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# **Local & Federal Affairs Committee**

## **Meeting Packet**

**Thursday, January 14, 2016  
8:00 am – 10:00 am  
Webster Hall (212 Knott)**

**Steve Crisafulli  
Speaker**

**Dennis K. Baxley  
Chair**



# The Florida House of Representatives

## Local & Federal Affairs Committee

Representative Steve Crisafulli  
Speaker

Representative Dennis K. Baxley  
Chair

**Meeting Agenda**  
**Thursday, January 14, 2016**  
**212 Knott, Webster Hall**  
**08:00 a.m. – 10:00 a.m.**

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bills:

**CS/HJR 275 Homestead Tax Exemption/Senior, Low-Income, Long-Term Residents by Finance & Tax Committee, Avila**

**CS/HB 277 County and Municipality Homestead Tax Exemption by Finance & Tax Committee, Avila**

**CS/HB 315 Medical Examiners by Health Quality Subcommittee, Roberson, K.**

**HB 519 Gilchrist County Development Authority by Perry**

**HM 601 Promotion of Economic Recovery in Puerto Rico by Cortes, B.**

**CS/HB 649 Eagle Bay Sub-Drainage District, Okeechobee County by Local Government Affairs Subcommittee, Pigman**

**HB 7023 Ad Valorem Tax Exemption for Deployed Servicemembers by Finance & Tax Committee, Trumbull**

V. Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HJR 275 Homestead Tax Exemption/Senior, Low-income, Long-term Residents  
**SPONSOR(S):** Finance & Tax Committee; Avila and others  
**TIED BILLS:** HB 277 **IDEN./SIM. BILLS:** SJR 492

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	16 Y, 1 N, As CS	Dugan	Langston
2) Local Government Affairs Subcommittee	9 Y, 0 N	Monroe	Miller
3) Local & Federal Affairs Committee		Monroe <i>KSM</i>	Kiner <i>KKK</i>

### SUMMARY ANALYSIS

Article VII, section 6(d)(2) of the Florida Constitution provides that counties and municipalities, if authorized by general law, may grant an additional homestead exemption equal to the assessed value of property to any person who:

- has the legal or equitable title to real estate with a just value less than \$250,000,
- has maintained thereon the permanent residence of the owner for not less than 25 years,
- has attained age 65, and
- whose household income does not exceed \$20,000.

If the property's just value rises above \$250,000, the person no longer qualifies for the additional exemption. Rises in the just value of homesteaded property usually occur because of changes in market conditions or because of additions or improvements made to the property.

The joint resolution proposes an amendment to the Florida Constitution to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption.

The proposed constitutional amendment is effective January 1, 2017, if approved by the voters, and operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

On October 16, 2015, the Revenue Estimating Conference determined the proposed constitutional amendment has an indeterminate revenue impact on counties and municipalities, reflecting the need for approval by the voters and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

Based on 2014 advertising costs, the Division of Elections within the Department of State has estimated the full publication costs for advertising the proposed constitutional amendment to be approximately \$133,000. This would be paid from non-recurring General Revenue funds.

**A joint resolution proposing an amendment to the Florida Constitution must be passed by three-fifths of the membership of each house of the Legislature.**

**The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>1</sup> The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>3</sup> and provides for specified assessment limitations, property classifications, and exemptions.<sup>4</sup> After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>5</sup>

##### Exemptions

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>6</sup>

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Counties and municipalities, if authorized by general law, may grant either or both of the following additional homestead exemptions for purposes of their own property tax levies:

- An exemption not exceeding \$50,000 to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, and who has attained age 65, and whose household income, as defined by general law, does not exceed \$20,000;<sup>7</sup> or
- An exemption equal to the assessed value of the property to any person who has the legal or equitable title to real estate with a just value less than \$250,000, and who has maintained thereon the permanent residence of the owner for not less than 25 years, and who has attained age 65, and whose household income does not exceed \$20,000.<sup>8</sup>

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<sup>1</sup> Art. VII, s. 1(a), Fla. Const.

<sup>2</sup> Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Art. VII, s. 4, Fla. Const.

<sup>4</sup> Art. VII, ss. 3, 4, and 6, Fla. Const.

<sup>5</sup> Section 196.031, F.S.

<sup>6</sup> *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>7</sup> Art. VII, s. 6(d)(1), Fla. Const.

<sup>8</sup> Art. VII, s. 6(d)(2), Fla. Const.

The Legislature implemented these provisions in general law,<sup>9</sup> allowing counties and municipalities the discretion to grant the exemptions. Counties and municipalities may grant either or both of these exemptions through the adoption of an ordinance.<sup>10</sup>

The \$20,000 income limitation is annually adjusted for changes in cost of living,<sup>11</sup> and the income limitation in 2015 is \$28,448. The statute defines "household income" as the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code,<sup>12</sup> of all members of a household,<sup>13</sup> and requires that a taxpayer claiming the exemption annually submit to the property appraiser a sworn statement, with supporting documentation, of household income on a form prescribed by the Department of Revenue.<sup>14</sup>

For 2015, there are 21 counties that grant the low income, long-time resident assessed value exemption, totaling \$451,574,217 in exempt taxable value; in addition, 13 counties contain at least one municipality that granted the exemption for 2015, totaling \$179,894,174 in exempt taxable value.<sup>15</sup> The table below illustrates the number of exemptions and exempt taxable value.

County	County Exemption		Municipal Exemptions <sup>16</sup>	
	Count	Value	Count	Value
Bay	162	\$ 9,280,441	16	\$ 905,558
Broward		not authorized	475	\$ 19,337,090
Clay		not authorized	25	\$ 1,749,144
Columbia	35	\$ 1,868,732		
Miami-Dade	7,834	\$ 225,040,488	9,552	\$ 110,750,383
Escambia	426	\$ 13,377,459	57	\$ 1,971,205
Flagler	100	\$ 6,838,060		
Gilchrist	91	\$ 3,375,107		
Gulf	11	\$ 347,459		
Hernando	208	\$ 8,114,775		
Hillsborough	3,338	\$ 107,063,281	1,228	\$ 31,333,626
Jackson	5	\$ 445,624		
Lake	128	\$ 4,145,690		
Lee	233	\$ 7,302,100		
Leon	347	\$ 12,899,214	406	\$ 6,336,193
Madison	18	\$ 1,028,706		
Manatee	0	\$0	1	\$ 109,302
Monroe	33	\$ 1,056,766	8	\$ 115,872
Nassau	37	\$ 3,838,427		
Orange	171	\$ 10,612,072		
Putnam	716	\$ 18,442,634	121	\$ 2,203,715
Santa Rosa	31	\$ 2,398,682	5	\$ 427,564
Volusia	576	\$ 14,098,500	144	\$ 4,092,780
Walton		not authorized	14	\$561,742
<b>Total</b>	<b>14,539</b>	<b>\$ 451,574,217</b>	<b>12,052</b>	<b>\$ 179,894,174</b>

Individuals who previously qualified for the 65 or older, low income, long-term residents exemption will lose the exemption if:

<sup>9</sup> Section 196.075, F.S.

<sup>10</sup> Section 196.075(4), F.S.

<sup>11</sup> Section 196.075(3), F.S.

<sup>12</sup> 26 U.S.C. s. 62.

<sup>13</sup> Section 196.075(1)(b), F.S.

<sup>14</sup> Section 196.075(4)(d), F.S.

<sup>15</sup> Revenue Estimating Conference, Impact Conference, Homestead Exemption up to \$250,000: HJR 275/HB 277 (October 16, 2015).

<sup>16</sup> The municipal exemption column is incomplete because some municipalities did not report the information; also, certain municipalities grant the exemption but no one has applied or is eligible.

- They no longer maintain their homestead on the property,
- Their income exceeds the income limitation, or
- The just value of their homestead increases above the \$250,000 cap, either because of changes in the market or because of additions and improvement made to the homestead.

### **Effect of Proposed Changes**

The joint resolution proposes an amendment to the Florida Constitution with respect to the 65 or older, low-income, long-time resident, additional homestead exemption in art. VII, s. 6(d)(2). Specifically, the amendment proposes to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption.

The effect of the amendment is to allow a 65 or older, low-income, long-time resident to continue receiving the exemption if the homestead's just value rises above \$250,000 either due to changes in the market or because of additions or improvements made to the property. In addition, individuals who were granted the exemption in prior years, but became ineligible for the exemption because the just value of the individual's homestead rose above \$250,000, may regain the exemption if they are otherwise still qualified (the legislation operates retroactively).

The proposed constitutional amendment is effective January 1, 2017, if approved by the voters, and operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

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

Not applicable to joint resolutions proposing a constitutional amendment.

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

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

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

None.

##### **2. Expenditures:**

Article XI, s. 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Department of State, Division of Elections estimated the average cost per word to advertise an amendment to the State Constitution is \$135.97 for this fiscal year.<sup>17</sup> Based on 2014 advertising costs, the Division of Elections within the Department of State has estimated the full publication costs for advertising the proposed constitutional amendment to be approximately \$133,000. This would be paid from non-recurring General Revenue funds.

The Department of State normally is the defendant in lawsuits challenging proposed amendments to the Florida Constitution. The cost for defending these lawsuits has ranged from \$10,000 to \$150,000, depending on a number of variables.<sup>18</sup>

<sup>17</sup> 2016 Agency Legislative Bill Analysis, Department of State, HJR 165 (10/27/2015), available to Legislators and staff at <http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=5939&yr=2016> (accessed 10/29/2015), and a copy of which is maintained on file by the Local Government Affairs Subcommittee.

<sup>18</sup> 2015 Agency Legislative Bill Analysis, Department of State, HB 521 (2/23/2015), a copy of which is maintained on file by the Local Government Affairs Subcommittee.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On October 16, 2015, the Revenue Estimating Conference determined the proposed constitutional amendment would have an indeterminate fiscal impact due to the requirement for a statewide referendum, and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

However, if approved in the referendum, and if all counties and municipalities currently allowing the exemption continue to do so, the conference estimated the impact on local government revenues would be -\$0.5 million in Fiscal Year 2017-18, growing to -\$1.2 million Fiscal Year 2020-21. If all counties and municipalities in the state were to adopt the exemption as amended by this legislation, the estimated statewide impact (excluding school and special district levies, which are not authorized to grant this exemption) is -\$1.6 million in 2017-18, growing to -\$4.2 million in 2020-21.<sup>19</sup>

The above estimates assume current millage rates and do not include any impacts of the retroactive provisions of the proposal.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the proposed amendment is approved by the electorate, certain long-time residents could maintain property tax relief regardless of increases in the just value of the homestead property due to either changing market conditions or because of additions or improvements made to the property. Further, a resident that lost the exemption (because the just value of his or her property rose above \$250,000) may regain the exemption if he or she is otherwise qualified.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.<sup>20</sup> The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.<sup>21</sup>

<sup>19</sup> Revenue Estimating Conference, Impact Conference, Homestead Exemption up to \$250,000: HJR 275/HB 277 (October 16, 2015).

<sup>20</sup> Art. XI, s. 1, Fla. Const.

<sup>21</sup> Art. XI, s. 5, Fla. Const.



Article XI, section 5(e) of the Florida Constitution, requires approval by 60 percent of voters for a constitutional amendment to take effect.

**B. RULE-MAKING AUTHORITY:**

The resolution does not provide authority or require implementation by administrative agency rulemaking

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On November 5, 2015, the Finance & Tax Committee adopted a strike all amendment which revised the joint resolution to clarify the tax year that the determination of just value is made, provide an effective date, and provide that the joint resolution operates retroactively for any person who received the exemption prior to January 1, 2017.

This analysis is written to HJR 275 as amended.

House Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution to revise the homestead tax exemption that may be granted by counties or municipalities, if authorized by general law, for the assessed value of property with a just value less than \$250,000 and owned by persons age 65 or older who meet certain residence and income requirements to specify that just value shall be determined in the first tax year that the owner applies and is eligible for the exemption and to provide retroactive applicability and an effective date.

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

That the following amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.-

27 (a) Every person who has the legal or equitable title to  
 28 real estate and maintains thereon the permanent residence of the  
 29 owner, or another legally or naturally dependent upon the owner,  
 30 shall be exempt from taxation thereon, except assessments for  
 31 special benefits, up to the assessed valuation of twenty-five  
 32 thousand dollars and, for all levies other than school district  
 33 levies, on the assessed valuation greater than fifty thousand  
 34 dollars and up to seventy-five thousand dollars, upon  
 35 establishment of right thereto in the manner prescribed by law.  
 36 The real estate may be held by legal or equitable title, by the  
 37 entireties, jointly, in common, as a condominium, or indirectly  
 38 by stock ownership or membership representing the owner's or  
 39 member's proprietary interest in a corporation owning a fee or a  
 40 leasehold initially in excess of ninety-eight years. The  
 41 exemption shall not apply with respect to any assessment roll  
 42 until such roll is first determined to be in compliance with the  
 43 provisions of section 4 by a state agency designated by general  
 44 law. This exemption is repealed on the effective date of any  
 45 amendment to this Article which provides for the assessment of  
 46 homestead property at less than just value.

47 (b) Not more than one exemption shall be allowed any  
 48 individual or family unit or with respect to any residential  
 49 unit. No exemption shall exceed the value of the real estate  
 50 assessable to the owner or, in case of ownership through stock  
 51 or membership in a corporation, the value of the proportion  
 52 which the interest in the corporation bears to the assessed

53 value of the property.

54 (c) By general law and subject to conditions specified  
 55 therein, the Legislature may provide to renters, who are  
 56 permanent residents, ad valorem tax relief on all ad valorem tax  
 57 levies. Such ad valorem tax relief shall be in the form and  
 58 amount established by general law.

59 (d) The legislature may, by general law, allow counties or  
 60 municipalities, for the purpose of their respective tax levies  
 61 and subject to the provisions of general law, to grant either or  
 62 both of the following additional homestead tax exemptions:

63 (1) An exemption not exceeding fifty thousand dollars to a  
 64 ~~any~~ person who has the legal or equitable title to real estate  
 65 and maintains thereon the permanent residence of the owner, and  
 66 who has attained age sixty-five, and whose household income, as  
 67 defined by general law, does not exceed twenty thousand dollars;  
 68 or

69 (2) An exemption equal to the assessed value of the  
 70 property to a ~~any~~ person who has the legal or equitable title to  
 71 real estate with a just value less than two hundred and fifty  
 72 thousand dollars, as determined in the first tax year that the  
 73 owner applies and is eligible for the exemption, and who has  
 74 maintained thereon the permanent residence of the owner for not  
 75 less than twenty-five years, and who has attained age sixty-  
 76 five, and whose household income does not exceed the income  
 77 limitation prescribed in paragraph (1).  
 78

79 The general law must allow counties and municipalities to grant  
 80 these additional exemptions, within the limits prescribed in  
 81 this subsection, by ordinance adopted in the manner prescribed  
 82 by general law, and must provide for the periodic adjustment of  
 83 the income limitation prescribed in this subsection for changes  
 84 in the cost of living.

85 (e) Each veteran who is age 65 or older who is partially  
 86 or totally permanently disabled shall receive a discount from  
 87 the amount of the ad valorem tax otherwise owed on homestead  
 88 property the veteran owns and resides in if the disability was  
 89 combat related and the veteran was honorably discharged upon  
 90 separation from military service. The discount shall be in a  
 91 percentage equal to the percentage of the veteran's permanent,  
 92 service-connected disability as determined by the United States  
 93 Department of Veterans Affairs. To qualify for the discount  
 94 granted by this subsection, an applicant must submit to the  
 95 county property appraiser, by March 1, an official letter from  
 96 the United States Department of Veterans Affairs stating the  
 97 percentage of the veteran's service-connected disability and  
 98 such evidence that reasonably identifies the disability as  
 99 combat related and a copy of the veteran's honorable discharge.  
 100 If the property appraiser denies the request for a discount, the  
 101 appraiser must notify the applicant in writing of the reasons  
 102 for the denial, and the veteran may reapply. The Legislature  
 103 may, by general law, waive the annual application requirement in  
 104 subsequent years. This subsection is self-executing and does not

105 require implementing legislation.

106 (f) By general law and subject to conditions and  
 107 limitations specified therein, the Legislature may provide ad  
 108 valorem tax relief equal to the total amount or a portion of the  
 109 ad valorem tax otherwise owed on homestead property to the:

110 (1) Surviving spouse of a veteran who died from service-  
 111 connected causes while on active duty as a member of the United  
 112 States Armed Forces.

113 (2) Surviving spouse of a first responder who died in the  
 114 line of duty.

115 (3) As used in this subsection and as further defined by  
 116 general law, the term:

117 a. "First responder" means a law enforcement officer, a  
 118 correctional officer, a firefighter, an emergency medical  
 119 technician, or a paramedic.

120 b. "In the line of duty" means arising out of and in the  
 121 actual performance of duty required by employment as a first  
 122 responder.

123 ARTICLE XII

124 SCHEDULE

125 Additional ad valorem exemption for persons age sixty-five  
 126 or older.—This section and the amendment to Section 6 of Article  
 127 VII revising the just value determination for the additional ad  
 128 valorem tax exemption for persons age sixty-five or older shall  
 129 take effect January 1, 2017, following approval by the electors,  
 130 and shall operate retroactively to January 1, 2013, for any

131 | person who received the exemption under paragraph (2) of Section  
 132 | 6(d) of Article VII before January 1, 2017.

133 | BE IT FURTHER RESOLVED that the following statement be  
 134 | placed on the ballot:

135 | CONSTITUTIONAL AMENDMENT

136 | ARTICLE VII, SECTION 6

137 | ARTICLE XII

138 | HOMESTEAD TAX EXEMPTION FOR CERTAIN SENIOR, LOW-INCOME,  
 139 | LONG-TERM RESIDENTS; DETERMINATION OF JUST VALUE.—Proposing an  
 140 | amendment to the State Constitution to revise the homestead tax  
 141 | exemption that may be granted by counties or municipalities for  
 142 | property with just value less than \$250,000 owned by certain  
 143 | senior, low-income, long-term residents to specify that just  
 144 | value is determined in the first tax year the owner applies and  
 145 | is eligible for the exemption. The amendment takes effect  
 146 | January 1, 2017, and applies retroactively to exemptions granted  
 147 | before January 1, 2017.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 277 County and Municipality Property Tax Exemption  
**SPONSOR(S):** Finance & Tax Committee; Avila and others  
**TIED BILLS:** HJR 275 **IDEN./SIM. BILLS:** SB 488

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	16 Y, 1 N, As CS	Dugan	Langston
2) Local Government Affairs Subcommittee	9 Y, 0 N	Monroe	Miller
3) Local & Federal Affairs Committee		Monroe <i>KDSM</i>	Kiner <i>KUK</i>

### SUMMARY ANALYSIS

The bill implements CS/HJR 275, which proposes to amend article VII, section 6(d) of the Florida Constitution. This section authorizes legislation allowing county and municipal governments the option to create an additional homestead exemption on the assessed value of property with a just value under \$250,000 owned by certain low-income, long-time residents. Specifically, the joint resolution proposes to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption.

Section 196.075, F.S., authorizes counties and municipalities to grant an additional homestead exemption equal to the assessed value of property to any person who:

- has the legal or equitable title to real estate with a just value less than \$250,000,
- has maintained thereon the permanent residence of the owner for not less than 25 years,
- has attained age 65, and
- whose household income does not exceed \$20,000.

Currently, if the property's just value rises above \$250,000, the person no longer qualifies for the additional exemption. Increases in the just value of homesteaded property usually occur because of changes in market conditions or because of additions or improvements made to the property.

The bill amends s. 196.075(2), F.S., to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption. In addition, individuals who were granted the exemption in prior years, but became ineligible for the exemption because the just value of the individual's homestead rose above \$250,000, may regain the exemption if they are otherwise still qualified (the legislation operates retroactively). Finally, individuals who received the exemption prior to the effective date of the bill may apply to the tax collector for a refund for any prior year in which the exemption was denied solely because the just value of the homestead property was greater than \$250,000.

On October 16, 2015, the Revenue Estimating Conference determined the bill has an indeterminate revenue impact on counties and municipalities, reflecting the need for approval of CS/HJR 275 by the voters and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

The bill will take effect January 1, 2017, if CS/HJR 275 or a similar joint resolution having substantially the same specific intent and purpose is approved by the electors at the general election to be held in November 2016. Further, the bill operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

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

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.<sup>1</sup> The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.<sup>2</sup> The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,<sup>3</sup> and provides for specified assessment limitations, property classifications, and exemptions.<sup>4</sup> After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.<sup>5</sup>

##### **Exemptions**

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.<sup>6</sup>

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

Counties and municipalities, if authorized by general law, may grant either or both of the following additional homestead exemptions for purposes of their own property tax levies:

- An exemption not exceeding \$50,000 to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, and who has attained age 65, and whose household income, as defined by general law, does not exceed \$20,000;<sup>7</sup> or
- An exemption equal to the assessed value of the property to any person who has the legal or equitable title to real estate with a just value less than \$250,000, and who has maintained thereon the permanent residence of the owner for not less than 25 years, and who has attained age 65, and whose household income does not exceed \$20,000.<sup>8</sup>

<sup>1</sup> Art. VII, s. 1(a), Fla. Const..

<sup>2</sup> Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

<sup>3</sup> Art. VII, s. 4, Fla. Const.

<sup>4</sup> Art. VII, ss. 3, 4, and 6, Fla. Const.

<sup>5</sup> Section 196.031, F.S.

<sup>6</sup> *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

<sup>7</sup> Art. VII, s. 6(d)(1), Fla. Const.

<sup>8</sup> Art. VII, s. 6(d)(2), Fla. Const.

The Legislature implemented these provisions in general law,<sup>9</sup> allowing counties and municipalities the discretion to grant the exemptions. Counties and municipalities may grant either or both of these exemptions through the adoption of an ordinance.<sup>10</sup>

The \$20,000 income limitation is annually adjusted for changes in cost of living,<sup>11</sup> and the income limitation in 2015 is \$28,448. The statute defines "household income" as the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code,<sup>12</sup> of all members of a household,<sup>13</sup> and requires that a taxpayer claiming the exemption annually submit to the property appraiser a sworn statement, with supporting documentation, of household income on a form prescribed by the Department of Revenue.<sup>14</sup>

For 2015, there are 21 counties that grant the low income, long-time resident assessed value exemption, totaling \$451,574,217 in exempt taxable value; in addition, 13 counties contain at least one municipality that granted the exemption for 2015, totaling \$179,894,174 in exempt taxable value.<sup>15</sup> The table below illustrates the number of exemptions and exempt taxable value.

County	County Exemption		Municipal Exemptions <sup>16</sup>	
	Count	Value	Count	Value
Bay	162	\$ 9,280,441	16	\$ 905,558
Broward		not authorized	475	\$ 19,337,090
Clay		not authorized	25	\$ 1,749,144
Columbia	35	\$ 1,868,732		
Miami-Dade	7,834	\$ 225,040,488	9,552	\$ 110,750,383
Escambia	426	\$ 13,377,459	57	\$ 1,971,205
Flagler	100	\$ 6,838,060		
Gilchrist	91	\$ 3,375,107		
Gulf	11	\$ 347,459		
Hernando	208	\$ 8,114,775		
Hillsborough	3,338	\$ 107,063,281	1,228	\$ 31,333,626
Jackson	5	\$ 445,624		
Lake	128	\$ 4,145,690		
Lee	233	\$ 7,302,100		
Leon	347	\$ 12,899,214	406	\$ 6,336,193
Madison	18	\$ 1,028,706		
Manatee	0	\$0	1	\$ 109,302
Monroe	33	\$ 1,056,766	8	\$ 115,872
Nassau	37	\$ 3,838,427		
Orange	171	\$ 10,612,072		
Putnam	716	\$ 18,442,634	121	\$ 2,203,715
Santa Rosa	31	\$ 2,398,682	5	\$ 427,564
Volusia	576	\$ 14,098,500	144	\$ 4,092,780
Walton		not authorized	14	\$561,742
<b>Total</b>	<b>14,539</b>	<b>\$ 451,574,217</b>	<b>12,052</b>	<b>\$ 179,894,174</b>

<sup>9</sup> Section 196.075, F.S.

<sup>10</sup> Section 196.075(4), F.S.

<sup>11</sup> Section 196.075(3), F.S.

<sup>12</sup> 26 U.S.C. s. 62.

<sup>13</sup> Section 196.075(1)(b), F.S.

<sup>14</sup> Section 196.075(4)(d), F.S.

<sup>15</sup> Revenue Estimating Conference, Impact Conference, Homestead Exemption up to \$250,000: HJR 275/HB 277 (October 16, 2015).

<sup>16</sup> The municipal exemption column is incomplete because some municipalities did not report the information; also, certain municipalities grant the exemption but no one has applied or is eligible.

Individuals who previously qualified for the 65 and older, low income, long-term residents exemption will lose the exemption if:

- They no longer maintain their homestead on the property,
- Their income exceeds the income limitation, or
- The just value of their homestead increases above the \$250,000 cap, either because of changes in the market or because of additions and improvement made to the homestead.

### **Effect of Proposed Changes**

The bill amends s. 196.075(2), F.S., to limit the just value determination, for purposes of the exemption, to the value as determined in the first tax year that the owner applies for and is eligible for the exemption. The effect of the amendment is to allow a 65 or older, low-income, long-time resident to continue receiving the exemption if the homestead's just value rises above \$250,000 either due to changes in the market or because of additions or improvements made to the property.

In addition, individuals who were granted the exemption in prior years, but became ineligible for the exemption because the just value of the individual's homestead rose above \$250,000, may regain the exemption by reapplying for the exemption. The just value determination for such person shall be the just value as determined in the first tax year that the owner applied for and was eligible for the exemption, regardless of the current just value of his or her homestead property.

Individuals who received the exemption prior to the effective date of the bill may apply to the tax collector for a refund, pursuant to s. 197.182, for any prior year in which the exemption was denied solely because the just value of the homestead property was greater than \$250,000. The refund for a given year is equal to the difference between the previous tax liability for that year without the exemption and their tax liability with the exemption.

The bill is effective January 1, 2017, if CS/HJR 275 or a similar joint resolution is approved by the voters, and operates retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

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

- Section 1. Amends s. 196.075(2), F.S., to limit the just value determination for the exemption.
- Section 2. Provides when the just value determination is made for a person who received the exemption under s. 196.075(2)(b), F.S., prior to the effective date of this act.
- Section 3. Provides that certain persons may apply to the tax collector for a refund for prior year exemption denials.
- Section 4. Provides an effective date and retroactive applicability.

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

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

1. Revenues:

None.

2. Expenditures:

None.

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

**1. Revenues:**

On October 16, 2015, the Revenue Estimating Conference determined the bill has an indeterminate fiscal impact due to the requirement for a statewide referendum to approve CS/HJR 275, and the ability of local governments to choose whether or not to allow the exemption in their jurisdiction.

However, if CS/HJR 275 is approved in the referendum, and if all counties and municipalities currently allowing the exemption continue to do so, the conference estimated the impact on local government revenues would be -\$0.5 million in Fiscal Year 2017-18, growing to -\$1.2 million in Fiscal Year 2020-21. If all counties and municipalities in the state were to adopt the exemption as amended by this legislation, the estimated statewide impact (excluding school and special district levies, which are not authorized to grant this exemption) is -\$1.6 million in 2017-18, growing to -\$4.2 million in 2020-21.<sup>17</sup>

The above estimates assume current millage rates and do not include any impacts of the retroactive provisions of the proposal.

**2. Expenditures:**

None.

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

If the bill becomes law, certain long-time residents could maintain property tax relief regardless of increases in the just value of the homestead property due to either changing market conditions or because of additions or improvements made to the property. Further, a resident that lost the exemption (because the just value of his or her property rose above \$250,000) may regain the exemption if he or she is otherwise qualified.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

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

Not Applicable. This bill does not require counties or municipalities to spend funds or take action requiring the expenditures 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:**

The bill does not provide authority or require implementation by administrative agency rulemaking.

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

None.

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

On November 5, 2015, the Finance & Tax Committee adopted a strike all amendment which revised the bill to:

- clarify the tax year in which the just value of the property is determined,
- provide that the just value determination for a person who received the exemption prior to the effective date of the bill is made when such person first applied for the exemption, regardless of the current just value,
- provide that certain persons may apply to the tax collector for a refund for prior year exemption denials,
- provide an effective date, and
- provide that the bill operates retroactively for any person who received the exemption prior to January 1, 2017.

This analysis is written to CS/HB 277.

1                                   A bill to be entitled  
 2           An act relating to a county and municipality homestead  
 3           tax exemption; amending s. 196.075, F.S.; revising the  
 4           homestead tax exemption that may be adopted by a  
 5           county or municipality by ordinance for the assessed  
 6           value of property with a just value less than \$250,000  
 7           which is owned by persons age 65 or older who meet  
 8           certain residence and income requirements; specifying  
 9           that just value shall be determined in the first tax  
 10          year that the owner applies and is eligible for the  
 11          exemption; providing for a refund of overpaid taxes in  
 12          prior years; providing retroactive applicability;  
 13          providing a contingent effective date.

14  
 15   Be It Enacted by the Legislature of the State of Florida:

16  
 17          Section 1. Subsection (2) of section 196.075, Florida  
 18          Statutes, is amended to read:

19                196.075 Additional homestead exemption for persons 65 and  
 20                older.—

21                (2) In accordance with s. 6(d), Art. VII of the State  
 22                Constitution, the board of county commissioners of any county or  
 23                the governing authority of any municipality may adopt an  
 24                ordinance to allow either or both of the following additional  
 25                homestead exemptions:

26                (a) Up to \$50,000 for a ~~any~~ person who has the legal or

27 | equitable title to real estate and maintains thereon the  
 28 | permanent residence of the owner, who has attained age 65, and  
 29 | whose household income does not exceed \$20,000. ~~or~~

30 | (b) The amount of the assessed value of the property for a  
 31 | ~~any~~ person who has the legal or equitable title to real estate  
 32 | with a just value less than \$250,000, as determined in the first  
 33 | tax year that the owner applies and is eligible for the  
 34 | exemption, and who has maintained thereon the permanent  
 35 | residence of the owner for at least 25 years, who has attained  
 36 | age 65, and whose household income does not exceed the income  
 37 | limitation prescribed in paragraph (a), as calculated in  
 38 | subsection (3).

39 | Section 2. For purposes of s. 196.075(2) (b), Florida  
 40 | Statutes, as amended by this act, the just value determination  
 41 | for a person who received the exemption under s. 196.075(2) (b),  
 42 | Florida Statutes, before the effective date of this act shall be  
 43 | the just value as determined in the first tax year that the  
 44 | owner applied and was eligible for the exemption before the  
 45 | effective date of this act. Such person may reapply for the  
 46 | exemption in subsequent years, regardless of the current just  
 47 | value of his or her homestead property.

48 | Section 3. For purposes of s. 196.075(2) (b), Florida  
 49 | Statutes, as amended by this act, a person who received the  
 50 | exemption under s. 196.075(2) (b), Florida Statutes, before the  
 51 | effective date of this act may apply to the tax collector for a  
 52 | refund, pursuant to s. 197.182, Florida Statutes, for any prior



53 year in which the exemption was denied solely because the just  
 54 value of the homestead property was greater than \$250,000. The  
 55 refund for any year shall be equal to the difference between the  
 56 previous tax liability for that year without the exemption and  
 57 the tax liability with the exemption.

58 Section 4. This act shall take effect on the same date  
 59 that CS/HJR 275 or a similar joint resolution having  
 60 substantially the same specific intent and purpose takes effect,  
 61 if such joint resolution is approved by the electors at the  
 62 general election to be held in November 2016, and shall apply  
 63 retroactively to the 2013 tax roll for any person who received  
 64 the exemption under s. 196.075(2)(b) before the effective date  
 65 of this act.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 315 Medical Examiners
SPONSOR(S): Health Quality Subcommittee; Roberson
TIED BILLS: IDEN./SIM. BILLS: SB 620

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: 1) Health Quality Subcommittee, 9 Y, 3 N, As CS, McElroy, O'Callaghan. Row 2: 2) Local & Federal Affairs Committee, Darden, Kiner. Row 3: 3) Health & Human Services Committee.

SUMMARY ANALYSIS

Section 406.06, F.S., entitles a medical examiner to compensation, and a reasonable salary and fees as established by a board of county commissioners. A number of counties have interpreted this provision as authority for their board of county commissioners to authorize their district medical examiner to collect a user fee for a determination of cause of death performed when a body is to be cremated, dissected, or buried at sea pursuant to s. 406.11(1)(c), F.S. The bill amends s. 406.06, F.S., to prohibit a medical examiner or a county from charging a member of the public a fee for an examination, investigation, or autopsy performed by a medical examiner pursuant to s. 406.11, F.S.

Section 382.011, F.S., requires any case in which a death or fetal death resulted from the causes or conditions listed in s. 406.011, F.S., to be referred to the district medical examiner for the determination of the cause of death. The bill corrects a citation in s. 382.011, F.S., to clarify that only deaths and fetal deaths involving circumstances set forth in subsection (1) of s. 406.11, F.S., are required to be referred to the district medical examiner for the determination of the cause of death. The remaining provisions in s. 406.11, F.S., are not related to causes or conditions of death upon which a medical examiner can make a determination.

The bill has no fiscal impact on state government and may have a negative, fiscal impact on those local governments that currently assess a user fee for medical examiner services provided pursuant to s. 406.11, F.S. It is unclear whether counties have statutory authority to collect a user fee for a determination of cause of death performed when a body is to be cremated, dissected, or buried at sea.

The bill provides an effective date of October 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Medical Examiners Act

The Medical Examiners Act (Act), ch. 406, F.S., establishes minimum and uniform requirements for statewide medical examiner services. The Act created the Medical Examiners Commission (Commission) which is composed of seven persons appointed by the Governor, the Attorney General and the State Surgeon General. The Commission is responsible for establishing, by rule, minimum and uniform standards of excellence, performance of duties, and maintenance of records requirements for medical examiners.<sup>1</sup> The Commission is additionally responsible for the creation of medical examiner districts throughout the state.<sup>2</sup> There are currently 24 medical examiner districts.<sup>3</sup>

##### Determination of Cause of Death

Each district medical examiner is responsible for conducting investigations, examinations and autopsies and reporting vital statistics to the Department of Health for their district. Section 382.011, F.S., currently requires that any case of death or fetal death due to causes or conditions listed in s. 406.11, F.S., be referred to the district medical examiner for investigation and determination of the cause of death.

The causes and conditions of death listed in s. 406.11(1), F.S., can be separated into two categories. Section 406.11(1)(a), F.S., sets forth causes and conditions related to the circumstances surrounding the death and requires a determination of the cause when any person dies in the state:

- Of criminal violence;
- By accident;
- By suicide;
- Suddenly, when in apparent good health;
- Unattended by a practicing physician or other recognized practitioner;
- In any prison or penal institution;
- In police custody;
- In any suspicious or unusual circumstance;
- By criminal abortion;
- By poison;
- By disease constituting a threat to public health; or
- By disease, injury, or toxic agent resulting from employment.

Sections 406.11(1)(b) and (c), F.S., relate to transport and disposal of the decedent's remains and require a determination of the cause of death when a dead body is:

- Brought into the state without proper medical certification; or
- To be cremated, dissected, or buried at sea.

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<sup>1</sup> Section 406.04, F.S.

<sup>2</sup> Section 406.05, F.S.

<sup>3</sup> A map of the medical examiner districts in Florida is available at <http://myfloridamedicalexaminer.com/> (last viewed on November 20, 2015).

Under s. 406.11(1) F.S., the district medical examiner is authorized to perform any such examinations, investigations, and autopsies as he or she deems necessary to determine the cause of death. The complexity of the determination of the cause of death, however, can differ greatly depending on whether the investigation is required pursuant to s. 406.11(1)(a), F.S., or s. 406.11(1)(c), F.S.

A determination pursuant to s. 406.11(1)(a), F.S., requires a comprehensive review to determine the cause of a death that occurred under unusual circumstances.<sup>4</sup> Physical inspection of the decedent's remains is typically required.<sup>5</sup> As such, a district medical examiner usually performs autopsies or other necessary physical examinations.<sup>6</sup> A district medical examiner also typically requests and reviews any pertinent documentation related to the person's death.<sup>7</sup>

When a death occurs under ordinary circumstances, the district medical examiner does not perform an autopsy or investigation.<sup>8</sup> The disposition of the remains occurs and no further issues arise. On occasion, issues arise after disposition which raise the question of whether a death actually occurred under ordinary circumstances. In these situations the body is exhumed and the district medical examiner performs a determination of cause of death. This examination cannot occur if the body has been cremated, dissected or buried at sea. Thus, s. 406.11(1)(c), F.S., requires the medical examiner to make a determination of cause of death in situations where there is an irretrievable disposal of the remains.

Determinations of the cause of death performed pursuant to s. 406.11(1)(c), F.S., are generally administrative in nature.<sup>9</sup> The process begins with the funeral director completing the death certificate and forwarding it to the decedent's attending or primary physician for signature.<sup>10</sup> Once the funeral director receives the signed death certificate, he or she forwards it to the district medical examiner for review. Unless the medical examiner identifies an issue on the face of the death certificate, he or she grants approval and the funeral director may proceed with the disposal of the remains.<sup>11</sup> The medical examiner may conduct a more thorough investigation if he or she identifies an issue on the face of the death certificate.<sup>12</sup> For example, if a secondary cause of death is a fractured hip, the medical examiner may request additional information to ensure that it was not related to abuse or neglect. Even in that situation, the investigation is generally less comprehensive than the investigation performed under s. 406.11(1)(a), F.S.

Prior to 2012, the approval process for a death certificate was a slow and arduous paper process.<sup>13</sup> It required the manual entry and the transmittal of information through numerous offices within county and state departments.<sup>14</sup> However, in 2012, Florida's Department of Health automated the process through the Electronic Death Registration System. The electronic transmittal of the information has made the approval process more efficient by reducing reporting time and allows for more timely issuances of

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<sup>4</sup> In 2014, 187,944 death certificates were issued. Medical examiners investigation into these deaths consisted of 9,809 autopsies, 5,320 body inspections and 3,291 investigations (body was not viewed). *2014 Annual Report*, Florida Dept. of Law Enforcement (FDLE) Medical Examiners Commission, published August 2015, available at <https://www.fdle.state.fl.us/Content/Medical-Examiners-Commission/MEC-Publications-and-Forms.aspx> (last viewed December 10, 2015).

<sup>5</sup> *Practice Guidelines for Florida Medical Examiners*, Florida Association of Medical Examiners, 2010.

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

<sup>7</sup> *Id.*

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

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

<sup>10</sup> Section 382.008, F.S. In 2014, there were 187,944 death certificates issued of which 165,419 were issued by physicians. Correspondence from the Florida Department of Health to Florida House of Representatives Health Quality Subcommittee, dated October 21, 2015 (on file with the Health Quality Subcommittee).

<sup>11</sup> Florida Association of Medical Examiners, *supra* footnote 5.

<sup>12</sup> *Id.*

<sup>13</sup> *Electronic Death Registration*, Florida Department of Health.

<http://www.floridahealth.gov/%5C/certificates/certificates/EDRS/index.html> (last viewed on November 20, 2015).

<sup>14</sup> *Id.*

death certificates.<sup>15</sup> In 2014, county health departments issued 1,267,336 certified death certificates for which \$13,005,798 in fees were collected.<sup>16</sup>

### Medical Examiner User Fees

District medical examiners and associate medical examiners are entitled to reasonable salary and fees as established by the board of county commissioners.<sup>17</sup> Fees are approved on a county by county basis and may vary within a district.<sup>18</sup> Twenty-two of the twenty-four medical examiner districts operate their own facilities, of which 19 charge a user fee for cremation approval.<sup>19</sup> The user fees range from no charge in 25 counties<sup>20</sup> to more than \$50 in two districts.<sup>21</sup> The estimated revenue from these fees in 2014 was approximately \$3.98 million.<sup>22</sup>

### **Effect of Proposed Changes**

The bill amends s. 406.06, F.S., to prohibit a medical examiner or a county from charging a member of the public a fee for an examination, investigation, or autopsy performed pursuant to s. 406.11, F.S.

Section 382.011, F.S., requires any case in which a death or fetal death resulted from the causes or conditions listed in s. 406.11, F.S., to be referred to the district medical examiner for the determination of the cause of death. The bill corrects a citation in s. 382.011, F.S., to clarify that only deaths and fetal deaths involving circumstances set forth in subsection (1) of s. 406.11, F.S., are required to be referred to the district medical examiner for the determination of the cause of death. The remaining provisions in s. 406.11, F.S., are not related to causes or conditions of death upon which a medical examiner can make a determination. Instead, the remaining provisions:

- Grant medical examiners discretion to perform autopsies and other laboratory examinations necessary to determine the cause of death;
- Require the Medical Examiners Commission to adopt rules to require a medical examiner to notify the decedent's next of kin of a medical examiner investigation;
- Prohibit a medical examiner from retaining or furnishing a body part of the deceased for research or other purposes without approval by the next of kin; and
- Provide rulemaking authority for the Medical Examiners Commission.

The bill provides an effective date of October 1, 2016.

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

**Section 1:** Amends s. 382.011, F.S., correcting and clarifying a cross-reference to s. 406.11(1), F.S.

**Section 2:** Amends s. 406.06, F.S., prohibiting a medical examiner or county from charging a fee to a member of the public for an examination, investigation, or autopsy performed pursuant to s. 406.11, F.S.

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<sup>15</sup> *Id.*

<sup>16</sup> See s. 382.0255(1), F.S. (authorizing the Department of Health to charge fees for retrieving and reproducing death certificates); Death Sales Chart, provided by the Department of Health on file with the House of Representatives Health Quality Subcommittee (amount of fees collected in 2014).

<sup>17</sup> Section 406.06(3), F.S.

<sup>18</sup> 2016 FDLE Legislative Bill Analysis for HB 315 dated October 7, 2015 (on file with the Florida House of Representatives Health Quality Subcommittee).

<sup>19</sup> *Id.*

<sup>20</sup> As of 2013, District 2 (Franklin, Gadsden, Leon, Liberty, Jefferson, Taylor, and Wakulla), District 8 (Alachua, Baker, Bradford, Gilchrist, Levy, Union, and Dixie), District 14 (Bay, Calhoun, Gulf, Jackson, Washington and Holmes), District 20 (Collier), and District 22 (Charlotte) did not charge medical examiner approval user fees. Additionally, Okaloosa (District 1), Hardee (District 10), and Highland (District 10) did not charge a medical examiner approval user fee.

<sup>21</sup> District 11 (Miami-Dade) and District 17 (Broward). Miami-Dade County charges a fee of \$63; Broward County charges a fee of \$54.

<sup>22</sup> FDLE, *supra* footnote 18.

**Section 3:** Provides an effective date of October 1, 2016.

## 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:

Currently 19 of the 24 medical examiner districts, comprising 42 counties, charge user fees for any determination of the cause of death performed pursuant to s. 406.11(1)(c), F.S. The user fees vary from district to district. Assuming medical examiners charged a user fee for every death that occurred within their medical examiner districts in 2014, the medical examiners' charges would have totaled approximately \$3.98 million.<sup>23</sup> The bill amends s. 406.06, F.S., to prohibit a medical examiner or a county from charging a member of the public such fees. Consequently, counties will be negatively impacted and won't be able to derive revenue from such fees.

2. Expenditures:

Indeterminate. The actual cost to the counties is unclear as there is a broad discrepancy in the user fees currently charged (fees range from no charge to \$63 per approval), and there does not seem to be a correlation between the fees charged to services being provided by the medical examiner.

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

Because the bill prohibits medical examiners and counties from charging fees to a member of the public, the private sector may achieve some cost-savings.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

It is unclear whether counties have statutory authority to collect a user fee for a determination of cause of death performed when a body is to be cremated, dissected, or buried at sea pursuant to s. 406.11(1)(c), F.S. For example, despite an Attorney General Opinion from 2003<sup>24</sup> stating that a cremation approval fee did not appear to be authorized by statute and that cremation approval should be provided without charge to the public as a service of the medical examiner's office, 43 counties still charge such a fee.

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<sup>23</sup> FDLE, *supra* footnote 18.

<sup>24</sup> 2003-57 Fla. Op. Att'y Gen. 5 (December 15, 2003).

Article VII, s. 18 of the Florida Constitution, prohibits the Legislature from enacting a general law that reduces the authority of municipalities or counties to raise revenues in the aggregate, unless each chamber of the Legislature enacts such law by two-thirds vote or unless an exemption applies. Due to the uncertainty as to whether counties currently have the authority to charge fees pursuant to s. 406.11(1)(c), F.S., the bill, if enacted, may be challenged as being in violation of Article VII, s. 18 of the Florida Constitution, but would withstand such a challenge if enacted by a two-thirds vote of each chamber or if the law is determined to have an insignificant fiscal impact on the counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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

On December 1, 2015, the Health Quality Subcommittee adopted an amendment and reported the bill favorable as a committee substitute. The amendment prohibits a medical examiner or a county from charging a member of the public a fee for certain services performed by medical examiners.

This analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.



1                                   A bill to be entitled  
2       An act relating to medical examiners; amending s.  
3       382.011, F.S.; specifying the circumstances under  
4       which a case must be referred to the district medical  
5       examiner for determination of the cause of death;  
6       amending s. 406.06, F.S.; prohibiting a medical  
7       examiner or a county from charging a fee for specified  
8       services; providing an effective date.

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

11  
12       Section 1. Subsection (1) of section 382.011, Florida  
13 Statutes, is amended to read:

14       382.011 Medical examiner determination of cause of death.—

15       (1) In the case of any death or fetal death involving the  
16 circumstances ~~due to causes or conditions~~ listed in s. 406.11(1)  
17 ~~406.11~~, any death that occurred more than 12 months after the  
18 decedent was last treated by a primary or attending physician as  
19 defined in s. 382.008(3), or any death for which there is reason  
20 to believe that the death may have been due to an unlawful act  
21 or neglect, the funeral director or other person to whose  
22 attention the death may come shall refer the case to the  
23 district medical examiner of the county in which the death  
24 occurred or the body was found for investigation and  
25 determination of the cause of death.

26       Section 2. Subsection (3) of section 406.06, Florida

27 Statutes, is amended to read:

28 406.06 District medical examiners; associates; suspension  
 29 of medical examiners.—




30 (3) District medical examiners and associate medical  
 31 examiners shall be entitled to compensation and such reasonable  
 32 salary and fees as are established by the board of county  
 33 commissioners in the respective districts. However, a medical  
 34 examiner or a county may not charge a member of the public a fee  
 35 for an examination, investigation, or autopsy performed pursuant  
 36 to s. 406.11.

37 Section 3. This act shall take effect October 1, 2016.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 519 Gilchrist County Development Authority  
**SPONSOR(S):** Perry  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	7 Y, 0 N	Walker 	Miller
2) Local & Federal Affairs Committee		Walker 	Kiner 

**SUMMARY ANALYSIS**

“Special Districts” are a type of limited local government created to perform specific services within a described geographic area. Sometimes called special taxing districts, most are created either by special act (independent special districts) or county or municipal ordinance (dependent special districts). The Special District Accountability Program in the Department of Economic Opportunity (DEO) is responsible for creating and maintaining a current list of all special districts in Florida, as provided in ch. 189, F.S., the Uniform Special District Accountability Act.

When a special district fails to meet certain statutory responsibilities, no longer functions, or informs DEO it is no longer active, DEO is required to follow the statutory process before declaring the district inactive. This includes documenting one or more statutory criteria for inactive status, publishing notice in the area of the district of DEO’s intent to declare the district inactive, and documenting the lack of any objection to declaring the district inactive. DEO is required to deliver written notice of the declaration of inactive status to specific authorities. If the district was created by special act, notice is delivered to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight. If the district was created by local ordinance, notice is delivered to the governing body of the county or municipality that created the district. A special district declared inactive may not collect taxes, assessments, or fees while the declaration is in effect. However, the district still exists until its legal authority is repealed by the creating entity.

The bill dissolves the Gilchrist County Development Authority, an independent special district, by repealing chs. 97-373, 81-382, 59-1308, Laws of Florida. Any assets and liabilities of the district are transferred to the Board of County Commissioners for Gilchrist County.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### PRESENT SITUATION

###### Special Districts Declared Inactive

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,<sup>1</sup> special act,<sup>2</sup> local ordinance,<sup>3</sup> or by rule of the Governor and Cabinet.<sup>4</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>5</sup> A special district may be "dependent"<sup>6</sup> or "independent."<sup>7</sup>

The Special District Accountability Program within the Department of Economic Opportunity (DEO) is responsible for maintaining and electronically publishing the official list of all special districts in Florida.<sup>8</sup> The official list currently reports all active special districts as well as those declared inactive by DEO.

Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO is required to declare that district inactive by following a specified process.<sup>9</sup> DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of six specific factors:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
  - Provides DEO with written notice that the district has taken no action for 2 or more years.<sup>10</sup>
  - Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years.<sup>11</sup>
  - Fails to respond to an inquiry from DEO within 21 days.<sup>12</sup>

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<sup>1</sup> Section 189.031(3), F.S.

<sup>2</sup> Id.

<sup>3</sup> Section 189.02(1), F.S.

<sup>4</sup> Section 190.005(1), F.S. *See, generally, s. 189.012(6), F.S.*

<sup>5</sup> *2015 – 2016 Local Gov't Formation Manual*, p. 67, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2836> (accessed 9/28/2015).

<sup>6</sup> Section 189.012(2), F.S. A special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality.

<sup>7</sup> Section 189.012(3), F.S. A special district that is not a dependent district.

<sup>8</sup> Sections 189.061(1), 189.064(2), F.S. DEO maintains the current official list at

<https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (accessed 9/28/2015).

<sup>9</sup> Section 189.062(1), F.S. Prior to 2014, the former statute required DEO to document the existence of one of five criteria listed in paragraph (1)(a), publication and service under paragraph (1)(b) of a notice of intent to declare the district inactive, and the lack of any administrative appeal of the declaration within 21 days of that publication. Section 189.4044, F.S. (2013). In 2014, as ch. 189, F.S., was extensively revised and restructured, the word "or" was added at the end of s. 189.062(1)(a)6, F.S., apparently allowing DEO either to document one of the six criteria *or* publish notice of intent to declare inactive and find no appeal is filed. Chapter 2014-22, s. 24, Laws of Florida. During the 2015 regular legislative session, the Florida Senate passed CS/SB 1388, its version of a bill resolving technical issues stemming from the 2014 revisions, which would have amended s. 189.062(1)(a)6., F.S., by removing the word "or." CS/SB 1388 (2015), s. 11, at line 414 (bill did not pass the Legislature). DEO still uses the 3-step process as described in the 2013 statute.

<sup>10</sup> Section 189.062(1)(a)1., F.S.

<sup>11</sup> Section 189.062(1)(a)2., F.S.

- Following statutory procedure,<sup>13</sup> DEO determines the district failed to file specified reports,<sup>14</sup> including required financial reports.<sup>15</sup>
- For more than 1 year, no registered office or agent for the district was on file with DEO.<sup>16</sup>
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.<sup>17</sup>

Once DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.<sup>18</sup> The notice must state that any objections to declaring the district inactive must be filed with DEO pursuant to chapter 120, F.S.,<sup>19</sup> within 21 days after the publication date.<sup>20</sup> If no objection is filed within the 21 day period, DEO declares the district inactive.<sup>21</sup>

After declaring certain special districts as being inactive, DEO must send written notice of the declaration to the authorities which created the district. If the district was created by special act, DEO sends written notice to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight.<sup>22</sup> The statute provides that the declaration of inactive status is sufficient notice under the Florida Constitution<sup>23</sup> to authorize the repeal of special laws creating or amending the charter of the inactive district.<sup>24</sup> This statute stands in lieu of the normal requirement for publication of notice of intent to file a local bill at least 30 days before introducing the bill in the Legislature.<sup>25</sup>

The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district. Any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.<sup>26</sup>

A district declared inactive may not collect taxes, fees, or assessments.<sup>27</sup> This prohibition continues until the declaration of invalidity is withdrawn or revoked by DEO<sup>28</sup> or invalidated in an administrative proceeding<sup>29</sup> or civil action<sup>30</sup> timely brought by the governing body of the special district.<sup>31</sup> Failure of the

<sup>12</sup> Section 189.062(1)(a)3., F.S.

<sup>13</sup> Section 189.067, F.S.

<sup>14</sup> Section 189.066, F.S.

<sup>15</sup> Section 189.062(1)(a)4., F.S. *See*, ss. 189.016(9), 218.32, 218.39, F.S.

<sup>16</sup> Section 189.062(1)(a)5., F.S.

<sup>17</sup> Section 189.062(1)(a)6., F.S.

<sup>18</sup> Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district's registered agent or chair of the district's governing body, if any.

<sup>19</sup> The Florida Administrative Procedure Act.

<sup>20</sup> Section 189.062(10)(b), F.S. The published notice also must include the name of the district, the law under which it was organized and operating, and a description of the district's territory.

<sup>21</sup> Section 189.062(1)(c), F.S.

<sup>22</sup> Section 189.062(3), F.S.

<sup>23</sup> Art. III, s. 10, Fla. Const.

<sup>24</sup> Section 189.062(3), F.S.

<sup>25</sup> Section 11.02, F.S.

<sup>26</sup> Section 189.062(2), F.S.

<sup>27</sup> Section 189.062(5), F.S.

<sup>28</sup> Section 189.062(5)(a), F.S.

<sup>29</sup> Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.

<sup>30</sup> Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

<sup>31</sup> The special district must initiate the legal challenge within 30 days after the date the written notice of the department's declaration of inactive status is provided to the special district. Section 189.062(5)(b), F.S.

special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.<sup>32</sup>

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature<sup>33</sup> or the entity that created the district.<sup>34</sup>

### Gilchrist County Development Authority

The Gilchrist County Development Authority (Authority) was created as an independent special district by special act in 1959.<sup>35</sup> The purpose of the district was to perform such acts as necessary for the planning and development of the County.<sup>36</sup> The act authorized a nine member board to establish and operate the Authority.<sup>37</sup> Among its powers, the Authority was authorized to acquire, hold, and dispose of property, enter into contracts with the County and its municipalities, manage certain projects, and borrow funds.<sup>38</sup> The Authority had the power to issue "revenue-anticipated certificates" and the Gilchrist County Board of County Commissioners was authorized to levy an ad valorem assessment, up to 10 mills and subject to voter approval, "for county promotional purposes" to secure such certificates.<sup>39</sup>

On May 27, 2011, the registered agent of the Authority notified the Department of Community Affairs (DCA)<sup>40</sup> that the Authority had not taken any action for two or more years and requested the Authority be declared inactive. On June 9, 2011, DCA published the "Notice of Proposed Declaration of Inactive Status of the Gilchrist County Development Authority" in the Gilchrist County Journal. Pursuant to statute,<sup>41</sup> the notice required any objections to the District being placed on inactive status to be filed with DCA within 21 days of the initial publication of the notice; no objections were received. On July 1, 2011, DCA declared the Authority inactive and notified the Speaker of the House as well as the President of the Senate of the Authority's inactive status<sup>42</sup> pursuant to statute.<sup>43</sup>

### EFFECT OF THE BILL

The bill dissolves the Gilchrist County Development Authority by repealing chs. 97-373, 82-382, 59-1308, Laws of Florida. Any assets of the district are transferred to the Board of County Commissioners for Gilchrist County.

#### B. SECTION DIRECTORY:

Section 1: Repeals chs. 97-373, 82-382, 59-1308, Laws of Florida.

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<sup>32</sup> Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.

<sup>33</sup> Chapter 69-1308, Laws of Florida.

<sup>34</sup> Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.

<sup>35</sup> Chapter 59-1308, Laws of Florida.

<sup>36</sup> Chapter 59-1308, s. 3, Laws of Florida.

<sup>37</sup> Chapter 59-1308, s. 4, Laws of Florida.

<sup>38</sup> Chapter 59-1308, s. 9, Laws of Florida.

<sup>39</sup> Chapter 59-1308, ss. 9(12), 9(13), Laws of Florida.

<sup>40</sup> The Department of Community Affairs was abolished and the Division of Community Planning, responsible for supervision of special districts, was transferred to the newly created Department of Economic Opportunity, effective July 1, 2011. Ch. 2011-142, ss. 3, 528, Laws of Florida.

<sup>41</sup> Section 189.4044(1), F.S. (2010).

<sup>42</sup> Letter from the Department of Community Affairs to Speaker of the House Dean Cannon and Senate President Mike Haridopolos, "Re: Declaration of Inactive Status of the Gilchrist County Development Authority," on file with Local Government Affairs Subcommittee (July 8, 2011).

<sup>43</sup> Section 189.062(3), F.S., currently requires notification of the standing committee chairs; however, at the time the district was declared inactive, the statute only required the Speaker of the House and President of the Senate be notified. *See s. 189.4044 F.S. (2010).*

Section 2: Abolishes the Gilchrist County Development Authority and transfers all assets and liabilities of the district to the Board of County Commissioners of Gilchrist County.

Section 3: Provides the bill is effective upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? July 8, 2011

WHERE? Leon County

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:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

When notice of intent to file a local bill is published in the area to be affected pursuant to statute,<sup>44</sup> proof of such publication typically is in the form of an affidavit.<sup>45</sup> However, in this instance the notice of declaring inactive status in and of itself is sufficient to satisfy the constitutional requirement.<sup>46</sup> To satisfy the requirement of general law that evidence of the necessary publication "be established" in the Legislature before the bill is passed,<sup>47</sup> a Substitute Notice of Publication reciting the requirement of s. 189.062(3), F.S., was submitted with the bill.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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<sup>44</sup> Section 11.02, F.S.

<sup>45</sup> Section 11.03, F.S.

<sup>46</sup> Section 189.062(3), F.S.

<sup>47</sup> Section 11.021, F.S.



**SUBSTITUTE NOTICE OF PUBLICATION**

Re: Gilchrist County Development Authority

The Special District Accountability Program in the Department of Economic Opportunity has declared the Gilchrist County Development Authority, in Gilchrist County, to be inactive. By notice dated July 8, 2011, the Department informed the President of the Florida Senate and the Speaker of the Florida House of Representatives of the inactive status of the district. Under s. 189.062(3), F.S. (formerly s. 189.4044(3), F.S.), the declaration of inactive status from DEO is sufficient notice under s. 10, art. III of the State Constitution to authorize the Legislature to repeal any special laws so reported.

**HOUSE OF REPRESENTATIVES**  
**2016 LOCAL BILL CERTIFICATION FORM**

**BILL #:** HB519  
**SPONSOR(S):** Representative Keith Perry  
**RELATING TO:** Gilchrist County Development Authority  
[Indicate Area Affected (City, County, or Special District) and Subject]  
**NAME OF DELEGATION:** Gilchrist County  
**CONTACT PERSON:** Kayla-Ann Lott  
**PHONE NO.:** (352) 264-4040 **E-Mail:** Kayla-Ann.Lott@myfloridahouse.gov

**I. House local bill policy requires the following steps must 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.
- (4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local Government Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

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

YES  NO

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

YES  NO

Date hearing held: \_\_\_\_\_

Location: \_\_\_\_\_

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

YES  NO

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local Government Affairs Subcommittee?

YES  NO

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

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

Notice published: YES  NO  DATE 7/8/2011

Where? Letter per s. 189.4044, F.S. (2000) County Leon

Referendum in lieu of publication: YES  NO

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

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

YES  NO

**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

**Please submit this completed, original form to the Local Government Affairs Subcommittee.**

W. Keith Perry  
Delegation Chair (Original Signature)

11/5/15  
Date

W. Keith Perry  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES  
2016 ECONOMIC IMPACT STATEMENT FORM**

**\*Read all instructions carefully.\***

**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 and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.**

**BILL #:** HB519  
**SPONSOR(S):** Representative Keith Perry  
**RELATING TO:** Gilchrist County Development Authority  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 16-17</u>	<u>FY 17-18</u>
	\$ <u>0</u>	\$ <u>0</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

N/A  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**III. FUNDING SOURCE(S):**

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Local:	\$ <u>0</u>	\$ <u>0</u>
State:	\$ <u>0</u>	\$ <u>0</u>
Federal:	\$ <u>0</u>	\$ <u>0</u>

**IV. ECONOMIC IMPACT:**

**Potential Advantages:**

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: Dissolves a unit of local government that is inactive and no longer necessary.
2. Advantages to Businesses: Dissolves a unit of local government that is inactive and no longer necessary.
3. Advantages to Government: Dissolves an inactive unit of local government that duplicates authority of county government.

**Potential Disadvantages:**

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None

2. Disadvantages to Businesses: None

3. Disadvantages to Government: None

**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

No anticipated impact. The district is inactive.

**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

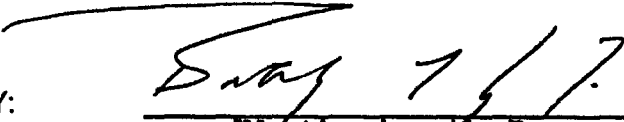
**Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.**

N/A

**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY:

  
[Must be signed by Preparer]

Print preparer's name:

Bobby L Crosby Jr.

NOVEMBER 5, 2015  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

COUNTY ADMINISTRATOR

REPRESENTING:

GILCHRIST COUNTY

PHONE:

352 463 3198

E-MAIL ADDRESS:

BCROSBY @ GILCHRIST . FL . US

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A bill to be entitled  
 An act relating to the Gilchrist County Development  
 Authority; repealing chapters 97-373, 81-382, and 59-  
 1308, Laws of Florida; abolishing the district;  
 transferring assets and liabilities of the district;  
 providing an effective date.

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

Section 1. Chapters 97-373, 81-382, and 59-1308, Laws of  
 Florida, are repealed.

Section 2. The Gilchrist County Development Authority is  
 abolished. All assets and liabilities of the authority are  
 transferred to the Board of County Commissioners of Gilchrist  
 County.

Section 3. This act shall take effect upon becoming a law.







**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HM 601 Promotion of Economic Recovery in Puerto Rico

**SPONSOR(S):** Cortes and others

**TIED BILLS:** IDEN./SIM. **BILLS:** SM 798

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Darden 	Kiner 
2) Economic Affairs Committee			

**SUMMARY ANALYSIS**

Puerto Rico is currently suffering from a severe recession and debt crisis. The Governor of Puerto Rico has warned certain municipalities and public utilities on the island may not be able to pay currently existing bond obligations as those payments become due. A resolution of this crisis is of particular interest to Florida, not only because of the significant economic activity between the state and Puerto Rico but also because over a million Florida residents are of Puerto Rican heritage, the second largest such population in the nation.

HM 601 urges Congress to enact legislation allowing the Commonwealth of Puerto Rico utilize the provisions of Chapter 9 of the United States Bankruptcy Code and establishing programs to encourage economic development by promoting increased manufacturing, trade, and employment in Puerto Rico.

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 federal government to act on a particular subject.

This memorial does not have a fiscal impact on state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

###### A History of Puerto Rico under American Administration

Since the conclusion of the Spanish-American War in 1898, the island of Puerto Rico has been part of the United States.<sup>1</sup> While the island was initially placed under military jurisdiction, Congress quickly passed the Foraker Act, providing a civilian government for the territory, a non-voting Resident Commissioner in Congress, and applying all federal laws to the island.<sup>2</sup>

The Jones-Shafroth Act of 1917 (Jones Act) made significant changes in both the organization of the Puerto Rico government and the relationship of the island with the United States. The act established a bill of rights for the territory,<sup>3</sup> created a bicameral legislature,<sup>4</sup> and made the Resident Commissioner an elected position.<sup>5</sup>

The Jones Act granted United States citizenship to all residents of the island.<sup>6</sup> The Jones Act also provided that bonds issued by the government of Puerto Rico or under its authority are exempt from federal, state, and local taxation, regardless of the location of the bondholder.<sup>7</sup> This provision makes Puerto Rican municipal debts particularly attractive to bondholders, since municipal bonds generally are only exempt from taxation when held by residents of the issuing state.<sup>8</sup>

The passage of the Puerto Rico Federal Relations Act of 1950 paved the way for modern self-government.<sup>9</sup> The act authorized the Legislature of Puerto Rico to call for a referendum to establish a constitutional convention.<sup>10</sup> The new constitution drafted by the convention was approved by voters on March 3, 1952,<sup>11</sup> approved by Congress on July 3, 1952,<sup>12</sup> and was officially proclaimed on July 25, 1952.<sup>13</sup>

##### Present Situation

Puerto Rico is in the midst of a severe economic downturn and its government is unable to meet certain debt obligations as they become due. The island has been in continuous recession since 2006.<sup>14</sup> The

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<sup>1</sup> Treaty of Peace between the United States and Spain (Treaty of Paris), Dec. 10, 1898, available at [http://avalon.law.yale.edu/19th\\_century/sp1898.asp](http://avalon.law.yale.edu/19th_century/sp1898.asp).

<sup>2</sup> Liberty of Congress, *Foraker Act (Organic Act of 1900)*, <https://www.loc.gov/rr/hispanic/1898/foraker.html> (last visited Dec. 30, 2015).

<sup>3</sup> Jones-Shafroth Act, Pub. L. No. 64-368, s. 2, 39 Stat. 951 (Mar. 2, 1917).

<sup>4</sup> Jones-Shafroth Act s. 25.

<sup>5</sup> Jones-Shafroth Act s. 29. The Resident Commissioner had previously been appointed by the President of the United States.

<sup>6</sup> Jones-Shafroth Act s. 5.

<sup>7</sup> Jones-Shafroth Act s. 3.

<sup>8</sup> See *The Bonds that Broke Puerto Rico*, N.Y. Times (June 30, 2015), <http://www.nytimes.com/2015/07/01/business/dealbook/the-bonds-that-broke-puerto-rico.html> (last visited Dec. 30, 2015).

<sup>9</sup> Puerto Rico Federal Relations Act of 1950, Pub. L. No. 81-600 (July 3, 1950).

<sup>10</sup> Puerto Rico Federal Relations Act of 1950, s. 2.

<sup>11</sup> Dieter Nohlen, *Elections in the Americas A Data Handbook Volume 1: North America, Central America, and the Caribbean* 556 (Oxford University Press 2005).

<sup>12</sup> Pub. L. No. 82-447 (July 3, 1952).

<sup>13</sup> PBS, Puerto Rico: A Timeline, <http://www.pbs.org/wgbh/masterpiece/americancollection/woman/timeline.html> (last visited Dec. 30, 2015).

<sup>14</sup> *Puerto Pobre*, The Economist (Oct. 26, 2013), <http://www.economist.com/news/finance-and-economics/21588364-heavily-indebted-island-weighs-americas-municipal-bond-market-puerto-pobre> (last visited Dec. 30, 2015).

beginning of the recession is often linked to the expiration of Section 936,<sup>15</sup> a federal tax credit for manufacturing.<sup>16</sup> Section 936 provided a federal tax credit for income earned in Puerto Rico for firms making at least 80 percent of their income from sources within the territory with at least 75 percent of their total income being derived from an active trade or business within the Commonwealth.<sup>17</sup>

Section 936 was credited with encouraging major pharmaceutical firms like Pfizer to establish operations on the island.<sup>18</sup> The phase out of the provision, however, slowed the growth of new firms in Puerto Rico, harming the island's economy.<sup>19</sup> Some studies suggest the benefits of Section 936 to the Puerto Rican economy were overstated, with benefits largely flowing to firms who employed few workers on the island.<sup>20</sup>

The recession has had a significant impact on the island's population. The number of residents leaving the island has been steadily increasing for the last decade, from approximately 10,000 per year in 2005 and 26,000 per year in 2010 to more than 64,000 in 2014.<sup>21</sup> Much of this migration has been to Florida, with the state's population of people of Puerto Rican heritage increasing from 816,002 in 2009 to 1,006,542 in 2014.<sup>22</sup>

Puerto Rico's economy has also been harmed by the liberalization of global trade, removing tariff barriers that shielded firms from competitors in nations such as Mexico, Canada, Chile, Peru, and Columbia.<sup>23</sup> Two additional factors that combine to make Puerto Rican firms less competitive are labor and transport costs. The impact of the federal minimum wage on Puerto Rico is significant, with full-time workers receiving the equivalent of 77 percent of per capita income, compared to 28 percent of per capita income on the mainland.<sup>24</sup> The island suffers from significantly higher transportation costs due to the Merchant Marine Act of 1920. This act, requiring all shipping between two United States ports to occur on ships built and flagged in the United States and owned and crewed by American citizens, results in firms facing shipping costs that are more than double those of neighboring islands.<sup>25</sup>

Puerto Rico's government, including municipalities and government utilities, currently has \$72 billion of outstanding debt.<sup>26</sup> Approximately one-third of the payment due is for general obligation bonds, while the remainder is mostly due from public corporations operating vital services such as water, electricity,

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<sup>15</sup> 28 U.S.C. s. 936; see Internal Revenue Manual, Part 4: Examining Process, Ch. 61: International Program Audit Guidelines, S. 9: Possession Corporations, available at [https://www.irs.gov/irm/part4/irm\\_04-061-009.html](https://www.irs.gov/irm/part4/irm_04-061-009.html) (last visited Jan. 4, 2016) (phase out rules for Section 936 credit).

<sup>16</sup> *Puerto Pobre*, *supra* note 14.

<sup>17</sup> General Accounting Office, *Puerto Rico and the Section 936 Tax Credit* (June 1993) at 2, <http://www.gao.gov/assets/220/218131.pdf> (last visited Dec. 30, 2015).

<sup>18</sup> *Can Puerto Rico Reinvent Itself as a Global Competitor?*, Knowledge@Wharton (Aug. 22, 2012), <http://knowledge.wharton.upenn.edu/article/can-puerto-rico-reinvent-itself-as-a-global-competitor/> (last visited Dec. 30, 2015).

<sup>19</sup> *Id.*

<sup>20</sup> See generally J. Tomas Hexner and Glenn P. Jenkins, *Puerto Rico and Section 936: A Costly Dependence*, 10 Tax Notes Int'l 235 (Jan. 16, 1995). In 1989, pharmaceutical companies received 50 percent of Section 936 credits, but employed 17 percent of workers in firms receiving credits.

<sup>21</sup> Jens Manuel Krogstad, *Puerto Ricans leave in record numbers for mainland U.S.*, Pew Research Center (Oct. 14, 2015), <http://www.pewresearch.org/fact-tank/2015/10/14/puerto-ricans-leave-in-record-numbers-for-mainland-u-s/> (last visited Dec. 30, 2015).

<sup>22</sup> United States Census Bureau, *Geographies: State - ACS Demographic and Housing Estimates 2014 American Community Survey 1-Year Estimates*, <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t#none> (last visited Dec. 30, 2015); United States Census Bureau, *Geographies: State - ACS Demographic and Housing Estimates 2009 American Community Survey 1-Year Estimates*, <http://factfinder.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t#none> (last visited Dec. 30, 2015).

<sup>23</sup> Knowledge@Wharton, *supra* note 18.

<sup>24</sup> Anne O. Kreuger, Ranjit Teja, and Andrew Wolfe, *Puerto Rico – A Way Forward* at 6, Government Development Bank of Puerto Rico, June 29, 2015, available at [www.bgfpr.com/documents/puertoricoawayforward.pdf](http://www.bgfpr.com/documents/puertoricoawayforward.pdf).

<sup>25</sup> *Id.* at 8.

<sup>26</sup> Michael Corkery and Mary Williams Walsh, *Governor of Puerto Rico Warns of Looming Default Without Bankruptcy Plan*, N.Y. Times (Dec. 16, 2015), <http://www.nytimes.com/2015/12/17/business/dealbook/governor-of-puerto-rico-warns-of-looming-default-without-bankruptcy-plan.html> (last visited Dec. 30, 2015).

and the highway system.<sup>27</sup> Concerns about repayment led some creditors of the Electric Power Authority to agree to limited debt restructuring in late December 2015.<sup>28</sup> Puerto Rico's government has previously defaulted on a \$58 million "moral obligation bond" in August 2015.<sup>29</sup> The crisis was accelerated when much of Puerto Rico's general debt was downgraded to junk status in early 2014.<sup>30</sup> This downgrade required the government to post cash as collateral to cover interest-rate swaps and sparked selling by mutual funds and other financial institutions which are prohibited from holding assets that are not investment-grade.<sup>31</sup>

Bonds issued by the Puerto Rico Urgent Interest Fund Corporation (COFINA) represent roughly \$16 billion of Puerto Rico's outstanding debt.<sup>32</sup> These bonds were sold to investors as a safe asset, since the government pledged a portion of the island's sales tax revenues to bond repayment.<sup>33</sup> The rights of these bondholders, however, may be threatened if the government of Puerto Rico redirects funds pledged for the repayment of COFINA bonds to avoid default on general obligation debt.<sup>34</sup> Some analysts feared this outcome is likely since general obligation debt is protected by Puerto Rico's constitution.<sup>35</sup> This concern was partially realized on January 4, 2016, when Puerto Rico's government defaulted on \$174 million of non-general obligation bonds.<sup>36</sup>

Beyond its effect on Puerto Rico, the threat of default poses significant risks for investors in Florida. Puerto Rico's debt burden is the third highest in the nation, behind only California and New York.<sup>37</sup> Since the interest from Puerto Rican bonds is exempt from federal, state, and local taxes, the bonds are a popular choice for mutual funds.<sup>38</sup> Nearly 70 percent of domestic municipal bonds funds have exposure to Puerto Rico.<sup>39</sup>

## Potential Policies

### *Chapter 9 of the Bankruptcy Code or Other Forms of Debt Relief*

Municipal bankruptcy is governed by Chapter 9 of the Bankruptcy Code. The interactions between various provisions of the U.S. Constitution require municipal bankruptcy to be a cooperative enterprise between states and the federal government.<sup>40</sup> States would be unable to provide an effective resolution for debtors without violating the Contracts Clause,<sup>41</sup> while an entirely federal scheme would infringe on state sovereignty to control their municipalities under the Tenth Amendment.<sup>42</sup> The Bankruptcy Code

<sup>27</sup> *Id.*

<sup>28</sup> Michelle Kaske and Erik Schatzker, *Puerto Rico Electric Reaches Tentative Pact With Creditors*, Bloomberg Business (Dec. 18, 2015), <http://www.bloomberg.com/news/articles/2015-12-18/puerto-rico-electric-said-to-reach-tentative-pact-with-creditors> (last visited Dec. 30, 2015).

<sup>29</sup> Corkery and Walsh, *supra* note 26.

<sup>30</sup> *Fitch becomes third agency to cut Puerto Rico to junk*, Reuters (Feb. 11, 2014), <http://www.reuters.com/article/munis-puertorico-ratings-idUSWNAB046DO20140211> (last visited Dec. 30, 2015).

<sup>31</sup> Mary Williams Walsh, *Worsening Debt Crisis Threatens Puerto Rico*, N.Y. Times (Oct. 7, 2013), [http://dealbook.nytimes.com/2013/10/07/worsening-debt-crisis-threatens-puerto-rico/?\\_r=0](http://dealbook.nytimes.com/2013/10/07/worsening-debt-crisis-threatens-puerto-rico/?_r=0) (last visited Dec. 30, 2015).

<sup>32</sup> Aaron Kuriloff, *'Safe' Puerto Rican Debt Stirs Worries*, The Wall Street Journal (Dec. 27, 2015), <http://www.wsj.com/articles/safe-puerto-rican-debt-stirs-worries-1451266037> (last visited Dec. 30, 2015).

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Mary Williams Walsh, *Puerto Rico Defaults on Debt Payments*, N.Y. Times (Jan. 4, 2016), [http://www.nytimes.com/2016/01/05/business/dealbook/puerto-rico-defaults-on-debt-payments.html?\\_r=0](http://www.nytimes.com/2016/01/05/business/dealbook/puerto-rico-defaults-on-debt-payments.html?_r=0) (last visited Jan. 6, 2016).

<sup>37</sup> Michelle Caruso-Cabrera, *Why Puerto Rico needs to borrow money—and soon*, CNBC (Jan. 24, 2014), <http://www.cnbc.com/2014/01/24/puerto-rico-debt-crisis-island-must-borrow-by-end-of-january.html> (last visited Dec. 30, 2015).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Franklin California Tax-Free Trust v. Puerto Rico*, 805 F.3d 322, 328 (1st Cir. 2015), *cert. granted*, 84 USLW 3100 (Dec. 4, 2015).

<sup>41</sup> U.S. Const. art. I, s. 10, cl. 1.

<sup>42</sup> *Id.* at 327-28.

does not prevent a state from creating its own insolvency procedures, as long as the state statute does not bind any creditors who do not consent to the procedures.<sup>43</sup>

To file for relief as a debtor under ch. 9, an entity must meet five criteria<sup>44</sup>:

- The entity must be a municipality;<sup>45</sup>
- The entity must be specifically authorized to be a debtor under ch. 9 by state<sup>46</sup> law or by a governmental official or organization empowered by state law to make such authorization;
- The entity must be insolvent;
- The entity must desire to effect a plan to adjust such debts; and
- The entity must meet one of the following four criteria:
  - The entity has obtained the agreement of the creditors holding a majority of the claims in each class of claims that would be impaired by the plan;
  - The entity has negotiated in good faith with creditors and has failed to obtain agreement of creditors holding a majority in each class of claims that would be impaired by the plan;
  - The entity is unable to negotiate with creditors because such negotiations are impracticable; or
  - The entity reasonably believes a creditor may attempt to obtain a transfer that is avoidable under s. 547 of the Bankruptcy Code.<sup>47</sup>

After a petition has been filed, the case is administered and directed similar to reorganizations under Chapter 11 of the Bankruptcy Code. The United States Trustee may appoint committees of creditors and of equity security holders<sup>48</sup> authorized to investigate issues and participate in formulating a restructuring plan.<sup>49</sup>

Puerto Rican municipalities are currently precluded from filing for bankruptcy under Chapter 9.<sup>50</sup> From 1938 (the first municipal bankruptcy statute) until 1978, Puerto Rico was defined as a state for all bankruptcy purposes, expressly able to afford bankruptcy protection to its municipalities.<sup>51</sup> The Bankruptcy Reform Act of 1978 removed the definition of “state” from the statute, placing the status of Puerto Rican municipalities under Chapter 9 into limbo.<sup>52</sup> When the definition of “state” was reintroduced to the Bankruptcy Code in 1984, the current language was added excluding Puerto Rico for the purpose of determining who qualified as a debtor under ch. 9.<sup>53</sup>

Since its municipalities are ineligible for Chapter 9, Puerto Rico attempted to create an alternative bankruptcy-like process with the passage of the Puerto Rico Public Corporation Debt Enforcement and Recovery Act.<sup>54</sup> The act created two paths for the restructuring of public corporations, a consensual out-of-court process and a judicially managed in-court process, that closely parallel the Bankruptcy Code.<sup>55</sup> The act, however, was permanently enjoined by the United States District Court for the District

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<sup>43</sup> 11 U.S.C. s. 903.

<sup>44</sup> 11 U.S.C. s. 109(c).

<sup>45</sup> 11 U.S.C. s. 101(40) defines “municipality” to mean any political subdivision, public agency, or public instrumentality of the state. This definition encompasses counties, cities, special districts, school districts, and publicly-owned corporations.

<sup>46</sup> 11 U.S.C. s. 101(52) defines “state” for the purposes of the bankruptcy code as including the District of Columbia and Puerto Rico, except for the purpose of defining who may be a debtor in 11U.S.C. s. 109(c).

<sup>47</sup> 11 U.S.C. s. 547.

<sup>48</sup> 11 U.S.C. ss. 901, 1102. Since 1986, Florida and Puerto Rico have been represented by the same United States Trustee office. *See* Bankruptcy Judges, U.S. Trustees, and Family Farmer Bankruptcy Act of 1986, Pub. L. No. 99-554 s. 111(a) (1986), codified at 28 U.S.C. s. 581.

<sup>49</sup> 11 U.S.C. ss. 901, 1103.

<sup>50</sup> *See* 11 U.S.C. s. 101(52) (excluding Puerto Rico from the definition of “state” for the purposes of defining Ch. 9 debtors).

<sup>51</sup> *Franklin California Tax-Free Trust* at 329.

<sup>52</sup> *Id.* at 330.

<sup>53</sup> *Id.*

<sup>54</sup> 2014 P.R. Laws Act No. 71.

<sup>55</sup> *Puerto Rico Public Corporation Debt Enforcement and Recovery Act*, 128 Harv. L. Rev. 1320, 1322 (2015).

of Puerto Rico on the grounds it is preempted by 11 U.S.C. s. 903.<sup>56</sup> This decision was upheld by the United States Court of Appeals for the First Circuit and is currently awaiting hearing at the Supreme Court of the United States.<sup>57</sup>

### *Economic Development*

Structural reforms may provide another potential avenue for economic development in Puerto Rico. The labor force participation rate in Puerto Rico is approximately 40 percent, compared to 63 percent on the mainland.<sup>58</sup> This disparity is the result of federal policies that create disincentives for employers to hire workers and for potential employees to seek employment. A full-time employee working for minimum wage receives a salary equivalent to 77 percent of per capita income, compared to 28 percent on the mainland.<sup>59</sup> This disparity creates a strong constraint on employment for low-wage workers, with 28 percent of hourly workers in Puerto Rico earning less than \$8.50 per hour, compared to 3 percent on the mainland.<sup>60</sup> Some scholars have suggested additional labor market opportunities could be created by suspending the minimum wage in Puerto Rico until its per capita income is closer to that of the poorest state, or by setting a special minimum wage for Puerto Rico.<sup>61</sup> The federal government could create additional work incentives by restricting welfare programs in Puerto Rico to be more responsive to local labor market conditions, instead of using a one-size-fits-all approach.<sup>62</sup>

Puerto Rico's economy could be invigorated by measures to reduce transportation and energy costs. The Merchant Marine Act of 1920 (Jones Act) places a unique burden on Puerto Rico, as the island is almost completely dependent on ships for the delivery of goods. Import costs to the island are nearly double those of neighboring islands.<sup>63</sup> Exemptions for territories have proven successful at reducing shipping costs in the past. Congress exempted the U.S. Virgin Islands from the Jones Act in 1992 and today shipping costs are nearly half of those of shipping to Puerto Rico.<sup>64</sup> The Jones Act is a contributing factor in the island's high electricity costs, raising the cost of gasoline by 15 cents per gallon.<sup>65</sup> Over half of Puerto Rico's electricity generation utilizes petroleum.<sup>66</sup> Energy costs are also increased due to inefficiencies in the public-owned company responsible for producing and distributing energy.<sup>67</sup>

### Pending Legislation

There are currently three proposals pending in Congress to address the fiscal crisis in Puerto Rico.

The Puerto Rico Assistance Act of 2015 is currently pending in the Senate Finance Committee.<sup>68</sup> The bill creates the Puerto Rico Financial Responsibility and Management Assistance Authority to oversee

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<sup>56</sup> *Franklin California Tax-Free Trust* at 332.

<sup>57</sup> *Melba Acosta-Febo v. Franklin California Tax-Free Trust*, 2015 WL 5096465 (Dec. 4, 2015).

<sup>58</sup> Kreuger, Teja, and Wolfe, *supra* note 24, at 6. The labor force participation rate is the ratio of the labor force (all person employed or unemployed and looking for work) as a percentage of the civilian non-institutional population (persons aged 16 or older who are not inmates of institutions and are not on active military duty). BLS Glossary, <http://www.bls.gov/bls/glossary.htm>.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 17. Currently, American Samoa and the Northern Mariana Islands have special minimum wage rates. United States Dept. of Labor Wage and Hour Division, *Minimum Wages Laws in the States – January 1, 2015*, <http://www.dol.gov/whd/minwage/america.htm> (last visited Dec. 30, 2015).

<sup>62</sup> *Id.* at 18.

<sup>63</sup> *Id.* at 8.

<sup>64</sup> Patrick Holland, *Help Puerto Rico by Repealing the Jones Act*, e21 (July 15, 2015), <http://economics21.org/commentary/jones-act-puerto-rico-debt-crisis-anne-krueger-07-15-2015> (last visited Dec. 30, 2015).

<sup>65</sup> *Id.*

<sup>66</sup> United States Energy Information Administration, *Puerto Rico Territory Energy Profile*, <https://www.eia.gov/state/print.cfm?sid=RQ> (last visited Dec. 30, 2015).

<sup>67</sup> Kreuger, Teja, and Wolfe, *supra* note 24, at 8.

<sup>68</sup> Puerto Rico Assistance Act of 2015, S. 2381, 114th Cong. (2015).

financial planning and budgets for the Commonwealth and insolvent public corporations.<sup>69</sup> The bill commissions a study on public pension debt and requires the Commonwealth and local governments to conform to generally applicable reporting requirements.<sup>70</sup> The bill also contains a temporary employee payroll tax cut of 3.1 percent for calendar years 2016-2019 and 1.55 percent for calendar year 2020.<sup>71</sup>

The Puerto Rico Chapter 9 Uniformity Act of 2015 would amend the Bankruptcy Code to enable Puerto Rican municipalities to file for bankruptcy.<sup>72</sup>

The Puerto Rico Financial Stability and Debt Restructuring Choice Act combines the above approaches.<sup>73</sup> The bill would create the Puerto Rico Financial Stability Council.<sup>74</sup> The Governor of Puerto Rico would be required to submit the Commonwealth's annual budget to the council for final approval.<sup>75</sup> Any budget approved by the council must apply "sound budgetary practices," make progress on balancing the Commonwealth's budget, and be reviewed by an independent auditor.<sup>76</sup> The bill would also allow Puerto Rican municipalities to file for bankruptcy under Chapter 9 of the Bankruptcy Code.<sup>77</sup>

### **Effect of the Memorial**

HM 601 urges Congress to enact legislation allowing the Commonwealth of Puerto Rico utilize the provisions of Chapter 9 of the United States Bankruptcy Code and establishing programs to encourage economic development by promoting increased manufacturing, trade, and employment in Puerto Rico.

Copies of the memorial will be sent 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.

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 federal government to act on a particular subject.

#### **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:**

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<sup>69</sup> Puerto Rico Assistance Act of 2015 s. 321-328.

<sup>70</sup> Puerto Rico Assistance Act of 2015 s. 201-202.

<sup>71</sup> Puerto Rico Assistance Act of 2015 s. 101.

<sup>72</sup> Puerto Rico Chapter 9 Uniformity Act of 2015, H.R. 870, 114th Cong. (2015). S. 1774 contains identical language.

<sup>73</sup> See Puerto Rico Financial Stability and Debt Restructuring Choice Act, H.R. 4199, 114th Cong. (2015).

<sup>74</sup> Puerto Rico Financial Stability and Debt Restructuring Choice Act s. 101.

<sup>75</sup> Puerto Rico Financial Stability and Debt Restructuring Choice Act s. 202.

<sup>76</sup> Puerto Rico Financial Stability and Debt Restructuring Choice Act s. 201.

<sup>77</sup> Puerto Rico Financial Stability and Debt Restructuring Choice Act s. 301.



1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This memorial does not appear to require counties or municipalities to spend funds or take action requiring the expenditures 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:

The memorial does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Memorial

A memorial to the Congress of the United States,  
 urging Congress to enact legislation to promote  
 economic recovery in the Commonwealth of Puerto Rico.

WHEREAS, the Commonwealth of Puerto Rico and the State of  
 Florida share a strong cultural bond and are important trade  
 partners, and

WHEREAS, the Commonwealth of Puerto Rico has experienced a  
 prolonged and difficult economic recession that has led to mass  
 unemployment in Puerto Rico and decreased trade opportunities  
 with the State of Florida, and

WHEREAS, the Commonwealth of Puerto Rico has public debts  
 in excess of \$72 billion, which continue to cripple Puerto  
 Rico's ability to improve and sustain economic growth, and

WHEREAS, the 1984 amendments to the United States  
 Bankruptcy Code prohibit the Commonwealth of Puerto Rico from  
 authorizing its municipalities and public utilities to file for  
 bankruptcy relief under Chapter 9 of the code, and

WHEREAS, the United States Bankruptcy Code amendments  
 require Puerto Rico's municipalities and public utilities to  
 engage in piecemeal negotiations with each of their creditors,  
 rather than consolidating debt and developing a comprehensive  
 plan for repayment, and

25 WHEREAS, the citizens of Puerto Rico are suffering greatly  
 26 due to their government's inability to renegotiate the terms of  
 27 this debt under a comprehensive plan, and

28 WHEREAS, the United States Government has an obligation to  
 29 promote and assist the economic prosperity of the Commonwealth  
 30 of Puerto Rico as an important territory of our nation, and

31 WHEREAS, the United States Congress eliminated a tax  
 32 exemption for manufacturers from Section 936 of the Internal  
 33 Revenue Code, greatly contributing to an increase in  
 34 unemployment in the Commonwealth of Puerto Rico, and

35 WHEREAS, the Commonwealth of Puerto Rico would greatly  
 36 benefit from new ideas and programs that promote economic  
 37 development to bring high paying jobs back to Puerto Rico, and

38 WHEREAS, the Commonwealth of Puerto Rico and the State of  
 39 Florida would both benefit from Puerto Rico's renewed economic  
 40 prosperity, NOW, THEREFORE,

41

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

43

44 That the Congress of the United States is urged to enact  
 45 legislation to promote economic recovery in the Commonwealth of  
 46 Puerto Rico, including:

47 (1) Allowing the Commonwealth of Puerto Rico to authorize  
 48 its municipalities and public utilities to file for bankruptcy  
 49 relief under Chapter 9 of the United States Bankruptcy Code.

HM 601

2016

50           (2) Allowing the Commonwealth of Puerto Rico to propose a  
51 comprehensive plan to pay municipal and public utility debts  
52 under Chapter 9 of the United States Bankruptcy Code.

53           (3) Establishing programs to encourage economic  
54 development to promote increased manufacturing, trade, and  
55 employment in Puerto Rico.

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



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Local & Federal Affairs  
2 Committee  
3 Representative Cortes, B. offered the following:

4  
5 **Amendment**  
6 Remove lines 46-55 and insert:  
7 Puerto Rico.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** CS/HB 649 Eagle Bay Sub-Drainage District, Okeechobee County  
**SPONSOR(S):** Local Government Affairs Subcommittee, Pigman  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Government Affairs Subcommittee	10 Y, 0 N, As CS	Miller	Miller
2) Local & Federal Affairs Committee		Miller	<i>EMM</i> Kiner <i>KCK</i>

**SUMMARY ANALYSIS**

“Special Districts” are a type of limited local government created to perform specific services within a described geographic area. Sometimes called special taxing districts, most are created either by special act (independent special districts) or county or municipal ordinance (dependent special districts). The Special District Accountability Program in the Department of Economic Opportunity (DEO) is responsible for creating and maintaining a current list of all special districts in Florida, as provided in ch. 189, F.S., the Uniform Special District Accountability Act.

When a special district fails to meet certain statutory responsibilities, no longer functions, or informs DEO it is no longer active, DEO is required to follow the statutory process before declaring the district inactive. This includes documenting one or more statutory criteria for inactive status, publishing notice in the area of the district of DEO’s intent to declare the district inactive, and documenting the lack of any objection to declaring the district inactive. DEO is required to deliver written notice of the declaration of inactive status to specific authorities. If the district was created by special act, notice is delivered to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight. If the district was created by local ordinance, notice is delivered to the governing body of the county or municipality that created the district. A special district declared inactive may not collect taxes, assessments, or fees while the declaration is in effect. However, the district still exists until its legal authority is repealed by the creating entity.

The bill dissolves the Eagle Bay Sub-Drainage District, an inactive independent special district, by repealing chs. 12010, (1927), 19556 (1939), and 21916 (1943), Laws of Florida. Any assets and liabilities of the district are transferred to the Okeechobee County Board of County Commissioners.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### PRESENT SITUATION

##### Special Districts Declared Inactive

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,<sup>1</sup> special act,<sup>2</sup> local ordinance,<sup>3</sup> or by rule of the Governor and Cabinet.<sup>4</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>5</sup> A special district may be "dependent"<sup>6</sup> or "independent."<sup>7</sup>

The Special District Accountability Program within the Department of Economic Opportunity (DEO) is responsible for maintaining and electronically publishing the official list of all special districts in Florida.<sup>8</sup> The official list currently reports all active special districts as well as those declared inactive by DEO.

Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO is required to declare that district inactive by following a specified process.<sup>9</sup> DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of six specific factors:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
  - Provides DEO with written notice that the district has taken no action for 2 or more years.<sup>10</sup>
  - Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for 2 or more years.<sup>11</sup>
  - Fails to respond to an inquiry from DEO within 21 days.<sup>12</sup>

<sup>1</sup> Section 189.031(3), F.S.

<sup>2</sup> Id.

<sup>3</sup> Section 189.02(1), F.S.

<sup>4</sup> Section 190.005(1), F.S. *See, generally*, s. 189.012(6), F.S.

<sup>5</sup> 2015 – 2016 *Local Gov't Formation Manual*, p. 67, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2836> (accessed 9/28/2015).

<sup>6</sup> Section 189.012(2), F.S. A special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality.

<sup>7</sup> Section 189.012(3), F.S. A special district that is not a dependent district.

<sup>8</sup> Sections 189.061(1), 189.064(2), F.S. DEO maintains the current official list at

<https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (accessed 9/28/2015).

<sup>9</sup> Section 189.062(1), F.S. Prior to 2014, the former statute required DEO to document the existence of one of five criteria listed in paragraph (1)(a), publication and service under paragraph (1)(b) of a notice of intent to declare the district inactive, and the lack of any administrative appeal of the declaration within 21 days of that publication. Section 189.4044, F.S. (2013). In 2014, as ch. 189, F.S., was extensively revised and restructured, the word "or" was added at the end of s. 189.062(1)(a)6, F.S., apparently allowing DEO either to document one of the six criteria *or* publish notice of intent to declare inactive and find no appeal is filed. Chapter 2014-22, s. 24, Laws of Florida. During the 2015 regular legislative session, the Florida Senate passed CS/SB 1388, its version of a bill resolving technical issues stemming from the 2014 revisions, which would have amended s. 189.062(1)(a)6, F.S., by removing the word "or." CS/SB 1388 (2015), s. 11, at line 414 (bill did not pass the Legislature). DEO still uses the 3-step process as described in the 2013 statute.

<sup>10</sup> Section 189.062(1)(a)1., F.S.

<sup>11</sup> Section 189.062(1)(a)2., F.S.



- Following statutory procedure,<sup>13</sup> DEO determines the district failed to file specified reports,<sup>14</sup> including required financial reports.<sup>15</sup>
- For more than 1 year, no registered office or agent for the district was on file with DEO.<sup>16</sup>
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.<sup>17</sup>

Once DEO determines which criterion applies to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.<sup>18</sup> The notice must state that any objections to declaring the district inactive must be filed with DEO pursuant to chapter 120, F.S.,<sup>19</sup> within 21 days after the publication date.<sup>20</sup> If no objection is filed within the 21 day period, DEO declares the district inactive.<sup>21</sup>

After declaring certain special districts as being inactive, DEO must send written notice of the declaration to the authorities which created the district. If the district was created by special act, DEO sends written notice to the Speaker of the House, the President of the Senate, and the standing committees in each chamber responsible for special district oversight.<sup>22</sup> The statute provides that the declaration of inactive status is sufficient notice under the Florida Constitution<sup>23</sup> to authorize the repeal of special laws creating or amending the charter of the inactive district.<sup>24</sup> This statute stands in lieu of the normal requirement for publication of notice of intent to file a local bill at least 30 days before introducing the bill in the Legislature.<sup>25</sup>

The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district. Any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.<sup>26</sup>

A district declared inactive may not collect taxes, fees, or assessments.<sup>27</sup> This prohibition continues until the declaration of invalidity is withdrawn or revoked by DEO<sup>28</sup> or invalidated in an administrative proceeding<sup>29</sup> or civil action<sup>30</sup> timely brought by the governing body of the special district.<sup>31</sup> Failure of the

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<sup>12</sup> Section 189.062(1)(a)3., F.S.

<sup>13</sup> Section 189.067, F.S.

<sup>14</sup> Section 189.066, F.S.

<sup>15</sup> Section 189.062(1)(a)4., F.S. *See, ss.* 189.016(9), 218.32, 218.39, F.S.

<sup>16</sup> Section 189.062(1)(a)5., F.S.

<sup>17</sup> Section 189.062(1)(a)6., F.S.

<sup>18</sup> Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy sent by certified mail to the district's registered agent or chair of the district's governing body, if any.

<sup>19</sup> The Florida Administrative Procedure Act.

<sup>20</sup> Section 189.062(10)(b), F.S. The published notice also must include the name of the district, the law under which it was organized and operating, and a description of the district's territory.

<sup>21</sup> Section 189.062(1)(c), F.S.

<sup>22</sup> Section 189.062(3), F.S.

<sup>23</sup> Art. III, s. 10, Fla. Const.

<sup>24</sup> Section 189.062(3), F.S.

<sup>25</sup> Section 11.02, F.S.

<sup>26</sup> Section 189.062(2), F.S.

<sup>27</sup> Section 189.062(5), F.S.

<sup>28</sup> Section 189.062(5)(a), F.S.

<sup>29</sup> Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.

<sup>30</sup> Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.

<sup>31</sup> The special district must initiate the legal challenge within 30 days after the date the written notice of the department's declaration of inactive status is provided to the special district. Section 189.062(5)(b), F.S.

special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.<sup>32</sup>

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature<sup>33</sup> or the entity that created the district.<sup>34</sup>

### Eagle Bay Sub-Drainage District

The Eagle Bay Sub-Drainage District (District) was created as an independent special district by special act in 1927.<sup>35</sup> The purposes for establishing drainage districts at that time included reclaiming and protecting "wet or overflowed lands, or lands subject to overflow in or more counties" in Florida.<sup>36</sup> The District was established originally by the filing of a petition with the appropriate circuit court.<sup>37</sup> As of May 1, 1927, the District had issued bonds in the total amount of \$120,000. The special act "ratified, approved, validated and confirmed"<sup>38</sup> all actions and proceedings establishing the District and issuing the bonds.

Apparently due to the ongoing effects of the Great Depression, in 1935 the Legislature acted to cancel "all past due special assessments or taxes and all certificates representing such past due or delinquent (obligations, except state taxes)" levied by the District.<sup>39</sup> This cancellation would only take effect if the District was able to obtain funding from Federal agencies or other sources to refinance its outstanding debt.<sup>40</sup> Subsequently, the Legislature repealed the 1935 act,<sup>41</sup> authorized the District to issue bonds for the purpose of refunding existing District obligations,<sup>42</sup> ratified and validated taxes and assessments imposed in 1938 and prior years,<sup>43</sup> and further authorized the District to dispose of or sell certificates of purchase and actual title to land acquired by the District (or its Board or any appointed receiver of the District) through the foreclosure by the District of a lien for unpaid taxes or assessments.<sup>44</sup> Apparently, the District subsequently went into receivership.<sup>45</sup> The legislative record apparently ends in 1943, when the Legislature acted to exclude specific lands from District assessments and taxes for the years 1942 and subsequent,<sup>46</sup> canceled taxes for 1942 imposed on the described property,<sup>47</sup> and ratified all prior actions of the former receiver for the District and the Board of Supervisors after control of the District was restored to its board.<sup>48</sup>

By 2000, the District for two consecutive years failed to pay required fees<sup>49</sup> to the Special District Information Program within the Division of Community Planning in the Department of Community

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<sup>32</sup> Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.

<sup>33</sup> Chapter 69-1308, Laws of Florida.

<sup>34</sup> Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.

<sup>35</sup> Ch. 12010, Laws of Florida (1927).

<sup>36</sup> Ch. 6458, s. 1, Laws of Florida (1913); CGL 1451.

<sup>37</sup> *Id.*

<sup>38</sup> Ch. 12010, s. 1, Laws of Florida (1927).

<sup>39</sup> Ch. 16980, s. 1, Laws of Florida (1935).

<sup>40</sup> *Id.*

<sup>41</sup> Ch. 19556, s. 5, Laws of Florida (1939).

<sup>42</sup> *Id.* s. 1.

<sup>43</sup> *Id.* s. 2.

<sup>44</sup> *Id.* s. 4.

<sup>45</sup> Ch. 21916, s. 4, Laws of Florida (1943), referring to one Robert H. Cook as the former receiver of the district.

<sup>46</sup> Ch. 21916, s. 1, Laws of Florida (1943).

<sup>47</sup> *Id.* s. 2.

<sup>48</sup> *Id.* s. 4.

<sup>49</sup> Former Fla. Admin. Code R. 9B-50.003, now Fla. Admin. Code R. 73C-24.003. The department responsible for overseeing special districts is authorized to adopt by rule a schedule of annual fees to be paid by each special district, capped at \$175/year. Section 189.018, F.S. (formerly s. 189.427, F.S.).

Affairs (DCA)<sup>50</sup> and also failed to file certain statutory reports.<sup>51</sup> On March 21, 28, April 4 and 11, 2000, DCA published the "Notice of Declaration of Inactive Status of the Eagle Bay Sub-Drainage District" in The Okeechobee Journal.<sup>52</sup> Pursuant to statute,<sup>53</sup> the notice required any objections to the District being placed on inactive status were to be filed with DCA within 21 days of the initial publication of the notice; no objections were received. On December 5, 2000, DCA declared the District inactive and notified the Speaker of the House as well as the President of the Senate of the Authority's inactive status<sup>54</sup> pursuant to statute.<sup>55</sup>

### **EFFECT OF THE BILL**

The bill dissolves the Eagle Bay Sub-Drainage District, an independent special district, by repealing chs. 12010, (1927), 19556 (1939), and 21916 (1943), Laws of Florida. Any assets and liabilities of the district are transferred to the Okeechobee County Board of County Commissioners.

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

Section 1: Repeals chs. 12010, 1927; 19556, 1939, and 21916, 1943, Laws of Florida.

Section 2: Abolishes the Eagle Bay Sub-Drainage District and transfers all assets and liabilities of the district to the Board of County Commissioners of Okeechobee County.

Section 3: Provides the bill is effective upon becoming law.

### **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 4, 2000

WHERE? Leon County

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**

<sup>50</sup> The Department of Community Affairs was abolished and the Division of Community Planning, responsible for supervision of special districts, was transferred to the newly created Department of Economic Opportunity, effective July 1, 2011. Ch. 2011-142, ss. 3, 528, Laws of Florida.

<sup>51</sup> Declaration of Inactive Status Report, Eagle Bay Sub-Drainage District (12/5/2000). As of 2000, special districts were required to file regular reports with local governing authorities, including reports on public facilities (s. 189.415, F.S.), designating a registered agent and office (s. 189.416, F.S., also filed with DCA), and a schedule of regular meetings (s. 189.417, F.S.), as well as required financial reports (ss. 189.418, 218.32, 218.34, F.S.). See s. 189.419, F.S. (2000). A search of the specific Department of Financial Services webpage shows no reporting by the District for the period 1993 – 2000. See "Local Government Financial Reporting" at <https://apps.fldfs.com/LocalGov/Reports/AdHoc.aspx> (accessed 11/24/2015).

<sup>52</sup> Notice of Declaration of Inactive Status to Senate President John McKay and Speaker Tom Feeney (12/4/2000).

<sup>53</sup> Section 189.4044(1), F.S. (1999).

<sup>54</sup> Letter from the Department of Community Affairs to Senate President John McKay and Speaker Tom Feeney, supra n. 50.

<sup>55</sup> The statute currently requires notification of the standing committee chairs; however, at the time the district was declared inactive, the statute only required the Speaker of the House and President of the Senate be notified. See s. 189.4044 F.S. (1999).

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide authority or require implementation by administrative agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

When notice of intent to file a local bill is published in the area to be affected pursuant to statute,<sup>56</sup> proof of such publication typically is in the form of an affidavit.<sup>57</sup> However, in this instance the notice of declaring inactive status in and of itself is sufficient to satisfy the constitutional requirement.<sup>58</sup> To satisfy the requirement of general law that evidence of the necessary publication "be established" in the Legislature before the bill is passed,<sup>59</sup> a Substitute Notice of Publication reciting the requirement of s. 189.062(3), F.S., was submitted with the bill.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 2, 2015, the Local Government Affairs Subcommittee approved a technical amendment that deleted an unnecessary reference to ch. 16980, Laws of Florida (1935), which had been repealed by ch. 19556, Laws of Florida (1939). This analysis is drawn to the bill as amended.

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<sup>56</sup> Section 11.02, F.S.

<sup>57</sup> Section 11.03, F.S.

<sup>58</sup> Section 189.062(3), F.S.

<sup>59</sup> Section 11.021, F.S.

**SUBSTITUTE NOTICE OF PUBLICATION**

Re: Eagle Bay Sub-Drainage District

The Special District Accountability Program in the Department of Economic Opportunity has declared the Eagle Bay Sub-Drainage District, in Okeechobee County, to be inactive. By notice dated December 4, 2000, the Department informed the President of the Florida Senate and the Speaker of the Florida House of Representatives of the inactive status of the district. Under s. 189.062(3), F.S. (formerly s. 189.4044(3), F.S.), the declaration of inactive status from DEO is sufficient notice under s. 10, art. III of the State Constitution to authorize the Legislature to repeal any special laws so reported.



STATE OF FLORIDA  
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

(JES #US1)  
Covered

STEVEN M. SELBERT  
Secretary

December 4, 2000

The Honorable John McKay  
President, The Senate of Florida  
Room 416, Senate Office Building  
404 South Monroe Street  
Tallahassee, Florida 32399-1100

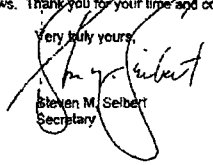
The Honorable Tom Feeney  
Speaker of the House of Representatives  
Room 414, The Capitol  
402 South Monroe Street  
Tallahassee, Florida 32399-1300

Re: Inactive Special Districts:  
Eagle Bay Sub-Drainage District  
11-County Hospital Authority

Dear President McKay and Speaker Feeney:

When a special district becomes inactive within the meaning of Section 189.4044 Florida Statutes, the Department of Community Affairs must file *Declaration of Inactive Status Reports* (enclosed) with the President of the Senate and the Speaker of the House of Representatives. Pursuant to Section 189.4044(3)-(4), Florida Statutes, this is sufficient notice as required by Section 10, Article III of the State Constitution to authorize the Legislature to repeal any special laws so reported. The above referenced districts have become inactive. Therefore, I dutifully request that the Legislature dissolve these special districts by repealing their enabling laws. Thank you for your time and consideration.

Very truly yours,

  
Steven M. Selbert  
Secretary

SMS/jp

Enc. Declaration of Inactive Status Reports for  
the Above Referenced Special Districts

cc: Jack Gaskins Jr., Special District Information Program  
Special District's Registered Agent

2535 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100  
Phone: 904.486.8466/Suncom 276.8466 FAX: 904.921.0761/Suncom 291.0761  
Internet address: <http://www.dca.state.fl.us>

OFFICIAL STATE COMPEN FIELD OFFICE  
J. A. Thomas, Director, Suite 112  
Hoffman, FL 3750-2727  
(904) 897-2497

COMMUNITY PLANNING  
2535 Shumard Oak Boulevard  
Tallahassee, FL 32309-2100  
(904) 486-2116

EMERGENCY MANAGEMENT  
2535 Shumard Oak Boulevard  
Tallahassee, FL 32309-2100  
(904) 486-2116

HOUSING & COMMUNITY DEVELOPMENT  
2535 Shumard Oak Boulevard  
Tallahassee, FL 32309-2100  
(904) 486-2116

DECLARATION OF INACTIVE STATUS REPORT  
EAGLE BAY SUB-DRAINAGE DISTRICT

Name of Inactive Special District: *Eagle Bay Sub-Drainage District*, an independent special district located in Okeechobee County in the State of Florida.

Inactive Status Based Upon: The *Eagle Bay Sub-Drainage District* failed to make a good faith effort to file the reports listed in Section 189.419, *Florida Statutes*, and failed for two consecutive years to pay fees assessed by the Special District Information Program. (Section 189.4044(1)(e)3.-4., *Florida Statutes*).

Action Taken by the Department of Community Affairs: Published a *Notice of Declaration of Inactive Status of the Eagle Bay Sub-Drainage District* in *The Okeechobee News*, a newspaper of general circulation in Okeechobee County, on March 21, March 28, April 4, and April 11, 2000. This notice required any party objecting to the dissolution of the *Eagle Bay Sub-Drainage District* to file an objection within 60 days after the date of the last publication of the notice with the Department of Community Affairs. In addition, the Notice required any creditors asserting claims against the *Eagle Bay Sub-Drainage District* to file such claims with Okeechobee County within that time (Section 189.4044(1)(b), *Florida Statutes*).

Result: Sixty days elapsed from the last publication date of the notice of proposed declaration of inactive status and no sustained objections were filed. The Special District Information Program of the Department of Community Affairs declared the *Eagle Bay Sub-Drainage District* to be inactive on June 12, 2000 (Section 189.4044(1)(c), *Florida Statutes*).

Action Requested of the Florida Legislature: Dissolve the *Eagle Bay Sub-Drainage District* by repealing Chapter 12010, *Laws of Florida*, approved May 16, 1927 (Section 189.4044(4), *Florida Statutes*).

  
\_\_\_\_\_  
Steven M. Belbert, Secretary

\_\_\_\_\_  
Date

12-5-00



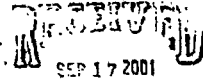
**Florida House of Representatives**  
Council for Smarter Government  
Committee on Local Government & Veterans Affairs

Tom Feeney  
Speaker

Ken Sorensen  
Chair

September 12, 2001

The Honorable John F. Laurent  
Chair, Okeechobee County Delegation  
250 North Clark Avenue  
Bartow, Florida 33830 -- 4004



Re: Inactive Special District

State of Florida Clearinghouse

Dear Senator Laurent:

The Eagle Bay Sub-Drainage District has been declared inactive within the meaning of Section 189.4044 *Florida Statutes*, thus requiring the Department of Community Affairs to file the enclosed *Declaration of Inactive Status Report* with the President of the Senate, and the Speaker of the House of Representatives. Pursuant to Section 189.4044(3)-(4), *Florida Statutes*, this is sufficient notice as required by Section 10, Article III of the Florida Constitution to authorize the Legislature to repeal any special laws so reported.

We realize that your delegation may have already made decisions on issues for the 2002 Legislative Session. However, if possible, a local bill is needed to complete the dissolution process. Please contact my staff at SC 278-1791 with any questions that you may have regarding this matter.

Sincerely,

  
Ken Sorensen

cc: Department of Community Affairs  
Special Districts Information Program



September 12, 2001  
Page 2

Tom Yeatman, Staff Director  
Senate Committee on  
Comprehensive Planning, Local and Military Affairs

**HOUSE OF REPRESENTATIVES**  
**2016 LOCAL BILL CERTIFICATION FORM**

**BILL #:** HB 649  
**SPONSOR(S):** Rep. Pigman  
**RELATING TO:** Eagle Bay Sub-Drainage District  
[Indicate Area Affected (City, County, or Special District) and Subject]  
**NAME OF DELEGATION:** Okeechobee County  
**CONTACT PERSON:** Marty Mielke  
**PHONE NO.:** (863) 386-6015      **E-Mail:** Mielke.Marty@flsenate.gov

**I. House local bill policy requires the following steps must 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.
- (4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local Government Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

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

YES       NO

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

YES       NO

Date hearing held: 10/16/15 / 12/1/15

Location: Okeechobee / Tallahassee

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

YES       NO

(4) Was an Economic Impact Statement prepared at the local level and submitted to the Local Government Affairs Subcommittee?

YES       NO

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

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

Notice published: YES  NO  DATE 12/4/2000

Where? Letter per s. 189.4044, F.S. (2000) County Leon

Referendum in lieu of publication: YES  NO

Date of Referendum \_\_\_\_\_

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

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

YES  NO

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

YES  NO

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

Please submit this completed, original form to the Local Government Affairs Subcommittee.

  
Delegation Chair (Original Signature)

12/1/15

Date

Sen. Denise Grimsley

Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2016 ECONOMIC IMPACT STATEMENT FORM**

*\*Read all instructions carefully.\**

*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 and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local Government Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

**BILL #:** HB 649  
**SPONSOR(S):** Rep. Pigman  
**RELATING TO:** Eagle Bay Sub-Drainage District  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</u>

**II. COST:**

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 16-17</u>	<u>FY 17-18</u>
	\$ <u>1,800,000</u>	\$ <u>6,204</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

Attached  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**III. FUNDING SOURCE(S):**

State the specific sources from which funding will be received, for example, license plate fees, state funds, borrowed funds, or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 16-17</u>	<u>FY 17-18</u>
Local:	\$ <u>1,800,000</u>	\$ <u>6,204</u>
State:	\$ <u>0</u>	\$ <u>0</u>
Federal:	\$ <u>0</u>	\$ <u>0</u>

**IV. ECONOMIC IMPACT:**

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: Dissolves a unit of local government that is inactive and no longer necessary.
2. Advantages to Businesses: Dissolves a unit of local government that is inactive and no longer necessary.
3. Advantages to Government: Dissolves an inactive unit of local government that duplicates authority of county government.

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None

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2. Disadvantages to Businesses: None

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3. Disadvantages to Government: None

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**V. DESCRIBE THE POTENTIAL IMPACT OF THE BILL ON PRESENT GOVERNMENTAL SERVICES:**

No anticipated impact. The district is inactive.

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**VI. SPECIFIC DATA USED IN REACHING ESTIMATES:**

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

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**VII. CERTIFICATION BY PREPARER**

I hereby certify I am qualified to establish fiscal data and impacts and have personal knowledge of the information given. I have reviewed all available financial information applicable to the substance of the above-stated local bill and confirm the foregoing Economic Impact Statement is a true and accurate estimate of the economic impact of the bill.

PREPARED BY: Robbie Chartier  
[Must be signed by Preparer]

Print preparer's name: Robbie Chartier  
12/1/15  
Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

County Administrator

REPRESENTING: Okeechobee County BOCC

PHONE: 863-763-6441 x.1

E-MAIL ADDRESS: rchartier@co.okeechobee.fl.us

### Clearing 17,600 Feet of Tree Covered Canals

The Road Maintenance Division *cleans* county maintained canals at the rate of 400 to 500 feet per day. We estimate *clearing* the 17,600 feet of tree covered canals at the rate of 100 feet per 10 hour day.

A long stick, because of its maximum 54 foot reach, would be the type of equipment normally used for *cleaning* a canal. This type of equipment, however, has little capacity for lifting heavy loads required in a *clearing* operation. For this reason, we propose two short stick track hoes operating from both sides of the canals, assuming this type of operation is possible. Please note, the county only owns one short stick at the present time. A second hoe will have to be rented.

One short stick costs \$ 72 per hour – two cost \$144 per hour times a 10 hour day or \$1,440

To remove debris, four 14 cubic yard dump trucks, two on either side, operating continuously between the District and the landfill will be required. Cost for one dump truck is \$ 75 per hour or \$ 750 per 10 hour day for four trucks is \$3,000

Two front end loaders will be required, one on either side, to load the trucks at \$44 per hour or \$880 per 10 hour day.

A dozer will be required to open and maintain a roadway and canal banks for the track hoes. A dozer costs \$45.50 per hour or \$ 455 per day.

Miscellaneous smaller equipment such as chainsaws, pick-up trucks, shovels and rakes will be required, however these costs are relatively small and the quantity is unknown.

We would need twelve employees at \$22 per hour times ten or \$220 per hour and \$2,600 per 10 hour day

Total cost for the 176 work days needed to clear the 17,600 feet of tree covered canals is \$1,474,000.

### Clearing 8,800 Feet of "Open" Canals

The Road Maintenance Division *cleans* county maintained canals at the rate of 400 to 500 feet per day. We estimate *clearing* the 8,800 feet of open canals at the rate of 200 feet per 10 hour day.

A long stick, because of its long reach, would be the type of equipment normally used for *cleaning* a canal. This type of equipment, however, has little capacity for lifting heavy loads required in a *clearing* operation. For this reason, we propose two short stick track hoes operating from both sides of the canals.

One short sticks cost \$ 72 per hour – two costs \$ 144 per hour times 10 hour day or \$ 1,440

To remove debris, two 14 cubic yard dump trucks, operating continuously between the District and the landfill will be required. Costs for one dump truck is \$75 per hour or \$750 per 10 hour day times two or \$1,500.

Two front end loaders will be required to load the trucks at \$44 per hour or \$880 per 10 hour day.



A dozer will be required to open a roadway and maintain canal banks for the track hoes. A dozer costs \$45.50 per hour or \$ 455 per day.

Miscellaneous smaller equipment such as chainsaws, pick-up trucks, shovels and rakes will be required, however these costs are relatively small and the quantity is unknown.

We need seven employees at \$22 per hour times seven or \$ 154 per hour and \$1,540 per 10 hour day.

Total cost is \$ 5,155 per day

Total cost for the 44 working days required is \$255,860

Total cost for surveying and clearing the Eagle Bay Sub District canals - \$1,829,860

### Need to Continue Present Operations

To maintain our present operations during the 220 working days of the project will require an estimated \$316,800 (two short sticks for 220 working days) plus \$ 48,400 (two employees during the same period) for an additional dollar requirement of \$365, 200.

Grand total for the project and replacement equipment/personnel is \$2,195,060 or approximately \$2.2 million.

### Continuing Maintenance

These costs do not recognize the need or costs to maintain our present cleaning operation.

Assuming the canals were opened, road access gain, the easements clear of encroachments, the waterways re-located to the easement and can be cleaned normally, our annual maintenance costs will be \$6,204 per year at present rates.

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A bill to be entitled  
An act relating to the Eagle Bay Sub-Drainage District, Okeechobee County; repealing chapters 12010 (1927), 19556 (1939), and 21916 (1943), Laws of Florida; abolishing the district; transferring assets and liabilities of the district; providing an effective date.

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

Section 1. Chapters 12010 (1927), 19556 (1939), and 21916 (1943), Laws of Florida, are repealed.

Section 2. The Eagle Bay Sub-Drainage District, Okeechobee County, is abolished.

Section 3. All assets and liabilities of the Eagle Bay Sub-Drainage District shall be transferred to the Board of County Commissioners of Okeechobee County.

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



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7023 PCB FTC 16-03 Ad Valorem Tax Exemption for Deployed Servicemembers  
SPONSOR(S): Finance & Tax Committee, Trumbull  
TIED BILLS: None IDEN./SIM. BILLS: CS/SB 160

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee	16 Y, 0 N	Dugan	Langston
1) Local & Federal Affairs Committee		Renner <i>JR</i>	Kiner <i>KLK</i>

SUMMARY ANALYSIS

Current law provides an additional ad valorem homestead tax exemption to military servicemembers deployed in the previous year outside of the United States in support of certain named military operations designated by the Legislature. The exemption is equal to the taxable value of the qualifying servicemember's homestead on January 1 of the year in which the exemption is sought, multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year, and divided by the number of days in that year. By January 15 of each year, the Department of Military Affairs (DMA) must submit to the Legislature a report of the military operations eligible for the exemption.

The bill updates the designated operations for which deployed servicemembers may qualify. Based upon the 2015 DMA report, the bill removes Operation Iraqi Freedom from the statutory list, which ended on August 31, 2010, and adds 11 operations to the statutory list. The bill also allows the exemption for deployments in newly named operations beginning with deployments in calendar year 2014.

The bill extends the normal March 1 application deadline for the exemption application for qualifying deployments during the 2014 and 2015 calendar years to June 1, 2016.

The bill also provides refund procedures for servicemembers who were on qualifying deployments for more than 365 days during the 2014 and 2015 calendar years.

The Revenue Estimating Conference estimates that this bill will reduce local property tax revenues by -\$1.6 million in Fiscal Year 2016-2017, with a recurring impact of -\$800,000 thereafter.

**This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.**

This bill is effective upon becoming a law, and first applies to tax rolls for 2016.

## Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs (DMA) must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.<sup>11</sup>

To the extent possible, the report must include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The date each military operation commenced; and
- The date each military operation terminated, unless the operation is ongoing.<sup>12</sup>

## Exemption Application

A servicemember who seeks to claim the tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment.<sup>13</sup>

The servicemember's application must include:

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

The property appraiser must consider a servicemember's application for the exemption within 30 days after receipt of the application or within 30 days after receiving notice of the designation of qualifying deployments by the Legislature, whichever is later.<sup>14</sup> If a servicemember's application is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision to the value adjustment board (VAB) along with the procedures for filing such appeal.<sup>15</sup>

## **Effect of Proposed Changes**

The DMA has submitted the report required by s. 196.173(3), F.S., providing the names, dates, locations and general purposes of all known and unclassified military operations that occurred outside the continental United States in calendar year 2015.<sup>16</sup>

The bill amends s. 196.173(2), F.S., to remove from the statutory list Operation Iraqi Freedom, which ended on August 31, 2010. The final year a servicemember could apply for an exemption under s. 196.173, F.S., for a deployment on Operation Iraqi Freedom was 2011. Further, any refund claim for ad valorem taxes paid must be made within four years after January 1 of the tax year for which the taxes were paid. For example, a servicemember who was deployed in 2010 and paid property taxes (and claimed the exemption) in 2011, must submit his or her refund claim before January 1, 2015.

The bill also amends s. 196.173(2), F.S., to add to the statutory list the following 11 operations from the 2015 DMA report:

- Operation Joint Guardian;
- Operation Octave Shield;

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<sup>10</sup> s. 196.173(2), F.S.

<sup>11</sup> s. 196.173(3), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> s. 196.173(5)(a), F.S.

<sup>14</sup> s. 196.173(6), F.S.

<sup>15</sup> ss. 194.015 and 194.011, F.S.

<sup>16</sup> State of Florida Department of Military Affairs Office of the Adjutant General, *Named Operations Report* (Feb. 17, 2015).

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

1. Revenues:

On October 2, 2015, the REC estimated that this bill will reduce local property tax revenues by -\$1.6 million in Fiscal Year 2016-2017, with a recurring impact of -\$800,000, thereafter, assuming current millage rates.

2. Expenditures:

The bill provides additional duties to county property appraisers and VABs, which must consider servicemembers' applications for exemption that would otherwise not have met the filing deadline.

The bill may also require tax collectors to issue refunds to servicemembers if the servicemembers were on qualifying deployment for more than 365 days during the 2014 and 2015 calendar years.

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

If the bill becomes law, servicemembers deployed overseas in support of the added military operations may receive property tax relief.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill expands the designated operations which certain deployed servicemembers may be eligible for an exemption from ad valorem taxes, resulting in less ad valorem taxes to local governments. Also, the bill may require some additional expenditures to process exemption applications and refund requests. However, an exemption may apply because the fiscal impact may be insignificant.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

A bill to be entitled

An act relating to an ad valorem tax exemption for deployed servicemembers; amending s. 196.173, F.S.; expanding the military operations that qualify certain servicemembers who receive a homestead exemption and were deployed during the previous calendar year to receive an additional ad valorem tax exemption on that homestead property; specifying the deadline for filing an application for the tax exemption for the 2016 tax year; providing procedures for filing an application for the tax exemption for a qualifying deployment during the 2014 and 2015 calendar years; providing procedures to appeal a denial by a property appraiser of an application for the tax exemption; providing refund procedures for servicemembers who were on qualifying deployments for more than 365 days during the 2014 and 2015 calendar years; providing applicability; providing an effective date.

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

Section 1. Subsection (2) of section 196.173, Florida Statutes, is amended to read:

196.173 Exemption for deployed servicemembers.—

(2) The exemption is available to servicemembers who were deployed during the preceding calendar year on active duty

27 outside the continental United States, Alaska, or Hawaii in  
 28 support of any of the following military operations:

29 (a) Operation Joint Guardian, which began on June 12,  
 30 1999.

31 (b) Operation Octave Shield, which began in 2000.

32 ~~(c)(a)~~ Operation Noble Eagle, which began on September 15,  
 33 2001.~~†~~

34 ~~(d)(b)~~ Operation Enduring Freedom, which began on October  
 35 7, 2001.~~†~~

36 (e) Operation Trans-Sahara Counterterrorism Partnership,  
 37 which began in June 2005.

38 (f) Operation Nomad Shadow, which began in 2007.

39 (g) Operation U.S. Airstrikes Al Qaeda in Somalia, which  
 40 began in January 2007.

41 (h) Operation Objective Voice, which began in 2009.

42 (i) Operation Georgia Deployment Program, which began in  
 43 August 2009.

44 (j) Operation Copper Dune, which began in 2010.

45 ~~(c)~~ Operation Iraqi Freedom, which began on March 19,  
 46 2003, and ended on August 31, 2010;

47 ~~(k)(d)~~ Operation New Dawn, which began on September 1,  
 48 2010, and ended on December 15, 2011.~~† or~~

49 ~~(l)(e)~~ Operation Odyssey Dawn, which began on March 19,  
 50 2011, and ended on October 31, 2011.

51 (m) Operation Observant Compass, which began in October  
 52 2011.



- 53        (n) Operation Juniper Shield, which began in 2013.
- 54        (o) Operation Inherent Resolve, which began on August 8,
- 55        2014.

56

57        The Department of Revenue shall notify all property appraisers

58        and tax collectors in this state of the designated military

59        operations.

60        Section 2. (1) Notwithstanding s. 196.173, Florida

61        Statutes:

62        (a) The deadline for an applicant to file an application

63        with the property appraiser for an additional ad valorem tax

64        exemption under s. 196.173, Florida Statutes, for the 2016 tax

65        year is June 1, 2016.

66        (b) For purposes of calculating the 2016 exemption for the

67        military operations added by this act, a servicemember may

68        include as days he or she was on a qualifying deployment in the

69        preceding calendar year the number of days he or she was on

70        qualifying deployments during the 2014 and 2015 calendar years.

71        (2) If an application is not timely filed under subsection

72        (1), a property appraiser may grant the exemption if:

73        (a) The applicant files an application for the exemption

74        on or before the 25th day after the mailing by the property

75        appraiser during the 2016 calendar year of the notice required

76        under s. 194.011(1), Florida Statutes;

77        (b) The applicant is qualified for the exemption; and

78        (c) The applicant produces sufficient evidence, as

79 determined by the property appraiser, which demonstrates that  
 80 the applicant was unable to apply for the exemption in a timely  
 81 manner or otherwise demonstrates extenuating circumstances that  
 82 warrant granting the exemption.

83 (3) If the property appraiser denies an application under  
 84 subsection (2), the applicant may file, pursuant to s.  
 85 194.011(3), Florida Statutes, a petition with the value  
 86 adjustment board which requests that the exemption be granted.  
 87 Such petition must be filed on or before the 25th day after the  
 88 mailing by the property appraiser during the 2016 calendar year  
 89 of the notice required under s. 194.011(1), Florida Statutes.  
 90 Notwithstanding s. 194.013, Florida Statutes, the eligible  
 91 servicemember is not required to pay a filing fee for such  
 92 petition. Upon review of the petition, the value adjustment  
 93 board may grant the exemption if the applicant is qualified for  
 94 the exemption and demonstrates extenuating circumstances, as  
 95 determined by the board, which warrant granting the exemption.

96 (4) A servicemember may receive a refund of taxes paid for  
 97 the 2015 tax year if he or she was on qualifying deployments  
 98 during the 2014 and 2015 calendar years for more than 365 days.  
 99 The amount of the refund is equal to the taxes paid on the  
 100 servicemember's homestead in 2015 multiplied by the number of  
 101 days in excess of 365 that the servicemember was on qualifying  
 102 deployments during the 2014 and 2015 calendar years, divided by  
 103 365.

104 Section 3. Except as otherwise expressly provided in this

HB 7023

2016

105 | act, this act applies to ad valorem tax rolls for the 2016 tax  
106 | year and thereafter.

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