President of the United States Senate, to the Speaker of the  
55    United States House of Representatives, to each member of the  
56    Florida delegation to the United States Congress, and to the  
57    presiding officer of each house of the legislature of each  
58    state.



## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 915 Board of Trustees of Bay Medical Center, Bay County  
**SPONSOR(S):** Patronis  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	18 Y, 0 N	Dougherty	Rojas
2) State Affairs Committee		Moore 	Camechis 

### SUMMARY ANALYSIS

The Board of Trustees of Bay Medical Center (the Board) is an independent special district created by special act of the Florida Legislature. It served as the governing body of the county hospital and related facilities until 2012, when it entered an asset purchase agreement with several private hospital groups. The Board's only remaining primary functions are managing the approximately \$30 million of net proceeds from the transaction and administering the pension plan.

The independent, nine-member Board is composed of community leaders and medical staff. The Bay County Board of County Commissioners (county commission) nominates one Board member, the Board nominates six members, and medical staff of the primary hospital nominates two members. The county commission maintains confirmation powers over all nine seats. Members may be removed by the Governor for cause.

The bill allows the county commission to remove the single member it appoints to the Board at any time without cause.

Subject to the Governor's veto powers, the bill will take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Special District: The Board of Trustees of Bay Medical Center

##### *The Board of Trustees as an Independent Special District*

The Board of Trustees of Bay Medical Center (the Board) is an independent special district established by special act of the Florida Legislature to own and operate the Bay Medical Center and other healthcare facilities.<sup>1</sup> The Bay Medical Center was originally established as the Bay Memorial Hospital of Bay County, Florida, in 1945.<sup>2</sup> As a county hospital, it was controlled by the Bay County Board of County Commissioners (county commission). In 1948, the county commission petitioned the Governor to appoint a board of trustees to administer the hospital under the general laws of the state until the Legislature enacted a special act to establish the terms and authority by which the hospital would be administered and operated. That special act was not enacted until 1995; however, in the meantime, the Legislature repeatedly recognized the existence of the board of trustees.<sup>3</sup> In 1995, the Legislature specifically affirmed the corporate authority of the Board as a body politic in existence and operating without interruption since 1948, thus clarifying and confirming its status as an independent special district.<sup>4</sup>

##### *Bay Medical Center District Act*

The Bay Medical Center District Act (the Act)<sup>5</sup> confirms and codifies the Board's authority to own and operate one or more hospitals in Bay County. The purpose of the Act is to give the Board flexibility and a reasonable opportunity to manage and develop a public hospital to provide health care services to the citizens of Bay County, regardless of ability to pay, in an increasingly competitive and rapidly changing marketplace.<sup>6</sup>

##### *The Board of Trustees*

The independent, nine-member Board is composed of community leaders and medical staff.<sup>7</sup> The county commission nominates one Board member, the Board nominates six members, and medical staff of the primary hospital nominates two members. The county commission maintains confirmation powers over all nine seats.

Approximately 30 days before the expiration of the county-nominated member's term, the county commission must nominate and confirm the next appointee. For the other eight seats, the next appointee must be nominated approximately 60 days before the term expires and the county

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<sup>1</sup> Chapter 2005-343, L.O.F.

<sup>2</sup> Chapter 23183, L.O.F. (1945). The 1945 act was subsequently amended by special acts of the legislature in 1951, 1955, 1959, 1961, 1993, 1995, and 2005.

<sup>3</sup> The Legislature authorized the board of trustees to organize a medical staff (ch. 27396 (1951), L.O.F.), conferred upon the board of trustees specific powers to provide hospitalization insurance and other fringe benefits for its employees (ch. 61-1871, L.O.F.), and revised the method of appointing its members (ch. 93-375, L.O.F.).

<sup>4</sup> Chapter 95-510, L.O.F.

<sup>5</sup> Chapter 2005-343, L.O.F. Pursuant to s. 189.429, F.S., the Act constitutes the codification of all special acts relating to Board of Trustees of Bay Medical Center. The Legislative intent of such codification is to provide a single, comprehensive special act charter for the independent special district that ratifies and continues without interruption all powers and authority granted to the board by, or implicit in, the several previous legislative enactments.

<sup>6</sup> Section 10, ch. 2005-343, L.O.F.

<sup>7</sup> Section 3, ch. 2005-343, L.O.F.

commission must rule on each of these eight nominees within 30 days. If the county commission rejects three consecutive nominations for a single seat, the county commission makes the appointment alone. Vacancies due to resignation, death, removal, or suspension are filled by a similar process for the remainder of the term or length of suspension.

Board members serve a four-year term. Members who have served two full, consecutive terms are not eligible for reconfirmation until the next regular appointment process, which is approximately two years after their second term ends.

Each member must be a Florida citizen and resident, of sound mind and good moral character, and have no competing interests that may impact Bay Medical Center or the member's fiduciary duties. Other restrictions on Board member eligibility also apply, such as the prohibition from membership for employees of Bay Medical Center and parties governing or with material interests in competing facilities.

Members may be removed by the Governor for cause. The Act does not provide any other removal language.

The Act grants a broad array of powers to the Board, all related to overseeing the on-going operation of a hospital and providing related health care services. As set forth in the Act, the Board is empowered "to establish, lease, acquire, own, and operate one or more hospitals or other health care or ancillary facilities . . . ; to provide health care services determined by the board or its delegees to be in the best interest of the persons utilizing such facilities and services; to do and perform any and all acts or services that may be incidental or necessary to carry out those purposes intended to improve the physical or mental health of the persons utilizing such facilities and services. . ."<sup>8</sup>

Powers granted to the Board include the following:<sup>9</sup>

- Contract and enter into agreements with public and private entities.
- Acquire, purchase, and develop real and personal property.
- Borrow money and incur indebtedness.
- Establish a medical staff.
- Determine lines and levels of medical services.
- Establish rates and charges for use of services and facilities.
- Provide and pay for employee benefits.
- Make charitable contributions.
- Do all things customarily done by other hospitals.

However, the Board has "neither the power to levy any tax nor the power to appropriate property by eminent domain."<sup>10</sup> Without these two fundamental government powers, the Board relies solely upon its operating revenues to provide health services to the citizens of Bay County.

#### Sale/Lease of the Board's Assets

Exercising the above powers, the Board operated for more than 60 years. On March 31, 2012, through an asset purchase agreement and lease, the Board transferred all assets of Bay Medical Center to Bay County Health System, LLC, LHP Hospital Group, Inc., and Sacred Heart Health System, Inc. (collectively the hospital systems). Finalizing a 40-year lease and asset purchase agreement, LHP Hospital Group and Sacred Heart Health System formed a joint venture that leases and operates Bay Medical Center.

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<sup>8</sup> Section 2, ch. 2005-343, L.O.F.

<sup>9</sup> Section 2, ch. 2005-343, L.O.F.

<sup>10</sup> Section 2, ch. 2005-343, L.O.F.

After paying off bonds and retiring other debt, the Board retained more than \$30 million from the transaction. The Board's only remaining primary functions are managing these net proceeds from the transaction and administering the Bay Medical Center Pension Plan.

### Effect of Proposed Changes

The bill allows the county commission to remove the single member that it appoints to the Board at any time without cause.

#### B. SECTION DIRECTORY:

Section 1: Provides that the Bay County Board of County Commissioners may remove its single appointee to the Board of Trustees of Bay Medical Center at any time without cause.

Section 2: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 19, 2013

WHERE? The *Panama City News Herald*, a daily newspaper published at Panama City in Bay County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.



1                                   A bill to be entitled  
 2           An act relating to the Board of Trustees of Bay  
 3           Medical Center, Bay County; amending chapter 2005-343,  
 4           Laws of Florida; providing for the removal of a  
 5           certain board member; providing an effective date.

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

8  
 9           Section 1. Section 3 of section 3 of chapter 2005-343,  
 10          Laws of Florida, is amended to read:

11           Section 3. The Board of Trustees of Bay Medical Center  
 12          shall consist of nine persons, one of whom shall be nominated  
 13          and confirmed by the board of county commissioners, six of whom  
 14          shall be nominated by the board of trustees and confirmed by the  
 15          board of county commissioners, and two of whom shall be  
 16          nominated by the medical staff of the primary hospital operated  
 17          by the board of trustees and confirmed by the board of county  
 18          commissioners. Each medical staff nominee shall be selected by  
 19          majority vote of active medical staff members conducted in  
 20          accordance with the bylaws governing regular medical staff  
 21          affairs and approved by the board of trustees for submission to  
 22          the board of county commissioners. The board of county  
 23          commissioners shall nominate and confirm its single appointee  
 24          approximately 30 days prior to the end of the expiring term, who  
 25          may be removed and replaced by the board of county commissioners  
 26          at any time, without cause. For all other appointments, one

27 | qualified person shall be nominated for each vacancy  
 28 | approximately 60 days prior to the end of the expiring term. The  
 29 | board of county commissioners shall confirm or reject such  
 30 | nominee within 30 days after the nomination is made. If the  
 31 | nominee is rejected, one additional qualified person shall be  
 32 | nominated within 30 days thereafter and the process shall be  
 33 | repeated in like manner until the appointment is complete or  
 34 | three nominations have been made. If the third nominee is  
 35 | rejected, the board of county commissioners alone shall make the  
 36 | appointment. The appointment of all members of the board of  
 37 | trustees in office on the effective date of this act, and the  
 38 | seats and terms for which they were appointed, are hereby  
 39 | ratified and validated. Upon the expiration of their respective  
 40 | terms, successors to Seats One, Two, Three, Four, Five, and Six  
 41 | shall be nominated by the board of trustees and confirmed by the  
 42 | board of county commissioners for a term of 4 years; successors  
 43 | to Seats Eight and Nine shall be nominated by the medical staff  
 44 | as provided herein and confirmed by the board of county  
 45 | commissioners for a term of 4 years; and successors to Seat  
 46 | Seven shall be nominated and confirmed by the board of county  
 47 | commissioners alone for a term of 4 years. In the event a seat  
 48 | becomes vacant by reason of resignation, death, removal,  
 49 | suspension, or otherwise, the bodies or body nominating and  
 50 | confirming that member shall by similar procedure nominate and  
 51 | confirm a member to fill the vacant seat for the remainder of  
 52 | the term or, in the event of a suspension, the period of

53 suspension. Every member shall serve until the expiration of  
 54 that member's term or the confirmation of that member's  
 55 successor by the board of county commissioners, whichever occurs  
 56 later. A person who has served two full, consecutive terms as a  
 57 member of the board of trustees shall not be eligible for  
 58 reconfirmation until the next regular appointment process  
 59 occurring approximately 2 years after that person's termination  
 60 of service. Each member of the board of trustees shall be and  
 61 remain a citizen and resident of the state, of sound mind and  
 62 good moral character, and without economic or other interests  
 63 either in competition with the best interests of the facilities,  
 64 services, and businesses operated and provided by Bay Medical  
 65 Center or likely to create a continuing or frequently recurring  
 66 temptation to disregard the member's fiduciary duty to Bay  
 67 Medical Center. Without limiting the foregoing, the following  
 68 persons are declared to be disqualified from service on the  
 69 board of trustees: any person employed by Bay Medical Center or  
 70 any entity controlled by Bay Medical Center; any person employed  
 71 by, holding a material interest in, or serving as an officer,  
 72 director, manager of, or business consultant or advisor to, any  
 73 business entity operating or providing facilities or services  
 74 the majority of which are in competition with the facilities or  
 75 health care services operated or offered by Bay Medical Center  
 76 or any entity controlled by Bay Medical Center; and any person  
 77 serving upon any executive, administrative, or credentialing  
 78 committee of the medical staff of any facility or organization

79 | operated by Bay Medical Center or any entity controlled by Bay  
 80 | Medical Center. As used herein, "material interest" means direct  
 81 | or indirect, legal, equitable, or beneficial ownership of or  
 82 | interest in more than 5 percent of the total assets or capital  
 83 | stock of any business entity. For purposes of this act, indirect  
 84 | ownership includes, without limitation, ownership by a spouse or  
 85 | minor child. A determination by the board of county  
 86 | commissioners, after full and fair disclosure of all relevant  
 87 | facts, that a nominee or board member is qualified  
 88 | notwithstanding the appearance of a conflict shall constitute a  
 89 | legislative determination of that fact. Members of the board of  
 90 | trustees may be removed by the Governor for cause.  
 91 | Notwithstanding the qualifications for members of the board of  
 92 | trustees set forth above, any otherwise valid act of the board  
 93 | of trustees shall be valid notwithstanding a subsequent  
 94 | determination that one or more members of the board of trustees  
 95 | were not qualified under this act to serve at the time such  
 96 | action was taken.

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