



Local & Federal Affairs Committee

Meeting Packet

**Thursday, January 21, 2016
11:30 am – 1:30 pm
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 21, 2016
212 Knott, Webster Hall
11:30 a.m. – 1:30 p.m.

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bills:

**CS/HJR 165 Selection and Duties of County Officers by Local Government
Affairs Subcommittee, Artiles**

HB 301 Property Prepared for Tax-Exempt Use by Burton

HB 565 Redevelopment Trust Fund by Spano

HB 655 City of Jacksonville, Duval County by Fullwood

**HB 891 Northwest Florida Community Hospital Board of Trustees,
Washington County by Drake**

HB 1081 North Sumter County Hospital District, Sumter County by O'Toole

**HB 7059 Election Dates for Municipal Office by State Affairs Committee,
Caldwell**

V. Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 165 Selection and Duties of County Officers
SPONSOR(S): Local Government Affairs Subcommittee; Artiles and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SJR 648

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|---------------------|--------------------|--|
| 1) Local Government Affairs Subcommittee | 11 Y, 0 N, As CS | Walker | Miller |
| 2) Judiciary Committee | 16 Y, 2 N | Aziz | Havlicak |
| 3) Local & Federal Affairs Committee | | Miller <i>EM/m</i> | Kiner <i>KLK</i> |

SUMMARY ANALYSIS

CS/HJR 165 proposes to amend the State Constitution by removing the authority to alter the manner of selecting certain county officers and limiting the ability to abolish a county office and transfer all duties prescribed by general law to another office, either by charter counties or by special law approved by the county electors. As a result, the offices of sheriff, property appraiser, supervisor of elections, tax collector, and clerk of the circuit court would be filled only by vote of the county electors and for terms of four years. One or more of these county offices could be abolished and its duties transferred to another office only by special law approved by the county voters. As proposed in the joint resolution, the clerk of the circuit court would be the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds unless otherwise provided by special law approved by the county voters.

Each house of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot. CS/HJR 165 provides for the proposed constitutional amendment to be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

CS/HJR 165 impacts state funds to the extent that the cost of placing the constitutional amendment on the ballot must be administered by the Department of State. The department has estimated the printing and publication costs for advertising the joint resolution and other necessary materials could be \$96,130.79 to \$100,735.77, possibly greater, depending on the final wording of the joint resolution and the resulting ballot language. This estimate is based on the cost to advertise constitutional amendments for the 2014 general election which was \$135.97 per word.

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:

Present Situation

Article VIII of the State Constitution establishes the authority for home rule by counties and municipalities in Florida. The Legislature is required to divide the state into counties¹ and has the authority to choose to create municipalities.²

Pursuant either to general³ or special law, a county government may be adopted by charter approved by the county voters. A county without a charter has such powers of self-government as provided by general⁴ or special law.⁵ A county with a charter has all powers of self-government *not inconsistent* with general law or special law approved by the county voters.⁶ Article VIII, s. 6(e), of the Florida Constitution incorporates by reference sections of the 1885 Constitution, providing unique authorization⁷ for specific home rule charters including those of Duval⁸ and Miami-Dade Counties.⁹ Currently, twenty Florida counties have adopted charters.¹⁰

The Constitution creates five specific county officers: sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court (collectively, the Five Constitutional Offices/Officers).¹¹ The clerk of the circuit court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds. Each officer is elected separately by the voters of the county for terms of four years. These officers have duties prescribed in general law.¹²

¹ Art. VIII, s. 1(a), Fla. Const.

² Art. VIII, s. 2(a), Fla. Const.

³ Section 125.60, F.S.

⁴ Ch. 125, Part I, F.S.

⁵ Art. VIII, s. 1(f), Fla. Const.

⁶ Art. VIII, s. 1(g), Fla. Const.

⁷ Article VIII, s. 6(e), Fla. Const., states that specific provisions for Duval, Miami-Dade, Monroe, and Hillsborough Counties “shall remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article.”

⁸ The consolidated government of the City of Jacksonville was created by ch. 67-1320, Laws of Florida, adopted pursuant to Art. VIII, s. 9, Fla. Const. (1885).

⁹ In 1956, an amendment to the 1885 Florida Constitution provided Dade County with the authority to adopt, revise, and amend from time to time a home rule charter government for the county. The voters of Dade County approved that charter on May 21, 1957. Dade County, now known as Miami-Dade County, has unique home rule status. Article VIII, s. 11(5) of the 1885 State Constitution, now incorporated by reference in art. VIII, s. 6(e), Fla. Const. (1968), further provided the Metropolitan Dade County Home Rule Charter, and any subsequent ordinances enacted pursuant to the charter, may conflict with, modify, or nullify any existing local, special, or general law applicable only to Dade County. Accordingly, Miami-Dade County ordinances enacted pursuant to the Charter may implicitly, as well as expressly, amend or repeal a special act that conflicts with a Miami-Dade County ordinance. Effectively, the Miami-Dade Charter can only be altered through constitutional amendment, general law, or County actions approved by referendum. *Chase v. Cowart*, 102 So. 2d 147, 149-50 (Fla. 1958).

¹⁰ Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Duval (consolidated government with the City of Jacksonville, ch. 67-1320, Laws of Fla.), Hillsborough, Lee, Leon, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, Volusia, and Wakulla Counties. The Local Government Formation Manual 2015-2016, Appendix B, at 101-07.

¹¹ Art. VIII, s. 1(d), Fla. Const. In a separate subsection, the Constitution requires counties to be governed by a board of county commissioners unless otherwise provided in their respective charters, if any. Art. VIII, s. 1(e), Fla. Const., which is not affected by the joint resolution.

¹² See ch. 30, F.S. (stating certain duties of the sheriff as a Constitutional officer); ch. 197, F.S. (stating certain duties of the tax collector as a Constitutional officer); ch. 193, Part I, F.S. (stating certain duties of the property appraiser as a Constitutional officer); ch. 102, F.S. (stating certain duties of the supervisor of elections as a Constitutional officer); and ch. 28, F.S. (stating certain duties of the clerk of the circuit court as a Constitutional officer).

The Five Constitutional Offices can only be altered through charter provision or by special act approved by the voters of the county.¹³ All non-charter counties have the Five Constitutional Officers with statutorily prescribed duties. Eight charter counties have changed the manner of selection of at least one of the Five Constitutional Officers or restructured or abolished at least one of the Five Constitutional Offices and transferred the powers to another county office.¹⁴

Brevard County

Brevard County “expressly preserved” the offices of the sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court as departments of county government, rather than constitutional offices.¹⁵ The county reiterated the ability to transfer or add to the powers of each of the county officers.¹⁶ The county has transferred the powers of the clerk of circuit court as auditor, and custodian of county funds to the county manager.¹⁷ Each of the officers remains elected for four year terms.¹⁸

Broward County

Broward County has not altered the constitutionally elected offices and duties of the sheriff, property appraiser, and supervisor of elections.¹⁹ However, the office of the tax collector was abolished and the duties were transferred to the Department of Finance and Administrative Services, headed by the Finance and Administrative Services Director appointed by the county administrator.²⁰ Though the clerk of the circuit court also retains the status of constitutional officer, the clerk’s constitutional duties as clerk of the county commission were transferred to the county administrator.²¹

Clay County

Clay County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser, and supervisor of elections.²² Although the clerk of the circuit court also retains the status of constitutional officer, the clerk’s constitutional duties as clerk of the county commission, auditor, and custodian of county funds were transferred to the county administrator.²³

Duval County

Duval County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser, and supervisor of elections.²⁴ The clerk of the circuit court retains the status of

¹³ Art. VIII, s. 1(d), Fla. Const.

¹⁴ Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia Counties.

¹⁵ Brevard County Florida, Code of Ordinances, Charter, Art. 4, s. 4.1, *available at* https://www.municode.com/library/fl/brevard_county/codes/code_of_ordinances (accessed 12/15/2015).

¹⁶ Brevard County Florida, Code of Ordinances, Charter, Art. 4, ss. 4.2.1, 4.2.2, 4.2.3, 4.2.4 & 4.2.5, *available at* https://www.municode.com/library/fl/brevard_county/codes/code_of_ordinances (accessed 12/15/2015).

¹⁷ Brevard County Florida, Code of Ordinances, Charter, Art. 2, s. 2.9.4, and Art. 4, s. 4.2.1, and Code of Ordinances, ch. 2, ss. 2-68 & 2-73, *available at* https://www.municode.com/library/fl/brevard_county/codes/code_of_ordinances (accessed 12/15/2015).

¹⁸ Brevard County Florida, Code of Ordinances, Charter, Art. 4, s. 4.1.1, *available at* https://www.municode.com/library/fl/brevard_county/codes/code_of_ordinances (accessed 12/15/2015).

¹⁹ BROWARD COUNTY FLORIDA, Code of Ordinances, Part I Charter, “Definitions”, Oct. 21, 2015 *available at* https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances.

²⁰ BROWARD COUNTY FLORIDA, Code of Ordinances, Part I Charter ss. 2.12 & 3.06, Oct. 21, 2015 *available at*, https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances.

²¹ BROWARD COUNTY FLORIDA, Code of Ordinances, Part I Charter, “Definitions” & s. 3.03G., Oct. 21, 2015 *available at* https://www.municode.com/library/fl/broward_county/codes/code_of_ordinances.

²² CLAY COUNTY FLORIDA, Home Rule Charter, Article III s. 3.1, 2014 Edition, *available at*, <http://www.claycountygov.com/about-us>.

²³ CLAY COUNTY FLORIDA, Home Rule Charter, Article III ss. 3.1 & 2.3, 2014 Edition, *available at* <http://www.claycountygov.com/about-us>.

²⁴ Duval County currently lacks the authority to alter the methods by which the clerk of the circuit court or the sheriff are elected, nor can the County abolish the offices. See JACKSONVILLE COUNTY FLORIDA, Charter and Related Laws, Part A. ss. 8.01, 9.01,

constitutional officer but the clerk's duties as clerk of the county commission were transferred to the Council Secretary and the constitutional duties as auditor were transferred to the Council Auditor.²⁵

Miami-Dade County

Miami-Dade County abolished the constitutional offices of the sheriff, tax collector, supervisor of elections,²⁶ and property appraiser,²⁷ and transferred these powers to the mayor, and granted the mayor the discretion to sub-delegate the powers.²⁸ The duties of the sheriff were transferred to the Police Department, the director of which is appointed by the mayor.²⁹ The duties of the tax collector were transferred to the Department of Finance,³⁰ the director of which is jointly appointed by the mayor and the clerk of court.³¹ The county property appraiser, although not retained as a constitutional office, remains an elected position.³² The duties of the supervisor of elections were transferred to the Elections Department, the director of which is appointed by the mayor.³³ The clerk of the circuit court remains a constitutional, elected officer with some changes in duties.³⁴ Although the clerk is still the clerk of the County Commission, the clerk's financial recorder and custodian duties were transferred to the Department of Financial Services and the clerk's auditing duties were transferred to the Commission Auditor.³⁵

Orange County

Orange County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser,³⁶ and supervisor of elections.³⁷ Although the clerk of the circuit court also retains the

10.01 & 11.01, available at https://www.municode.com/library/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA; Art. VIII, s. 6(e), Fla. Const. (1968), incorporating by reference Art. VIII, s. 9, Fla. Const. (1885, as amended in 1934).

²⁵ JACKSONVILLE COUNTY FLORIDA, Charter and Related Laws, Part A. s. 12.06, available at, https://www.municode.com/library/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA; JACKSONVILLE COUNTY FLORIDA, Code of Ordinances, Title II ss. 11.103 & 13.103, available at, https://www.municode.com/library/fl/jacksonville/codes/code_of_ordinances?nodeId=CHRELA.

²⁶ Referred to in the Miami-Dade Charter as the "supervisor of registration." See MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 9.01, Nov. 4, 2014, available at https://www.municode.com/library/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

²⁷ Referred to in the Miami-Dade Charter as the "county surveyor." See MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 9.01, Nov. 4, 2014, available at https://www.municode.com/library/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

²⁸ MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 9.01, Nov. 4, 2014, available at https://www.municode.com/library/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

²⁹ Historically, the Miami-Dade Police Director was appointed by the county manager. This appointment power was subsequently reallocated to the mayor when the office of county manager was abolished. See Miami-Dade County Florida, Code of Ordinances, ss. 2-91, 2-92 & 1-4.4 available at https://www.municode.com/library/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTXIIMIDEPODE.

³⁰ MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 5.03, Nov. 4, 2014, available at https://www.municode.com/library/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH. See also MIAMIDADE.GOV, Miami-Dade County Finance Department, <http://www.miamidade.gov/finance/> (accessed 10/27/2015).

³¹ MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 5.03, Nov. 4, 2014, available at https://www.municode.com/library/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

³² MIAMIDADE.GOV, County Departments, <http://miamidade.gov/wps/portal/Main/departments> (accessed 10/27/2015).

³³ Though the Miami-Dade charter and ordinances do not expressly so state, the supervisor of elections is an appointed official. See MIAMIDADE.GOV, County Departments, <http://miamidade.gov/wps/portal/Main/departments> (accessed 10/27/2015).

³⁴ MIAMIDADE.GOV, County Departments, <http://miamidade.gov/wps/portal/Main/departments> (accessed 10/27/2015).

³⁵ MIAMIDADE.GOV, Miami-Dade County Finance Department, <http://www.miamidade.gov/finance/> (accessed 10/27/2015); MIAMI-DADE COUNTY FLORIDA, *Constitutional Amendment and Charter*, Part I s. 9.10, Nov. 4, 2014, available at https://www.municode.com/library/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH.

³⁶ At one point the county abolished the constitutional offices of sheriff, tax collector, and property appraiser but ultimately reconstituted the constitutional offices. ORANGE COUNTY FLORIDA, Charter, s. 703, Sept. 28, 2015 available at https://www.municode.com/library/fl/orange_county/codes/code_of_ordinances.

³⁷ ORANGE COUNTY FLORIDA SUPERVISOR OF ELECTIONS, *About the Supervisor*, <http://www.ocfelections.com/aboutbillcowles.aspx> (accessed 10/28/2015).

status of constitutional officer,³⁸ the clerk's constitutional duties as clerk of the county commission, auditor, and custodian of county funds were transferred to the county comptroller.³⁹

Osceola County

Osceola County has not altered the constitutionally elected offices and duties of the sheriff, tax collector, property appraiser, and supervisor of elections.⁴⁰ The clerk of the circuit court retains the status of constitutional officer but the clerk's duties as clerk of the county commission, auditor, and custodian of funds were transferred to the county manager.

Volusia County

Volusia County abolished the constitutional offices of the sheriff, tax collector, supervisor of elections, and property appraiser. The county transferred these officers' powers to new charter offices. The duties of the sheriff were transferred to and divided between the Departments of Public Safety and of Corrections.⁴¹ The duties of the tax collector were transferred to the Department of Finance.⁴² The duties of the property appraiser were transferred to Department of Property Appraisal.⁴³ The duties of the supervisor of elections were transferred to the Department of Elections.⁴⁴ The sheriff, property appraiser, and supervisor of elections are elected directors of their respective offices.⁴⁵ The tax collector is appointed by the county manager and confirmed by the county council.⁴⁶ The clerk of the circuit court remains a constitutionally elected officer except that the clerk's constitutional duties as clerk of the county commission were transferred to and divided between the Department of Central Services and the Department of Finance.⁴⁷

Selection & Removal Procedures

In addition to whether the Five Constitutional Officers are elected or appointed, some counties provide in their charters for term limits, recall procedures, or the non-partisan election of these officers. While not expressly identified in art. VIII, s. 1(d), of the Constitution, these additional "selection and removal procedures" could be interpreted as affecting the selection of the Five Constitutional Officers.

There is no constitutional or statutory prohibition limiting the ability of charter counties to impose additional selection and removal procedures on the Five Constitutional Officers. The broad home rule power of counties allows them to act so long as the action taken is not "inconsistent with general law, or . . . special

³⁸ ORANGE COUNTY FLORIDA, Code of Ordinances, Part I s. 2-66, Sept. 28, 2015, *available at* https://www.municode.com/library/fl/orange_county/codes/code_of_ordinances.

³⁹ ORANGE COUNTY FLORIDA, Code of Ordinances, Part I s. 2-67, Sept. 28, 2015, *available at* https://www.municode.com/library/fl/orange_county/codes/code_of_ordinances.

⁴⁰ OSCEOLA COUNTY FLORIDA, Home Rule Charter, Article III s. 3.01, Aug. 11, 2015, *available at* https://www.municode.com/library/fl/osceola_county/codes/code_of_ordinances?nodeId=11534.

⁴¹ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(2), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁴² VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(1), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁴³ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(3), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁴⁴ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1(4), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁴⁵ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter ss. 401 & 601.1(1)(b), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

⁴⁶ VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 2-111(a), https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO; VOLUSIA.ORG, Revenue Division-Tax Collection, <http://www.volusia.org/services/financial-and-administrative-services/revenue-services/> (accessed 10/28/2015).

⁴⁷ CLERK OF THE CIRCUIT COURT, VOLUSIA COUNTY FLORIDA, Overview, <https://www.clerk.org/html/about.aspx#Overview> (last visited Oct. 28, 2015); VOLUSIA COUNTY FLORIDA, Code of Ordinances, Part I Charter s. 601.1 (1)(b) & (5) https://www.municode.com/library/fl/volusia_county/codes/code_of_ordinances?nodeId=PTICH_ARTVIADDEGO.

law.⁴⁸ This suggests that counties can currently modify their selection or removal procedures within the existing art. VIII, s. 1(d) framework through charter amendment or special law.⁴⁹

Term Limits

Three charter counties have imposed term limits on one or more of the Five Constitutional Officers.⁵⁰ Although the imposition of term limits on the Five Constitutional Officers is neither constitutionally or statutorily prohibited nor expressly endorsed, the imposition of term limits currently is interpreted to be within the broad home rule power of charter counties.⁵¹

Recall

Five counties have charters expressly providing for the recall of one or more of the Five Constitutional Officers.⁵² Regardless of whether a county charter includes a recall provision, counties have independent statutory authority to conduct a recall of any of the Five Constitutional Officers.⁵³

Non-partisan Elections

Seven counties require non-partisan elections for some or all elections of the Five Constitutional Officers.⁵⁴ Non-partisan election of the Five Constitutional Officers is neither constitutionally nor statutorily prohibited and is therefore within the broad home rule power of charter counties.⁵⁵

1885 Constitutional Provisions Incorporated by Reference

The Florida Constitution of 1968 expressly incorporated from the 1885 Constitution four sections providing for consolidated or home rule government in four counties.⁵⁶ Duval,⁵⁷ Monroe,⁵⁸ Dade (later renamed Miami-Dade),⁵⁹ and Hillsborough.⁶⁰ These incorporated provisions were to “remain in full force and effect as to each county affected, as if this article had not been adopted, until that county shall expressly adopt a charter or home rule plan pursuant to this article.”⁶¹ Whether amending art. VIII, s. 1(d) alone would be

⁴⁸ Art. VIII, s. 1(g), Fla. Const.

⁴⁹ Current statute and case law supports this principle. See s. 100.361, F.S. (providing that whether or not a charter county adopts a recall provision, the county may exercise recall authority); *Telli v. Broward County*, 94 So. 3d 504, 512-13 (Fla. 2012) (allowing charter counties to adopt term limits on county commissioners and explicitly overruling a prior case which barred this in the case of the Five Constitutional Officers).

⁵⁰ Duval, Orange, and Sarasota Counties.

⁵¹ *Telli v. Broward County*, supra at n. 49.

⁵² Brevard, Clay, Duval, Miami-Dade, and Sarasota Counties.

⁵³ Section 100.361, F.S.

⁵⁴ Lee, Leon, Miami-Dade, Orange, Palm Beach, Polk, and Volusia Counties.

⁵⁵ See Art. III s. 11(a)(1), Fla. Const. (prohibiting the Legislature from enacting special laws which alter local election procedure but excepting charter counties); Ch. 105, F.S. (providing for non-partisan elections and procedure).

⁵⁶ Art. VIII, s. 6(e), Fla. Const.

⁵⁷ Art. VIII, s. 9, Fla. Const. (1885).

⁵⁸ Art. VIII, s. 10, Fla. Const. (1885).

⁵⁹ Art. VIII, s. 11, Fla. Const. (1885). Included within the home rule powers authorized by the amendment to the 1885 Constitution was the authority to change the County’s name. Art. VIII, s. 11(1)(h), Fla. Const. (1885). In 1997, the County adopted ordinance 97-212, amending the charter and changing the official name to Miami-Dade County. Art. 10, s. 10.01, Miami-Dade County Home Rule Charter, at https://www.municode.com/library/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTICOAMCH_ART10NACO (accessed 11/4/2015).

⁶⁰ Art VIII, s. 24, Fla. Const. (1885). In 1983, Hillsborough County enacted a new charter pursuant to art. VIII, s. 1, Fla. Const. (1968), rather than art. VIII, s. 24 (1885 Constitution), incorporated by reference through art. VIII s. 6(e), Fla. Const. See Hillsborough County Florida, Charter, art. 1, s. 1.01, November 2012, available at <http://www.hillsboroughcounty.org/>.

⁶¹ There is a strong presumption that where constitutional language is readopted, the legislature is aware of existing judicial interpretations and accordingly readopts the prior judicial construction unless the constitutional language is changed to abrogate it. *Fla. House of Representatives v. League of Women Voters of Fla.*, 118 So. 3d 198, 205 (Fla. 2013); *Fla. Dep’t of Revenue v. City of Gainesville*, 918 So. 2d 250, 264 (Fla. 2005); *Advisory Opinion to Governor*, 96 So. 2d 541, 546 (Fla. 1957); *State ex rel. West v. Butler*, 69 So. 771, 780-82 (Fla. 1915).

sufficient to make its provisions applicable to these four counties is unclear. Accordingly, the joint resolution specifies that notwithstanding art. VIII, s. 6(e), of the present Constitution, the manner of selection, length of terms, or abolition of office and transfer of powers of all Five Constitutional Officers for all counties shall be controlled exclusively by art. VIII, s. 1.

Effect of the Joint Resolution

If the joint resolution is adopted and the proposed amendment is approved by the voters, the resulting limitation on revising the status of certain county officers will have no impact on non-charter counties⁶² or those charter counties that retained the Five Constitutional Officers without any changes to their selection or authority.⁶³ Those charter counties which changed the selection or authority of any of the Five Constitutional Officers⁶⁴ will be required to revise their charters and ordinances to conform to the current constitution provision or to seek to abolish the constitutional office and transfer its powers through a special act adopted by referendum.

Each house of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot. The joint resolution provides for the proposed constitutional amendment to be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

The joint resolution also creates a new section in art. XII of the Constitution, providing the amendment would become effective beginning January 8th, 2019. This delay would allow the affected counties time either to change their charters to comply with the new constitutional scheme and elect the Five Constitutional Officers in the 2018 general election or, alternatively, to seek a special act for approval by referendum of the county voters.

B. SECTION DIRECTORY:

As this legislation is a joint resolution proposing a constitutional amendment, it does not contain bill sections. The joint resolution proposes to amend art. VIII, s. 1(d) of the State Constitution, to limit the authority for counties to alter the manner of selecting certain county officers or to abolish a county office and transfer all duties prescribed by general law to another office. To allow sufficient time for compliance by those counties needing to conform their charters and ordinances to the amendment if adopted, the joint resolution creates a new section in art. XII of the Constitution to provide for the amendment to take effect on January 8, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The joint resolution does not have a fiscal impact on state revenues.

2. Expenditures:

Article XI, s. 5(d) of the State 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 before the week the election is held. The Department of State, Division of

⁶² Baker, Bay, Bradford, Calhoun, Citrus, Collier, DeSoto, Dixie, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Holmes, Indian River, Jackson, Jefferson, Lafayette, Lake, Levy, Liberty, Madison, Manatee, Marion, Martin, Monroe, Nassau, Okaloosa, Okeechobee, Pasco, Putnam, Santa Rosa, St. Johns, St. Lucie, Sumter, Suwannee, Taylor, Union, Walton, and Washington Counties.

⁶³ Alachua, Charlotte, Columbia, Hillsborough, Lee, Leon, Palm Beach, Pinellas, Polk, Sarasota, Seminole, and Wakulla Counties.

⁶⁴ See supra at n. 14.

Elections estimated the average cost per word to advertise an amendment to the State Constitution is \$135.97 for this fiscal year. The department has estimated the publication costs for advertising the joint resolution will be at least \$96,130.79 to \$100,735.77, possibly greater, depending on the final wording of the joint resolution and the resulting ballot language.⁶⁵

The department 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.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The joint resolution does not appear to have a fiscal impact on local revenues.

2. Expenditures:

The joint resolution will have no impact on non-charter counties, those charter counties that retained the Five Constitutional Officers without any changes to their selection or authority, or those counties that only revised the manner of selecting the tax collector. Those charter counties which changed the selection or authority of any of the remaining Five Constitutional Officers will incur an indeterminate negative fiscal impact to the extent of having to revise their charters and ordinances to conform to the revised constitutional requirement.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

See, Fiscal Impact on State Government and Local Governments, above.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The joint resolution will not create a general law requiring a county or municipality to spend funds or take an action requiring expenditures, reducing the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate, or reducing the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

Adoption of Proposed Amendment

Article XI, s. 1 of the State Constitution, provides for proposed changes to the Constitution by the Legislature:

SECTION 1: Proposal by legislature. – Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the Legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

⁶⁵ 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.

If passed by the Legislature, the proposed amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed with the custodian of state records. Submission of a proposed amendment at an earlier special election requires the affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.⁶⁶ The proposed amendment must be published, once in the tenth week and once in the sixth week immediately preceding the week of the election, in one newspaper of general circulation in each county where a newspaper is published.⁶⁷

Sixty percent voter approval is required for a proposed constitutional amendment to pass. A proposed amendment or revision approved by the requisite vote of the electors is effective as an amendment to or revision of the state constitution on the first Tuesday after the first Monday in January following the election.⁶⁸ This joint resolution proposes a new section to art. XII, the schedule to the state constitution, providing the amendment will not go into effect until January 8, 2019.

Term Limits on Constitutional Officers

Imposing term limits on some or all of the Five Constitutional Officers could be seen as impacting the manner in which these officers are selected, an authority that will be removed if the amendment proposed in the joint resolution is approved by the voters. The current interpretation of art. VIII, s. 1(d) by the Florida Supreme Court is that charter counties have the ability to impose term limits on elected county officers.⁶⁹ However, while this interpretation references the present authority of charter counties to revise the manner of selecting the Five Constitutional Officers, the Court clearly based its decision on the “broad home rule authority granted charter counties under the Florida Constitution”⁷⁰ and the fact that the Constitution does not expressly prohibit the imposition of term limits by charter counties on the Five Constitutional Officers.⁷¹ Therefore, removing the authority of a charter county to change the manner of election or to abolish and reconstitute the powers of the Five Constitutional Officers under county offices will not impact the ability of charter counties to impose term limits on elected county officers.

Non-Partisan Elections of Constitutional Officers

Amending art. VIII, s. 1(d) to restrict the ability of counties in their charters to choose the Five Constitutional Officers “in another manner therein specified” could be interpreted to limit the ability of charter counties to require that the Constitutional Officers be selected in non-partisan elections. However, because the Constitution prohibits neither the Legislature, through general law, nor charter counties from requiring non-partisan elections for county officers,⁷² imposing non-partisan election requirements may well be interpreted as outside of the scope of art. VIII, s. 1(d), just as term limits were so found by the Florida Supreme Court of Florida.⁷³

Recall of Constitutional Officers

Recall of county officers by charter counties is statutorily authorized.⁷⁴ The amendment proposed by this joint resolution would have no impact on the ability of charter counties to recall the Five Constitutional Officers.

⁶⁶ Art. XI, s. 5(a), Fla. Const.

⁶⁷ Art. XI, s. 5(d), Fla. Const.

⁶⁸ Art. XI, s. 5(e), Fla. Const.

⁶⁹ *Telli v. Broward County*, supra at n. 49, adopting with approval the rationale of the dissent in *Cook v. City of Jacksonville*, 823 So. 2d 86, 95-96 (2002) (Anstead, J., dissenting).

⁷⁰ *Telli v. Broward County*, supra at n. 49, 512.

⁷¹ *Id.* See also *State ex rel. Askew v. Thomas*, 293 So. 2d 40, 42-43 (Fla. 1974).

⁷² See n. 55, supra.

⁷³ See *Telli v. Broward County*, supra at n. 49.

⁷⁴ Section 100.361, F.S.

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 4, 2015, the Local Government Affairs Subcommittee adopted one amended strike all to the joint resolution. This amendment makes tax collectors subject to the same provisions of the joint resolution as the other four constitutional officers. The amendment also provides that any of the Five Constitutional Offices may be abolished and its duties transferred to other officers through special act subject to approval of the county's electors through referendum. The amendment clarifies that the proposed constitutional amendment is applicable to all counties irrespective of the provisions in art. VIII, s. 6(e) of the Constitution. Finally, the amendment creates art. XII, s. 34 of the Constitution which delays the implementation of the constitutional amendment until January 8, 2019, in order to provide affected charter counties time to amend their charters and hold elections.

This analysis is drawn to the joint resolution as amended.

House Joint Resolution

A joint resolution proposing an amendment to Section 1 of Article VIII and the creation of a new section in Article XII of the State Constitution, applicable to all counties, to remove a county's authority to choose certain county officers in a manner other than election, permit the abolition of any county office if its duties are transferred to another office by special law approved by county voters, remove authority for a county charter to transfer certain duties of the clerk of the circuit court to another officer, and provide an effective date.

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

That the following amendment to Section 1 of Article VIII 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 VIII

LOCAL GOVERNMENT

SECTION 1. Counties.—

(a) POLITICAL SUBDIVISIONS. The state shall be divided by law into political subdivisions called counties. Counties may be

27 | created, abolished or changed by law, with provision for payment
 28 | or apportionment of the public debt.

29 | (b) COUNTY FUNDS. The care, custody and method of
 30 | disbursing county funds shall be provided by general law.

31 | (c) GOVERNMENT. Pursuant to general or special law, a
 32 | county government may be established by charter which shall be
 33 | adopted, amended or repealed only upon vote of the electors of
 34 | the county in a special election called for that purpose.

35 | (d) COUNTY OFFICERS. There shall be elected by the
 36 | electors of each county, for terms of four years, a sheriff, a
 37 | tax collector, a property appraiser, a supervisor of elections,
 38 | and a clerk of the circuit court, ~~except, when provided by~~
 39 | ~~county charter or special law approved by vote of the electors~~
 40 | ~~of the county, any county officer may be chosen in another~~
 41 | ~~manner therein specified, or~~ Any county office may be abolished
 42 | when all the duties of the office prescribed by general law are
 43 | transferred to another office as provided by special law
 44 | approved by vote of the electors of the county. When not
 45 | otherwise provided by ~~county charter or~~ special law approved by
 46 | vote of the electors, the clerk of the circuit court shall be ex
 47 | officio clerk of the board of county commissioners, auditor,
 48 | recorder, and custodian of all county funds. Notwithstanding
 49 | section 6(e) of this article, this subsection provides the
 50 | exclusive manner for the selection, length of terms, abolition
 51 | of office, and transfer of duties of the sheriff, tax collector,
 52 | property appraiser, supervisor of elections, and clerk of the

53 circuit court in each county.

54 (e) COMMISSIONERS. Except when otherwise provided by
 55 county charter, the governing body of each county shall be a
 56 board of county commissioners composed of five or seven members
 57 serving staggered terms of four years. After each decennial
 58 census the board of county commissioners shall divide the county
 59 into districts of contiguous territory as nearly equal in
 60 population as practicable. One commissioner residing in each
 61 district shall be elected as provided by law.

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

70 (g) CHARTER GOVERNMENT. Counties operating under county
 71 charters shall have all powers of local self-government not
 72 inconsistent with general law, or with special law approved by
 73 vote of the electors. The governing body of a county operating
 74 under a charter may enact county ordinances not inconsistent
 75 with general law. The charter shall provide which shall prevail
 76 in the event of conflict between county and municipal
 77 ordinances.

78 (h) TAXES; LIMITATION. Property situate within

79 municipalities shall not be subject to taxation for services
 80 rendered by the county exclusively for the benefit of the
 81 property or residents in unincorporated areas.

82 (i) COUNTY ORDINANCES. Each county ordinance shall be
 83 filed with the custodian of state records and shall become
 84 effective at such time thereafter as is provided by general law.

85 (j) VIOLATION OF ORDINANCES. Persons violating county
 86 ordinances shall be prosecuted and punished as provided by law.

87 (k) COUNTY SEAT. In every county there shall be a county
 88 seat at which shall be located the principal offices and
 89 permanent records of all county officers. The county seat may
 90 not be moved except as provided by general law. Branch offices
 91 for the conduct of county business may be established elsewhere
 92 in the county by resolution of the governing body of the county
 93 in the manner prescribed by law. No instrument shall be deemed
 94 recorded until filed at the county seat, or a branch office
 95 designated by the governing body of the county for the recording
 96 of instruments, according to law.

97 ARTICLE XII

98 SCHEDULE

99 Selection and duties of county officers.—The amendment to
 100 Section 1 of Article VIII, which removes the authority for a
 101 county charter or special law to provide for choosing certain
 102 county officers in a manner other than election, permits the
 103 abolition of any county office if its duties are transferred to
 104 another office by special law approved by county voters, and

105 removes authority for a county charter to transfer certain ex
 106 officio duties of the clerk of the circuit court to another
 107 officer, takes effect January 8, 2019.

108 BE IT FURTHER RESOLVED that the following statement be
 109 placed on the ballot:

110 CONSTITUTIONAL AMENDMENT

111 ARTICLE VIII, SECTION 1

112 ARTICLE XII

113 SELECTION AND DUTIES OF COUNTY OFFICERS.—Proposing an
 114 amendment to the State Constitution, applicable to all counties,
 115 removing the authority for a county charter or special law to
 116 require choosing certain county officers other than by election;
 117 permitting the abolition of any county office and transferring
 118 its duties only by approval of county voters; removing authority
 119 for a county charter to transfer certain duties of the clerk of
 120 the circuit court. The amendment takes effect January 8, 2019,
 121 if adopted.

122 BE IT FURTHER RESOLVED that the following statement be
 123 placed on the ballot if a court declares the preceding statement
 124 defective and the decision of the court is not reversed:

125 CONSTITUTIONAL AMENDMENT

126 ARTICLE VIII, SECTION 1

127 ARTICLE XII

128 SELECTION AND DUTIES OF COUNTY OFFICERS.—Proposing an
 129 amendment to the State Constitution, applicable to all counties,
 130 to remove a county's authority, by county charter or special law

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131 approved by the county's voters, to choose its sheriff, property
132 appraiser, supervisor of elections, and clerk of the circuit
133 court in a manner other than election. The amendment would
134 permit the abolition of any county office if its duties are
135 transferred to another office by special law approved by county
136 voters. The amendment also removes authority for a county
137 charter to transfer to another officer the duties of the clerk
138 of the circuit court to serve as ex officio clerk of the board
139 of county commissioners, auditor, recorder, and custodian of all
140 county funds. The amendment takes effect January 8, 2019, if
141 adopted.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 301 Property Prepared for Tax-Exempt Use

SPONSOR(S): Burton

TIED BILLS: IDEN./SIM. BILLS: SB 842

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--------------------------------------|-----------|--------------------|--|
| 1) Finance & Tax Committee | 13 Y, 1 N | Dugan | Langston |
| 2) Local & Federal Affairs Committee | | Monroe <i>KDSM</i> | Kiner <i>KLK</i> |
| 3) Appropriations Committee | | | |

SUMMARY ANALYSIS

Current law permits an ad valorem tax exemption for certain property used predominately for non-profit educational, literary, scientific, religious or charitable purposes, subject to criteria established by statute. Additionally, property used for a house of worship, affordable housing, or educational purposes may be exempt prior to actual exempt use if the organization has taken affirmative steps to prepare the property for the specified exempt use.

The bill expands the "affirmative steps" ad valorem exemption to property owned by an exempt organization and used for literary, scientific, or charitable purpose. Similar to current law, the exempt organization must take "affirmative steps" to prepare the property for the specified exempt purpose. Except for property being prepared for use as a house of public worship, if the property is not in actual use for an exempt purpose within five years, the property owner must pay back taxes owed plus 15 percent interest. Further, a tax lien may be placed on such property for purposes of collecting these taxes unless the property owner demonstrates he or she is continuing to take affirmative steps, in which case the property owner may continue to receive the exemption.

The bill has an effective date of July 1, 2016 and will first affect property taxes levied for the 2017-2018 fiscal year.

The Revenue Estimating Conference determined that the bill will have a negative annual impact on local government revenues of \$1 million beginning in Fiscal Year 2017-2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,¹ and it provides for specified assessment limitations, property classifications and exemptions.² 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.³ Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious or charitable purposes.⁴ The Legislature has fully implemented these constitutional exemptions and set forth the criteria used to determine whether property is entitled to an exemption for use as a charitable, religious, scientific, or literary purpose.⁵ Specific provisions exist for property for hospitals, nursing homes, and homes for special services;⁶ property used for religious purposes;⁷ educational institutions⁸ and charter schools;⁹ labor organization property;¹⁰ nonprofit community centers;¹¹ biblical history displays;¹² and affordable housing.¹³

Property Entitled to Charitable, Religious, Scientific, or Literary Exemptions

In determining whether the use of a property qualifies the property for an ad valorem tax exemption, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.¹⁴ Only the portions of the property used predominantly for qualified purposes may be exempt from ad valorem taxation. If the property owned by an exempt organization is used exclusively for exempt purposes, it shall be totally exempt from ad valorem taxation.

Property used for a house of worship, affordable housing, or educational purposes may be exempt if the organization has taken affirmative steps to prepare the property for the specified exempt use.

Statute defines "affirmative steps" to mean:

- environmental or land use permitting activities;
- creation of architectural or schematic drawings;
- land clearing or site preparation;
- construction or renovation activities; or
- other similar activities that demonstrate a commitment to the exempt use.¹⁵

If affordable housing is granted a charitable exemption while performing these affirmative steps, but transfers the property for purposes other than affordable housing, or if the property is not actually used

¹ Fla. Const., art. VII, s. 4.

² Fla. Const., art. VII, ss. 3, 4, and 6.

³ s. 196.031, F.S.

⁴ Fla. Const., art. VII, s. 3.

⁵ ss. 196.195 and 196.196, F.S.

⁶ s. 196.197, F.S.

⁷ ss. 196.1975(3) and 196.196(3), F.S.

⁸ s. 196.198, F.S.

⁹ s. 196.1983, F.S.

¹⁰ s. 196.1985, F.S.

¹¹ s. 196.1986, F.S.

¹² s. 196.1987, F.S.

¹³ s. 196.196(5), F.S.

¹⁴ s. 196.196(1)(a)-(b), F.S.

¹⁵ ss. 196.196(3),(5) and 196.198, F.S.

as affordable housing within five years after the exemption is granted, then the property is subject to back taxes, 15 percent interest, and a penalty of 50 percent of the taxes owed.¹⁶ The five year limitation may be extended if the holder of the exemption continues to take affirmative steps to develop the property for affordable housing.¹⁷

In 2004, a Florida court held that charitable organizations in Florida are not entitled to exemptions while affirmative steps are being taken.¹⁸ The Second District Court of Appeals held that a charitable organization was not entitled to an exemption while it was constructing its headquarters even though it would be entitled to an exemption once the headquarters was completely built.¹⁹

Charitable Organizations

Under federal law, an organization may only be tax-exempt if it is organized and operated for exempt purposes, including charitable and religious purposes.²⁰ None of the organization's earnings may benefit any private shareholder or individual, and the organization may not attempt to influence legislation as a substantial part of its activities. Charitable purposes include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government.

Florida law defines a charitable purpose as a function or service which is of such a community service that its discontinuance could legally result in the allocation of public funds for the continuance of the function or the service.²¹

Determining Profit vs. Non-Profit Status of an Entity

Current law outlines the statutory criteria that a property appraiser must consider in determining whether an applicant for a religious, literary, scientific, or charitable exemption is a nonprofit or profit-making venture.²² When applying for an exemption, an applicant is required to provide the property appraiser with "such fiscal and other records showing in reasonable detail the financial condition, record of operations, and exempt and nonexempt uses of the property . . . for the immediately preceding fiscal year."²³

The applicant must show that "no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose."²⁴

Based on the information provided by the applicant, the property appraiser must use the specified statutory criteria to determine whether the applicant is a nonprofit or profit-making venture or if the property is used for a profit-making purpose.²⁵

A religious, literary, scientific, or charitable exemption may not be granted until the property appraiser, or value adjustment board on appeal, determines the applicant to be nonprofit.²⁶

¹⁶ s. 196.196(5), F.S.

¹⁷ s. 196.196(5), F.S.

¹⁸ *Smith v. Am. Lung Ass'n of Gulfcoast Florida*, 870 So. 2d 241 (Fla. 2d DCA 2004).

¹⁹ *Id.*

²⁰ 26 U.S.C. § 501(c)(3).

²¹ s. 196.012(7), F.S.

²² s. 196.195, F.S.,

²³ s. 196.195(1), F.S.

²⁴ s. 196.195(3), F.S.

²⁵ s. 196.195(2)(a)-(e), F.S.

²⁶ s. 196.195(4), F.S.

Proposed Changes

The bill creates s. 196.1955, F.S., allowing property owned by an exempt organization to receive an ad valorem exemption for educational, literary, scientific, religious or charitable purpose if the property owner has taken "affirmative steps" to prepare the property for an exempt purpose. The bill consolidates the existing provisions allowing affordable housing, religious houses of worship, and educational property to receive the exemption while affirmative steps are being taken into one provision that would allow all educational, literary, scientific, religious or charitable property to use this exemption. Except for property being prepared for use as a house of public worship, if the property is not in actual use for an exempt purpose within five years, the property owner must pay back taxes owed plus 15 percent interest per annum. Further, a tax lien may be placed on such property for purposes of collecting these taxes unless the property owner is continuing to take affirmative steps, in which case the property owner may continue to receive the exemption. However, the lien provisions do not apply to property being prepared for use as a house of "public worship," which the bill defines as "religious worship services and activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship."

The bill defines "affirmative steps," consistent with existing law, to be:

- environmental or land use permitting activities;
- creation of architectural or schematic drawings;
- land clearing or site preparation;
- construction or renovation activities; or
- other similar activities that demonstrate a commitment to prepare the property for an exempt use.

The bill clarifies that if an exemption is improperly granted as a result of a mistake by the property appraiser, the property owner does not owe interest.

The bill also makes technical and conforming changes to ss. 196.196 and 196.198, F.S.

The bill has an effective date of July 1, 2016.

B. SECTION DIRECTORY:

- Section 1. Creates s. 196.1955, F.S., allowing property to be exempt from ad valorem taxation for certain purposes while the property owner is taking affirmative steps to put the property in use for such purpose. Provides for remedies if the property is not put to such use within five years.
- Section 2. Conforms and makes technical corrections to s. 196.196, F.S., by deleting language made unnecessary by the creation of s. 196.1955, F.S., and renumbering certain subsections.
- Section 3. Conforms and makes technical corrections to s. 196.198, F.S., by deleting language made unnecessary by the creation of s. 196.1955, F.S., and creating certain subsections and paragraphs.
- Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On January 13, 2016, the Revenue Estimating Conference determined that the bill will have a negative recurring impact on local government revenues of \$1 million beginning in Fiscal Year 2017-18 (\$0.4 million for school purposes and \$0.6 million for non-school purposes), growing to negative \$1.1 million in FY 2020-21. There is no cash impact in FY 2016-17 due to the effective date of the bill (property tax values are measured January 1).

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Exempt organizations will receive an ad valorem exemption while they are taking affirmative steps toward their exempt purpose. Such organizations will receive a tax benefit because they will not have to wait until the property is in actual use for educational, literary, scientific, religious or charitable purposes before receiving the exemption.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of article VII, section 18(b) of the Florida Constitution may apply because this bill will reduce local government property tax revenues through a reduced tax base; 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

HB 301

2016

1 A bill to be entitled
2 An act relating to property prepared for tax-exempt
3 use; creating s. 196.1955, F.S.; consolidating
4 provisions relating to obtaining an ad valorem
5 exemption for property owned by exempt organizations;
6 requiring the owner of an exempt organization to take
7 affirmative steps to demonstrate the property's exempt
8 use; authorizing the property appraiser to serve a
9 notice of tax lien on exempt property that is not in
10 actual exempt use after a specified time; providing
11 that the lien attaches to any property owned by the
12 organization identified in the notice of lien;
13 prohibiting a property appraiser from serving a notice
14 of tax lien on certain property being prepared for use
15 as a house of public worship; defining the terms
16 "charitable use," "affirmative steps," and "public
17 worship"; amending s. 196.196, F.S.; deleting
18 provisions relating to the exemption as it applies to
19 public worship and affordable housing and provisions
20 that have been moved to s. 196.1955, F.S.; amending s.
21 196.198, F.S.; deleting provisions that have been
22 moved to s. 196.1955, F.S., relating to property owned
23 by an educational institution and used for an
24 educational purpose; providing an effective date.

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

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Section 1. Section 196.1955, Florida Statutes, is created to read:

196.1955 Preparing property for educational, literary, scientific, religious, or charitable use.-

(1) Property owned by an exempt entity is used for an exempt purpose if the owner has taken affirmative steps to prepare the property for an exempt educational, literary, scientific, religious, or charitable use and no portion of the property is being used for a nonexempt purpose. The term "charitable use" means, but is not limited to, providing affordable housing to extremely-low-income, very-low-income, low-income, or moderate-income persons and families as defined in s. 420.0004. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment to preparing the property for an exempt use.

(2)(a) If property owned by an organization that has been granted an exemption under this section is transferred for a purpose other than an exempt use or is not in actual exempt use within 5 years after the date the organization is granted an exemption, the property appraiser making such determination may serve upon the organization that received the exemption a notice of intent to record in the public records of the county a notice

53 of tax lien against any property owned by that organization in
 54 that county, and such property must be identified in the notice
 55 of tax lien. The organization owning such property is subject to
 56 the taxes otherwise due as a result of the failure to use the
 57 property in an exempt manner plus 15 percent interest per annum.

58 1. The lien, when filed, attaches to any property
 59 identified in the notice of tax lien owned by the organization
 60 that received the exemption. If the organization no longer owns
 61 property in the county but owns property in any other county in
 62 the state, the property appraiser shall record in each such
 63 county a notice of tax lien identifying the property owned by
 64 the organization in each respective county, which shall become a
 65 lien against the identified property.

66 2. Before such lien may be filed, the organization so
 67 notified must be given 30 days to pay the taxes and interest.

68 3. If an exemption is improperly granted as a result of a
 69 clerical mistake or an omission by the property appraiser, the
 70 organization improperly receiving the exemption may not be
 71 assessed interest.

72 4. The 5-year limitation specified in this subsection may
 73 be extended by the property appraiser if the organization
 74 holding the exemption continues to take affirmative steps to
 75 develop the property for the purposes specified in this section.

76 (b) This subsection does not apply to property being
 77 prepared for use as a house of public worship. The term "public
 78 worship" means religious worship services and activities that

79 are incidental to religious worship services, such as
 80 educational activities, parking, recreation, partaking of meals,
 81 and fellowship.

82 Section 2. Subsections (3), (4), and (5) of section
 83 196.196, Florida Statutes, are amended to read:

84 196.196 Determining whether property is entitled to
 85 charitable, religious, scientific, or literary exemption.-

86 ~~(3) Property owned by an exempt organization is used for a~~
 87 ~~religious purpose if the institution has taken affirmative steps~~
 88 ~~to prepare the property for use as a house of public worship.~~
 89 ~~The term "affirmative steps" means environmental or land use~~
 90 ~~permitting activities, creation of architectural plans or~~
 91 ~~schematic drawings, land clearing or site preparation,~~
 92 ~~construction or renovation activities, or other similar~~
 93 ~~activities that demonstrate a commitment of the property to a~~
 94 ~~religious use as a house of public worship. For purposes of this~~
 95 ~~subsection, the term "public worship" means religious worship~~
 96 ~~services and those other activities that are incidental to~~
 97 ~~religious worship services, such as educational activities,~~
 98 ~~parking, recreation, partaking of meals, and fellowship.~~

99 (3)(4) Except as otherwise provided in this section
 100 herein, property claimed as exempt for literary, scientific,
 101 religious, or charitable purposes which is used for profitmaking
 102 purposes is ~~shall be~~ subject to ad valorem taxation. Use of
 103 property for functions not requiring a business or occupational
 104 license conducted by the organization at its primary residence,

105 the revenue of which is used wholly for exempt purposes, is
 106 ~~shall not be considered profitmaking~~ profit making. In this
 107 connection, the playing of bingo on such property is ~~shall~~ not
 108 be considered as using such property in such a manner as would
 109 impair its exempt status.

110 ~~(5)(a) Property owned by an exempt organization qualified~~
 111 ~~as charitable under s. 501(c)(3) of the Internal Revenue Code is~~
 112 ~~used for a charitable purpose if the organization has taken~~
 113 ~~affirmative steps to prepare the property to provide affordable~~
 114 ~~housing to persons or families that meet the extremely low-~~
 115 ~~income, very low income, low income, or moderate income limits,~~
 116 ~~as specified in s. 420.0004. The term "affirmative steps" means~~
 117 ~~environmental or land use permitting activities, creation of~~
 118 ~~architectural plans or schematic drawings, land clearing or site~~
 119 ~~preparation, construction or renovation activities, or other~~
 120 ~~similar activities that demonstrate a commitment of the property~~
 121 ~~to providing affordable housing.~~

122 ~~(b)1. If property owned by an organization granted an~~
 123 ~~exemption under this subsection is transferred for a purpose~~
 124 ~~other than directly providing affordable homeownership or rental~~
 125 ~~housing to persons or families who meet the extremely low-~~
 126 ~~income, very low income, low income, or moderate income limits,~~
 127 ~~as specified in s. 420.0004, or is not in actual use to provide~~
 128 ~~such affordable housing within 5 years after the date the~~
 129 ~~organization is granted the exemption, the property appraiser~~
 130 ~~making such determination shall serve upon the organization that~~

131 ~~illegally or improperly received the exemption a notice of~~
 132 ~~intent to record in the public records of the county a notice of~~
 133 ~~tax lien against any property owned by that organization in the~~
 134 ~~county, and such property shall be identified in the notice of~~
 135 ~~tax lien. The organization owning such property is subject to~~
 136 ~~the taxes otherwise due and owing as a result of the failure to~~
 137 ~~use the property to provide affordable housing plus 15 percent~~
 138 ~~interest per annum and a penalty of 50 percent of the taxes~~
 139 ~~owed.~~

140 2. ~~Such lien, when filed, attaches to any property~~
 141 ~~identified in the notice of tax lien owned by the organization~~
 142 ~~that illegally or improperly received the exemption. If such~~
 143 ~~organization no longer owns property in the county but owns~~
 144 ~~property in any other county in the state, the property~~
 145 ~~appraiser shall record in each such other county a notice of tax~~
 146 ~~lien identifying the property owned by such organization in such~~
 147 ~~county which shall become a lien against the identified~~
 148 ~~property. Before any such lien may be filed, the organization so~~
 149 ~~notified must be given 30 days to pay the taxes, penalties, and~~
 150 ~~interest.~~

151 3. ~~If an exemption is improperly granted as a result of a~~
 152 ~~clerical mistake or an omission by the property appraiser, the~~
 153 ~~organization improperly receiving the exemption shall not be~~
 154 ~~assessed a penalty or interest.~~

155 4. ~~The 5-year limitation specified in this subsection may~~
 156 ~~be extended if the holder of the exemption continues to take~~

157 ~~affirmative steps to develop the property for the purposes~~
 158 ~~specified in this subsection.~~

159 Section 3. Section 196.198, Florida Statutes, is amended
 160 to read:

161 196.198 Educational property exemption.-

162 (1) Educational institutions within this state and their
 163 property used by them or by any other exempt entity or
 164 educational institution exclusively for educational purposes are
 165 exempt from taxation.

166 (a) Sheltered workshops providing rehabilitation and
 167 retraining of individuals who have disabilities and exempted by
 168 a certificate under s. (d) of the federal Fair Labor Standards
 169 Act of 1938, as amended, are declared wholly educational in
 170 purpose and are exempt from certification, accreditation, and
 171 membership requirements set forth in s. 196.012.

172 (b) Those portions of property of college fraternities and
 173 sororities certified by the president of the college or
 174 university to the appropriate property appraiser as being
 175 essential to the educational process are exempt from ad valorem
 176 taxation.

177 (c) The use of property by public fairs and expositions
 178 chartered by chapter 616 is presumed to be an educational use of
 179 such property and is exempt from ad valorem taxation to the
 180 extent of such use.

181 (2) Property used exclusively for educational purposes
 182 shall be deemed owned by an educational institution if the

183 entity owning 100 percent of the educational institution is
 184 owned by the identical persons who own the property, or if the
 185 entity owning 100 percent of the educational institution and the
 186 entity owning the property are owned by the identical natural
 187 persons.

188 (a) Land, buildings, and other improvements to real
 189 property used exclusively for educational purposes shall be
 190 deemed owned by an educational institution if the entity owning
 191 100 percent of the land is a nonprofit entity and the land is
 192 used, under a ground lease or other contractual arrangement, by
 193 an educational institution that owns the buildings and other
 194 improvements to the real property, is a nonprofit entity under
 195 s. 501(c)(3) of the Internal Revenue Code, and provides
 196 education limited to students in prekindergarten through grade
 197 8.

198 (b) If legal title to property is held by a governmental
 199 agency that leases the property to a lessee, the property shall
 200 be deemed to be owned by the governmental agency and used
 201 exclusively for educational purposes if the governmental agency
 202 continues to use such property exclusively for educational
 203 purposes pursuant to a sublease or other contractual agreement
 204 with that lessee.

205 (c) If the title to land is held by the trustee of an
 206 irrevocable inter vivos trust and if the trust grantor owns 100
 207 percent of the entity that owns an educational institution that
 208 is using the land exclusively for educational purposes, the land

209 is deemed to be property owned by the educational institution
 210 for purposes of this exemption. ~~Property owned by an educational~~
 211 ~~institution shall be deemed to be used for an educational~~
 212 ~~purpose if the institution has taken affirmative steps to~~
 213 ~~prepare the property for educational use. The term "affirmative~~
 214 ~~steps" means environmental or land use permitting activities,~~
 215 ~~creation of architectural plans or schematic drawings, land~~
 216 ~~clearing or site preparation, construction or renovation~~
 217 ~~activities, or other similar activities that demonstrate~~
 218 ~~commitment of the property to an educational use.~~

219 Section 4. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 565 Redevelopment Trust Fund
SPONSOR(S): Spano
TIED BILLS: IDEN./SIM. BILLS: SB 194

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|-----------|-------------------|--|
| 1) Local Government Affairs Subcommittee | 9 Y, 0 N | Monroe | Miller |
| 2) Finance & Tax Committee | 15 Y, 0 N | Pewitt | Langston |
| 3) Local & Federal Affairs Committee | | Monroe <i>KDM</i> | Kiner <i>KLK</i> |

SUMMARY ANALYSIS

Community redevelopment agencies (CRAs) are funded through a mechanism known as tax increment financing, which requires each taxing district within the CRA to pay in to the CRA's redevelopment trust fund an amount equal to the increase in the taxable value of the real and tangible personal property within the district since the inception of the CRA, multiplied by the taxing district's millage rate. HB 565 exempts hospital districts from making payments into the redevelopment trust fund of a CRA created on or after July 1, 2016. The bill does not affect payments made by hospital districts to currently existing CRAs.

This bill has no fiscal impact to state funds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Community Redevelopment Act

The Community Redevelopment Act¹ authorizes a county or municipality to create community redevelopment agencies (CRAs) as a means of redeveloping slums and blighted areas. In accordance with a community redevelopment plan,² CRAs can:

- Enter into contracts;
- Disseminate information;
- Acquire property within a slum or blighted area by voluntary methods;
- Demolish and remove buildings and improvements;
- Construct improvements; and
- Dispose of property at fair value.³

Counties and municipalities are prohibited from exercising the authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.⁴

A “blighted area” generally includes an area in which there are a substantial number of deteriorated or deteriorating structures; in which conditions, as indicated by government-maintained statistics or other studies, endanger life or property or are leading to economic distress; and in which other statutorily-defined criteria exist.⁵

The TIF Mechanism for Funding CRAs

CRAs are not taxing authorities and cannot levy or collect taxes. Instead CRAs rely on community redevelopment trust funds that are funded through tax increment financing (TIF).⁶ The TIF mechanism requires each taxing authority within the CRA to annually remit a portion of the ad valorem taxes it levies to the CRA’s redevelopment trust fund by January 1.⁷ This revenue is used to finance redevelopment projects in accordance with a redevelopment plan,⁸ which may include bonding.⁹ The amount which must be contributed to the trust funds equals 95 percent of the difference between:

- The amount of ad valorem taxes levied by each taxing authority on taxable real property within the CRA; and
- The amount of ad valorem taxes that would have been produced on the assessed value of the real property within the CRA in the year prior to the creation of the CRA.¹⁰

Thus, as property values increase within a CRA, the tax increment revenue increases and is available to pay for public infrastructure and redevelopment costs of the CRA.

¹ Chapter 163, part III, F.S.

² Section 163.360, F.S.

³ Section 163.370, F.S.

⁴ Sections 163.355 and 163.360(1), F.S.

⁵ See s. 163.340(8), F.S.

⁶ Through tax increment financing, a baseline tax amount is chosen, and then in future years, any taxes generated above that baseline amount are transferred into the redevelopment trust fund. Section 163.387, F.S.

⁷ Section 163.387(2)(a), F.S.

⁸ Section 163.387(1)(a), F.S.

⁹ Sections 163.370(2)(f) and 163.385, F.S.

¹⁰ Section 163.387(1)(a), F.S.

TIF Limitations and Exemptions

For CRAs created before July 1, 2002, taxing districts typically contribute to the redevelopment trust fund for a period equal to the length of any indebtedness pledging the incremental revenues, but not exceeding 30 years, unless the community redevelopment plan is amended.¹¹ For CRAs created after July 1, 2002, taxing authorities make the annual appropriation for a period not to exceed 40 years after the fiscal year in which the community redevelopment plan is approved or adopted. The following taxing authorities are exempt from contributing to the CRA:¹²

- A special district that levies ad valorem taxes on taxable real property in more than one county.
- A special district for which the sole available source of revenue the district has the authority to levy is ad valorem taxes at the time the ordinance is adopted.
- A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.
- A neighborhood improvement district created under the Safe Neighborhoods Act.
- A metropolitan transportation authority.
- A water management district created under s. 373.069, F.S.
- A special district specifically exempted by the local governing body that created the CRA, if the exemption is made in accordance with the requirements of s. 163.387(2)(d), F.S., which include a public hearing, public notice, and an interlocal agreement.

Hospital Districts

First created in the 1920s to provide indigent care for county residents, hospital districts now differ greatly in roles, powers, and governance.¹³ There are currently six hospital districts created as dependent districts, and 22 created as independent special districts.¹⁴ Independent districts are generally created by special acts of the Legislature, whereas dependent districts are created by local governments with their governing bodies under the control of a county or municipal board. The North Sumter County Hospital District, created in 2004 by special act of the Legislature, is the most recently created hospital district.¹⁵

Two existing hospital districts currently have exemptions from providing TIF financing to CRAs in their recodified charters, which are similar to the exemption created by this bill. The South Broward Hospital District is exempt from making payments into the redevelopment trust fund of any CRA created on or after January 1, 1998.¹⁶ The North Broward Hospital District is exempt from making payments into the redevelopment trust fund of any CRA created on or after January 1, 2002.¹⁷

Payments to the redevelopment trust funds of CRAs can be significant. For example, the Halifax Hospital District reports remitting funds to 10 separate CRAs for a total payment of \$652,258 during the 2014 tax year, which is down from \$4,316,364 paid in 2006. Halifax's records show that their total payments into the redevelopment trust funds of CRAs from 2003 through 2014 were \$24,685,856.¹⁸

¹¹ Section 163.387(2)(a), F.S.

¹² Section 163.387(2)(c), F.S.

¹³ Florida TaxWatch, *Florida's Fragmented Hospital Taxing District System in Need of Reexamination*, Briefings (Feb. 2009), available at <http://www.floridataxwatch.org/resources/pdf/02242009HospitalDistricts.pdf> (last visited Nov. 13, 2015).

¹⁴ Department of Economic Opportunity, Official List of Special Districts Online, available at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/selectfunctions.cfm> (last visited Nov. 13, 2015).

¹⁵ Chapter 2004-451, L.O.F. However, the District has since been declared inactive. See Department of Economic Opportunity, Special District Accountability Program, "Official List of Special Districts Online" at <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/criteria.cfm> (accessed 11/24/2015).

¹⁶ Chapter 2004-397, Section 38 of Section 3, L.O.F.

¹⁷ Chapter 2006-347, Section 33 of Section 3, L.O.F.

¹⁸ "CRA Taxing District Pmts 2003 to date" provided by Halifax Hospital District (11/17/15). See Appendix A.

Proposed Changes

HB 565 exempts all hospital districts from making payments into the redevelopment trust fund of any CRA created on or after July 1, 2016. The bill does not affect payments made by hospital districts to currently existing CRAs.

B. SECTION DIRECTORY:

Section 1 amends s. 163.387, F.S., to add hospital districts to the list of taxing authorities exempt from contributing to the redevelopment trust fund, but only for CRAs created on or after July 1, 2016. Hospital districts will continue to contribute to the redevelopment trust funds of CRAs created before July 1, 2013.

Section 2 reenacts s. 259.042, F.S., to incorporate provisions related to tax increment financing for conservation lands to the changes made by Section 1 of the bill.

Section 3 provides an effective date of July 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:

The Revenue Estimating Conference has not adopted an estimate of the impact of this bill. CRAs created on or after July 1, 2016, will not be able to rely on hospital districts for appropriations to their redevelopment trust funds.

2. Expenditures:

Hospital districts will not have to pay into the redevelopment trust funds of CRAs created on or after July 1, 2016.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce their ability to raise revenue, or reduce the percentage of a state tax shared with counties and municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Additional rulemaking authority does not appear necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

CRA PAYMENTS PD BY HALIFAX TAXING DISTRICT

| YEAR | DB-Centre | DB-Downtown | DB-Main Street | DB-Westside | DE-South Atlantic | | |
|--------------|----------------|------------------|-------------------|------------------|-------------------|------------------|----------------|
| 2003 | 19,923 | 167,563 | 565,105 | 33,293 | 13,926 | 69,720 | 13,209 |
| 2004 | 35,246 | 259,863 | 837,203 | 81,505 | 38,502 | 138,042 | 27,778 |
| 2005 | 49,756 | 299,917 | 1,401,078 | 118,383 | 146,932 | 281,753 | 44,465 |
| 2006 | 68,797 | 355,236 | 1,674,540 | 190,344 | 233,101 | 460,949 | 57,784 |
| 2007 | 65,770 | 357,154 | 1,500,666 | 215,638 | 178,541 | 490,776 | 63,288 |
| 2008 | 58,291 | 303,616 | 1,291,730 | 193,784 | 113,901 | 371,168 | 62,328 |
| 2009 | 44,321 | 233,569 | 938,632 | 137,546 | 33,113 | 312,290 | 63,859 |
| 2010 | 28,000 | 150,587 | 621,459 | 71,949 | 0 | 167,444 | 39,940 |
| 2011 | 24,277 | 107,060 | 443,577 | 50,281 | 0 | 119,340 | 29,650 |
| 2012 | 13,370 | 66,412 | 296,757 | 24,300 | 0 | 76,314 | 17,502 |
| 2013 | 10,431 | 52,940 | 244,824 | 17,454 | 0 | 60,343 | 13,355 |
| 2014 | 11,125 | 61,502 | 251,641 | 18,671 | 0 | 67,918 | 13,609 |
| TOTAL | 429,307 | 2,415,419 | 10,067,212 | 1,153,148 | 758,016 | 2,616,057 | 446,767 |

CRA PAYMENTS PD BY HALIFAX TAXING DISTRICT

| PD TOTAL | ARMONDBEACH | DR. SEAN NORTH | | |
|----------------|----------------|------------------|---------------|-------------------|
| 26,916 | | 135,396 | | 79,270 |
| 56,561 | | 206,625 | | 156,447 |
| 72,940 | | 351,897 | | 226,511 |
| 130,254 | 423,840 | 428,643 | | 292,876 |
| 120,509 | 0 | 376,885 | 0 | 333,328 |
| 103,047 | 0 | 312,217 | 0 | 696,358 |
| 61,289 | 7,090 | 243,183 | 9,718 | 450,075 |
| 25,922 | 0 | 167,882 | 1,464 | 293,233 |
| 17,590 | 0 | 120,478 | 0 | 192,368 |
| 9,591 | 0 | 102,640 | 0 | 132,253 |
| 7,009 | 0 | 84,709 | 0 | 115,124 |
| 8,957 | | 87,159 | 0 | 131,676 |
| 640,585 | 430,930 | 2,617,714 | 11,182 | 3,099,519 |
| | | | | 24,685,856 |

APPENDIX A

1 A bill to be entitled
 2 An act relating to the redevelopment trust fund;
 3 amending s. 163.387, F.S.; adding certain hospital
 4 districts to the list of public bodies or taxing
 5 authorities that are exempt from appropriating certain
 6 revenues to the redevelopment trust fund; reenacting
 7 s. 259.042(9), F.S., relating to tax increment
 8 financing for conservation lands, to incorporate the
 9 amendment made by this act to s. 163.387, F.S.;
 10 providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:
 13

14 Section 1. Paragraph (c) of subsection (2) of section
 15 163.387, Florida Statutes, is amended to read:

16 163.387 Redevelopment trust fund.-
 17 (2)

18 (c) The following public bodies or taxing authorities are
 19 exempt from paragraph (a):

20 1. A special district that levies ad valorem taxes on
 21 taxable real property in more than one county.

22 2. A special district for which the sole available source
 23 of revenue the district has the authority to levy is ad valorem
 24 taxes at the time an ordinance is adopted under this section.
 25 However, revenues or aid that may be dispensed or appropriated
 26 to a district as defined in s. 388.011 at the discretion of an

27 entity other than such district shall not be deemed available.

28 3. A library district, except a library district in a
 29 jurisdiction where the community redevelopment agency had
 30 validated bonds as of April 30, 1984.

31 4. A neighborhood improvement district created under the
 32 Safe Neighborhoods Act.

33 5. A metropolitan transportation authority.

34 6. A water management district created under s. 373.069.

35 7. For a community redevelopment agency created on or
 36 after July 1, 2016, a hospital district that is a special
 37 district as defined in s. 189.012.

38 Section 2. For the purpose of incorporating the amendment
 39 made by this act to section 163.387, Florida Statutes, in a
 40 reference thereto, subsection (9) of section 259.042, Florida
 41 Statutes, is reenacted to read:

42 259.042 Tax increment financing for conservation lands.—

43 (9) The public bodies and taxing authorities listed in s.
 44 163.387(2)(c), school districts, and special districts that levy
 45 ad valorem taxes within a tax increment area are exempt from
 46 this section.

47 Section 3. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 655 City of Jacksonville, Duval County
SPONSOR(S): Fullwood
TIED BILLS: IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|-----------|------------------|--|
| 1) Local Government Affairs Subcommittee | 7 Y, 0 N | Darden | Miller |
| 2) Business & Professions Subcommittee | 13 Y, 0 N | Butler | Anstead |
| 3) Local & Federal Affairs Committee | | Darden <i>gd</i> | Kiner <i>KLK</i> |

SUMMARY ANALYSIS

Florida's Beverage Law places a limit on the number of "quota licenses" that the Department of Business and Professional Regulation (DBPR) may issue per county. A quota license allows a business to serve any alcoholic beverage regardless of alcoholic content, including liquor, for both on and off premises consumption. DBPR is not limited by the Beverage Law on the number of licenses it may issue for businesses who wish to serve only malt beverages and wine.

In excess of the quota limitation, DBPR is authorized to issue a Special Restaurant Beverage license (SRX), which allows a restaurant to sell any alcoholic beverage, including liquor, under certain circumstances.

Under general law, a restaurant may be issued an SRX license if it has at least 2,500 square feet of service area, is equipped to serve 150 full-service customers, and derives at least 51 percent of the its gross revenue from the sale of food and non-alcoholic beverages.

Currently, under a local exception, a restaurant in certain designated areas of Jacksonville may be issued an SRX license if it has at least 1,800 square feet of service area, is equipped to serve at least 100 full-service customers, and derives at least 51 percent of the its gross revenue from the sale of food and non-alcoholic beverages.

The bill expands the areas of Jacksonville where a restaurant may be issued an SRX license under the reduced requirements of the local exception to include the Riverside Avondale Urban Transition Area and the Riverside Avondale Commercial Character Areas.

The bill takes effect upon becoming law.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Alcoholic Beverage Licensing

The Division of Alcoholic Beverages and Tobacco (Division) within DBPR is responsible for regulating the conduct, management, and operation of the manufacturing, packaging, distribution, and sale within the state of alcoholic beverages. Chapters 561-565 and 567-568, F.S., comprise Florida's Beverage Law.

Under the Beverage Law, DBPR is not limited on the number of licenses it issues to businesses who wish to sell malt beverages or wine; however, s. 561.20, F.S., limits the number of licenses that may be issued for licenses under s. 565.02(1)(a)-(f), F.S., to one license per 7,500 residents per county with a minimum of three (3) licenses per county that has approved the sale of intoxicating liquors.¹ This license, often referred to as a "quota license," allows a business to sell any alcoholic beverage regardless of alcoholic content, including liquor or distilled spirits.²

There are several exceptions to the quota license limitation, and businesses who meet the requirements set out in one of the exceptions pursuant to s. 561.20(2), F.S., may be issued a special license by DBPR that allows the business to serve any alcoholic beverages regardless of alcoholic content.

One such license is the SRX license, which may be issued to a "restaurant having 2,500 square feet of service area and equipped to serve 150 persons full course meals at tables at one time, and deriving at least 51 percent of its gross revenue from the sale of food and nonalcoholic beverages" so long as any alcoholic beverages sold under such license is for on premises consumption only.³ Some older restaurants may qualify at a lower total gross revenue threshold.⁴ A restaurant must offer full course meal service at any time alcohol beverages are being served to qualify for a license.⁵ A full course meal must contain a salad or vegetable, entrée, beverage, and bread.⁶

Jacksonville Special Zone

In 1987, the Legislature created more lenient requirements for the issuance of SRX licenses in a special zone in Jacksonville.⁷ At the time, the zone included three areas: Northside West, Northside East, and Southbank.⁸ The zone was expanded in 2011 to include the Urban Transition area.⁹

A restaurant in the zone must still derive at least 51 percent of its total gross revenue from the sale of food and non-alcoholic beverages to qualify for a SRX license, but is only required to have 1,800 or more square feet of floor space and accommodations for the service and seating of at least 100 full-

¹ Section 561.20(1), F.S.

² Section 565.02, F.S.

³ Section 561.20(2)(a)4., F.S.

⁴ Rule 61A-3.0141, F.A.C. This provision applies to all licenses issued after April 18, 1972. For licenses issued between September 1, 1969 and April 18, 1972, at least thirty percent of the restaurant's total gross revenue must be derived from the sale of food and non-alcoholic beverages; for licenses issued prior to September 1, 1969, there is no minimum gross revenue threshold, but the restaurant must be "bona fide" and meet the other requirements of the rule.

⁵ *Id.*

⁶ *Id.*

⁷ Ch. 87-471, Laws of Fla.

⁸ *Id.*

⁹ Ch. 2011-255, Laws of Fla.

service customers.¹⁰ The issuance of the license is also subject to any zoning requirement establishing a minimum distance between liquor-serving establishments and schools or churches, as well as any state alcoholic beverage law not otherwise inconsistent with the special act.¹¹

Effect of Proposed Changes

The bill expands the special zone created by Ch. 87-471, Laws of Florida, to include the areas known as Riverside Avondale Commercial Character Areas. The bill also clarifies that the "Urban Transition" area added to the special zone by Ch. 2011-255, Laws of Fla., should be referred to as the "Riverside Avondale Urban Transition."

This bill was unanimously approved by members of the Duval County local legislative delegation present and voting at the delegation public meeting held on September 24, 2015.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since this bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

B. SECTION DIRECTORY:

Section 1: Amends Ch. 87-471, Laws of Florida, to add additional areas to a special zone in downtown Jacksonville in which DPBR can grant an SRX license to restaurants notwithstanding the provisions of s. 561.20(1), F.S.

Section 2: Provides that the bill shall take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 28, 2015

WHERE? *Financial News & Daily Record*, a daily (except Saturday and Sunday) newspaper published in Duval County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

¹⁰ ch. 87-471, Laws of Fla.

¹¹ *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Daily Record

PROOF OF PUBLICATION

(Published Daily Except Saturday and Sunday)
Jacksonville, Duval County, Florida

STATE OF FLORIDA, }
 } SS:
COUNTY OF DUVAL, }

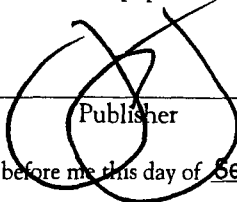
Before the undersigned authority personally appeared James F. Bailey, Jr., who on oath says that he is the Publisher of FINANCIAL NEWS and DAILY RECORD, a daily (except Saturday and Sunday) newspaper published at Jacksonville, in Duval County, Florida; that the attached copy of advertisement, being a

Notice of Intention to Seek Local Legislation

in the matter of A bill to be entitled

in the _____ Court, of Duval County, Florida, was published
in said newspaper in the issues of September 28, 2015

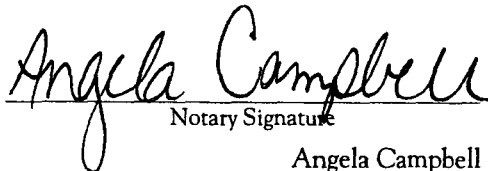
Affiant further says that the said FINANCIAL NEWS and DAILY RECORD is a newspaper at Jacksonville, in said Duval County, Florida, and that the said newspaper has heretofore been continuously published in said Duval County, Florida, each day (except Saturday and Sunday) and has been entered as periodicals matter at the post office in Jacksonville, in said Duval County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.



Publisher

Sworn to and subscribed before me this day of September 28, 2015

ANGELA CAMPBELL
Notary Public, State of Florida
My Comm. Expires April 10, 2017
Commission No. EE 871981



Notary Signature

Angela Campbell
Notary Public
EE871981

seal James F. Bailey, Jr. personally known to me

NOTICE OF INTENTION TO SEEK LOCAL LEGISLATION TO WHOM IT MAY CONCERN: NOTICE IS HEREBY GIVEN of intent that the undersigned will apply to the next Session of the Legislature of the State of Florida for the introduction of a local bill
A bill to be entitled:
An act relating to the City of Jacksonville, Duval County, amending Chapter 87-471, Laws of Florida, adding a special zone in Jacksonville, Florida so as to provide an exception for space and seating requirements for liquor licenses for restaurants in the zone; providing an effective date; **Sept. 28, 2015** (15-11307)

**HOUSE OF REPRESENTATIVES
2015 LOCAL BILL CERTIFICATION FORM**

BILL #: J-1
SPONSOR(S): Representative Reggie Fullwood
RELATING TO: Amending Chapter 87-471; adding a special zone in Jacksonville, FL so as to provide an exception for space and seating requirements for liquor licenses for restaurants in the zone
[Indicate Area Affected (City, County, or Special District) and Subject]
NAME OF DELEGATION: Duval County Legislative Delegation
CONTACT PERSON: Paula Shoup
PHONE NO.: (904) 630-1680 **E-Mail:** paulas@coj.net

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

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

YES [] NO []

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

YES [] NO []

Date hearing held: September 24, 2015

Location: Council Chambers, City Hall, 117 W. Duval St, Jacksonville, FL 32202

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

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** September 28, 2015

Where? Daily Record **County** Duval

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 [] NOT APPLICABLE []

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

YES [] NO [] NOT APPLICABLE []

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

YES [] NO []

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



Delegation Chair (Original Signature)

9/24/15

Date

Janet H. Adkins

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 #: J-1
SPONSOR(S): Representative Reggie Fullwood
RELATING TO: Special Zone for restaurant licensing in the Riverside Avondale neighborhood of Duval County.
[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: | \$ positive | \$ positive |

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>N/A</u> | \$ <u>N/A</u> |

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

This bill, and previous ones like it, have proven to be revenue positive from an increase in sales tax revenue perspective and licensing revenue, but impossible to quantify. Easing the restrictions on bona fide restaurant's ability to serve a full bar increases the opportunity to make a profit which in turn creates more jobs and sales tax revenue.

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>N/A</u> | \$ <u>N/A</u> |
| State: | \$ <u>N/A</u> | \$ <u>N/A</u> |
| Federal: | \$ <u>N/A</u> | \$ <u>N/A</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: More diverse dining options

2. Advantages to Businesses: Increased likelihood of success in a very competitive field. Levels the playing field for smaller, independently owned businesses.
3. Advantages to Government: More sales tax revenue with no increase in services or staff. Higher license fee revenue:
2COP returns \$392 per year to state while a 4COP returns \$1820 per year in Duval County

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:

There is already staff in place to support this bill. The only change would be issuing more 4COP/SRX licenses and fewer 2COP licenses resulting in more license revenue for the state plus more sales tax revenue from the businesses.

VI. SPECIFIC DATA USED IN REACHING ESTIMATES:

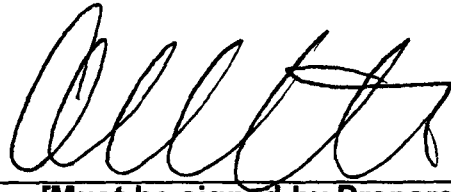
Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

All data from real world application of operating a business with a 2COP and several businesses with 4COPS. Additionally, I have gone through the process before and am an owner of a business that has seen direct positive benefit from this change within another part of the Riverside Avondale neighborhood.

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: Allan DeVault

August 11, 2015
Date

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

Managing partner – Black Sheep Restaurant
Treasurer – Riverside Avondale Preservation

REPRESENTING: Myself and Riverside Avondale Preservation

PHONE: (904) 612-9065

E-MAIL ADDRESS: allan@blacksheep5points.com

1 A bill to be entitled
 2 An act relating to the City of Jacksonville, Duval County;
 3 amending chapter 87-471, Laws of Florida, as amended;
 4 establishing special zones in downtown Jacksonville;
 5 providing exceptions for space and seating requirements
 6 for liquor licenses for restaurants in the zones, subject
 7 to local zoning requirements; providing an effective date.
 8

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

11 Section 1. Chapter 87-471, Laws of Florida, as amended by
 12 chapter 2011-255, Laws of Florida, is amended to read:

13 Section 1. There are ~~is~~ created ~~a~~ special zones ~~zone~~ in
 14 downtown Jacksonville covering the following described areas,
 15 known as Northside West, Northside East, ~~and~~ Southbank,
 16 Riverside Avondale Urban Transition Area, and Riverside Avondale
 17 Commercial Character Areas for the purposes of this act. The
 18 areas are described as:
 19

20 The Northside West area is that part of the City of
 21 Jacksonville, Duval County, Florida described as:

22
 23 Begin at the point of intersection of the West right-
 24 of-way line of Main Street, State Road No. 5, with the
 25 South right-of-way line of West Bay Street; thence,
 26 Westerly along said South right-of-way line of West

27 Bay Street to a line being a Southerly prolongation of
 28 the West right-of-way line of Julia Street; thence
 29 Northerly along said line and said West right-of-way
 30 line of Julia Street to the South right-of-way line of
 31 Forsyth Street; thence Westerly along said South
 32 right-of-way line of Forsyth Street to the West right-
 33 of-way line of Pearl Street; thence Northerly along
 34 said West right-of-way line of Pearl Street to the
 35 North right-of-way line of State Street; thence
 36 Westerly and Northwesterly along said North right-of-
 37 way line of State Street to the Northwesterly right-
 38 of-way of Interstate 95 and State Road No. 9; thence
 39 Southwesterly along said Northwesterly and Westerly
 40 right-of-way line to an intersection with a line being
 41 a Westerly prolongation of the Northeasterly right-of-
 42 way line of that portion of Interstate 95 leading to
 43 and from the Fuller Warren Bridge over the St. Johns
 44 River; thence Southeasterly along said line and
 45 Northeasterly right-of-way line to the center line of
 46 the St. Johns River; thence Northeasterly and Easterly
 47 along said center line to the West right-of-way line
 48 of the John T. Alsop (Main Street) Bridge; thence
 49 Northerly along said West right-of-way line of the
 50 John T. Alsop (Main Street) Bridge to the Point of
 51 Beginning.

52

53 The Northside East area is that part of the City of
 54 Jacksonville, Duval County, Florida described as:

55
 56 Begin on the west, Pearl Street extending from State
 57 on the north to Forsyth Street on the south and Julia
 58 Street from Forsyth on the north to Bay Street on the
 59 south, and Main Street beginning at Bay Street on the
 60 north and extending south to the St. Johns River. The
 61 northern boundary is State Street, beginning at Pearl
 62 Street, and extends eastward to Liberty Street at
 63 which point the boundary extends eastward along the
 64 Jacksonville Expressway to a point where the
 65 Jacksonville Expressway intersects with the Haines
 66 Street Expressway. Then north along the Haines Street
 67 Expressway to Marshall Street, and then eastward along
 68 Marshall Street to Talleyrand Avenue. North along
 69 Talleyrand Avenue to Fairway Street, and then eastward
 70 along Fairway Street to the St. Johns River. The
 71 eastern and southern boundaries are the St. Johns
 72 River, beginning at Fairway Street and extending
 73 southward to a point beyond the Hart Bridge, then
 74 westward to Main Street at a point running north to
 75 Bay Street and then west along Bay Street to Julia
 76 Street, then north along Julia Street to Forsyth
 77 Street, then extending west to Pearl Street.

78

79 The Southbank area is that part of the City of
 80 Jacksonville, Duval County, Florida described as:
 81
 82 Begin at the point of intersection of the North right-
 83 of-way line of Gulf Life Drive with the West right-of-
 84 way line of South Main Street, State Road No. 5;
 85 thence westerly along said North right-of-way line of
 86 Gulf Life Drive to the Northeasterly right-of-way line
 87 of that portion of the Jacksonville Expressway leading
 88 to and from the Acosta Bridge over the St. Johns
 89 River; thence Southeasterly along said Northeasterly
 90 right-of-way line to an intersection with a
 91 Northeasterly prolongation of a line lying 60 feet
 92 Southeasterly from, when measured at right angles to,
 93 the Southeasterly face of the Prudential Building;
 94 thence Southwesterly along said line and a
 95 Southwesterly prolongation thereof to an intersection
 96 with the South right-of-way line of Prudential Drive;
 97 then Easterly along said South right-of-way line of
 98 Prudential Drive to an intersection with a
 99 Northeasterly prolongation of the Westerly edge of the
 100 Easternmost Baptist Medical Center driveway; thence
 101 Southwesterly along said line and Westerly edge of
 102 driveway and Southwesterly prolongation thereof to an
 103 intersection with the Northerly right-of-way line of
 104 Interstate 95, State Road No. 9; thence Easterly along

105 | said Northerly right-of-way line to a point of
 106 | intersection with the Southwesterly edge of the
 107 | Southbound roadway of South Main Street; thence
 108 | Northeasterly along a line drawn straight from the
 109 | last described point to the Northwesterly corner of
 110 | Lot 18, Block 1, Bostwick's Subdivision of Block 46 in
 111 | South Jacksonville, as shown on plat recorded in Plat
 112 | Book 3, Page 68 of the Current Public Records of said
 113 | County, said Northwest corner being located in the
 114 | Northeasterly right-of-way line of the Northbound
 115 | approach to said South Main Street from said
 116 | Interstate 95; thence Southeasterly and Easterly along
 117 | said Northeasterly right-of-way line and Northerly
 118 | right-of-way line of Interstate 95 to an intersection
 119 | with the Southeasterly right-of-way line of Vine
 120 | Street; thence Northeasterly along said Southeasterly
 121 | right-of-way line of Vine Street to the Northeasterly
 122 | line of that certain alley running Southeasterly
 123 | through Block 17, Reeds Fourth Subdivision of South
 124 | Jacksonville, as shown on plat recorded in Plat Book
 125 | 1, Page 46 of the former public records of said
 126 | County; thence Southeasterly along said Northeasterly
 127 | alley line to an intersection with the Northwesterly
 128 | right-of-way line of Alamo Street; thence
 129 | Northeasterly along said Northwesterly right-of-way
 130 | line of Alamo Street and a Northeasterly prolongation

131 thereof to an intersection with the mean high water
 132 line of the St. Johns River; thence Northwesterly
 133 along said mean high water line to an intersection
 134 with a line being a Northerly prolongation of the West
 135 face of the Gulf Life Insurance Company's parking
 136 garage; thence Southerly along said line, said West
 137 garage face, and a Southerly prolongation thereof to
 138 an intersection with the North right-of-way line of
 139 Gulf Life Drive; thence Westerly along said North
 140 right-of-way line to the Northerly prolongation of the
 141 Easterly right-of-way line of Flagler Avenue; thence
 142 Northerly along said prolongation of the Easterly
 143 right-of-way line of Flagler Avenue to an intersection
 144 with a line being the Easterly prolongation of the
 145 South face of the multistory Hilton Hotel building;
 146 thence Westerly along said line, the said South face
 147 of the Hilton Hotel to the Westerly right-of-way line
 148 of South Main Street; thence Southerly along said
 149 Westerly right-of-way line of South Main Street to the
 150 Point of Beginning.

151
 152 The Riverside Avondale Urban Transition Area is that
 153 part of the Riverside Avondale Historic District of
 154 the City of Jacksonville, Duval County, Florida
 155 described as:

156

157 The area bound by Margaret Street to the west,
 158 Dellwood Avenue and Interstate 95 to the north and
 159 northeast, and the St. Johns River to the east and
 160 south.

161
 162 The Riverside Avondale Commercial Character Areas are
 163 those parts of the Riverside/Avondale Historic
 164 District of the City of Jacksonville, Duval County,
 165 Florida described as:

166
 167 Riverside Avondale Commercial Character Area #1: Lot
 168 22, Arden, according to the plat thereof as recorded
 169 in Plat Book 5 Page 89 of the Current Public Records
 170 of Duval County, Florida. Block 22, Lots 3, 4, 5, and
 171 6 Block 16, Fishweir Park, according to the plat there
 172 of as recorded in Plat Book 3 Page 84 of the Current
 173 Public Records of Duval County, Florida. A part of the
 174 George Atkinson Grant, Section 58, Township 2 South,
 175 Range 26 East Duval County, Florida as recorded in
 176 Official Records: Book 10027 Page 872, Book 8723 Page
 177 91, Book 14566 Page 1943, Book 8234 Page 171, Book
 178 17088 Page 1988, Book 3153 Page 846, and Book 8558
 179 Page 222

180
 181 Riverside Avondale Commercial Character Area #2: Lots
 182 10, 11, and 12 Block 104, Lots 7, 8, and 9 Block 121,

183 Riverside Heights, according to the plat thereof as
 184 recorded in Plat Book 2 Page 61 of the Current Public
 185 Records of Duval County, Florida. Lots 1, 2, 3, and 4
 186 of BJ Skinner's Subdivision of Block 3 of Diterich's
 187 Subdivision of part of the Hutchinson Grant according
 188 to the plat thereof as recorded in Plat Book 8 Page 14
 189 of the Current Public Records of Duval County,
 190 Florida. Lots 7, 8, 9, 10, 11, and 12 Block 2, Lots 6,
 191 7, 8, 9, and 10 Block 1, St Johns Heights, according
 192 to the plat thereof as recorded in Plat Book 3 Page 22
 193 of the Current Public Records of Duval County,
 194 Florida. Lots 1, 2, 3, 10, 11, and 12 Block 1
 195 Diterich's Subdivision of Lot 4 of the Hutchinson
 196 Grant, Northwestern 65 feet of Lots 1 and 2, all of
 197 Lot 3 Diterich's Replat of Lot 1 Block 8, Edgewood,
 198 according to the plat thereof as recorded in Plat Book
 199 2 Page 86 of the Current Public records of Duval
 200 County, Florida. Lots 130, 131, and 132, Avondale,
 201 according to the plat thereof as recorded in Plat Book
 202 7 Page 31 of the Current Public Records of Duval
 203 County, Florida.

204
 205 Riverside Avondale Commercial Character Area #3: Lot 1
 206 (Except any portion taken by the City of Jacksonville
 207 for right of way purposes) Block A, North Riverside
 208 Heights, according to the plat thereof as recorded in

209 Plat Book 2 Page 99 of the Current Public Records of
 210 Duval County, Florida. Lots 4 and 5 Block 13, Lots 1,
 211 2, 3, 4, 5, the North 1/2 of a closed alley lying
 212 Southeasterly of said lots, and Lot 6 Block 14, Lots 1
 213 and 2 Block 15, Lots 1, 36, 37, and 38 Block 16, St
 214 Johns Heights, according to the plat thereof as
 215 recorded in Plat Book 3 Page 22 of the Current Public
 216 Records of Duval County, Florida. Lots 7, 8, and 9
 217 Block 49, Riverside Heights, according to the plat
 218 thereof as recorded in Plat Book 2 Page 61 of the
 219 Current Public Records of Duval County, Florida. A
 220 portion of Eloise St closed and vacated by Ordinance
 221 No. BB-153 of the City of Jacksonville, Florida.

222
 223 Riverside Avondale Commercial Character Area #4: Lots
 224 2, 3, 6, and part of Lot 7 recorded in Official Record
 225 Book 9501 Page 290 Block 16. Lots 1, 4, 5, and part of
 226 Lot 8 recorded in Official Record Book 9501 Page 292
 227 Block 17, Ingleside Park, according to the plat
 228 thereof as recorded in Plat Book 2 Page 77 of the
 229 current Public Records of Duval County, Florida. Lots
 230 9, 10, 11, 12, 13, 14, and 15 Block 3. Lots 6, 7
 231 (except part in right of way), 8, 9, 10, 11, 12, 13,
 232 14, and 15 Block 6. Lots 1, 2, and 3 Block 7, Willow
 233 Brook Terrace, according to the plat thereof as

234 recorded in Plat Book 8 Page 36 of the Current Public
 235 records of Duval County, Florida.

236
 237 Riverside Avondale Commercial Character Area #5: Lot
 238 7, Lots 8, 9, 10, and 11 (except parts in right of
 239 way) Block 18, Central Addition to Riverside,
 240 according to the plat thereof as recorded in Plat Book
 241 6 Page 6 of the Current Public Records of Duval
 242 County, Florida. Part of Lot 7 recorded in Official
 243 Record Book 14809 Page 692, Lots 8, 9, and 10, Lot 11
 244 and 12 (except parts in right of way), and Lot 13
 245 Block 1. Lot 8 (except part in right of way), Lots 9,
 246 10, 11, 12, 13, 14, 15, and part of Lots 16, 17, and
 247 18 recorded in Official Record Book 15097 Page 1955
 248 Block 2, Riverside Extension, according to the plat
 249 thereof as recorded in Plat Book 6 Page 11 of the
 250 Current Public Records of Duval County, Florida. Part
 251 of Lot 6 recorded in Official Records Book 6934 Page
 252 1451, Lots 7, 8, 9, and 10, Riverside Pines, according
 253 to the plat thereof as recorded in Plat Book 17 Page
 254 13 of the Current Public Records of Duval County,
 255 Florida.

256
 257 Riverside Avondale Commercial Character Area #6: Lots
 258 7, 8, 9, 10, 11, and 12 of re-plat of Block 2,
 259 Lightbody's Subdivision, according to the plat thereof

260 as recorded in Plat Book 6 Page 1 of the Current
 261 Public records of Duval County, Florida. Lots 1, 2, 3,
 262 and 4 Block 3, Lightbody's Subdivision, according to
 263 the plat thereof as recorded in Plat Book 3 Page 95 of
 264 the Current Public records of Duval County, Florida.
 265 Lots 12 and 13, Re-plat of Lots 12 & 13 Block 8
 266 Riverside Annex, according to the plat thereof as
 267 recorded in Plat Book 9 Page 8 of the Current Public
 268 records of Duval County, Florida. Lots 1, 2, 3, 4, 5,
 269 6, 7, 8, 9, 10, 11, and 25, Shackelton's Subdivision
 270 of Block 8 Riverside Annex, according to the plat
 271 thereof as recorded in Plat Book 2 Page 67 of the
 272 Current Public records of Duval County, Florida. Lots
 273 1, 2, 3, 4, 5, 6, 7, 8, 9, East 15FT Lot 10, West 35FT
 274 Lot 11 Block 5. Lots 1, 2, 3, 4, 5, and 6 Block 6,
 275 Riverside Annex, according to the plat thereof as
 276 recorded in Plat Book 1 Page 106 of the Current Public
 277 records of Duval County, Florida. Lots 1, 2, 3, 4, 5,
 278 6, 7, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27,
 279 28, and 29, Duval Company's Re-plat of Block 7
 280 Riverside Annex, according to the plat thereof as
 281 recorded in Plat Book 2 Page 90 of the Current Public
 282 records of Duval County, Florida. That fractional part
 283 of Park St located Southeasterly of lots 16 and 17
 284 Duval Company's Re-plat of Block 7 Riverside Annex
 285 known as Parcel C recorded in Official Record Book

286 16195 Page 2011. Closed alley within Plat Book 2 Page
 287 90 closed by City of Jacksonville Ordinance No. 82-
 288 314-147. Tracts D and E. Lots 1, 2, 3, 4, 5, and 6
 289 Block 6. Lots 1, 2, 3, and 4 Block 7. Lots 1, 2, 3, 4,
 290 5, 6, 7, and 8 Block 8. Lots 2, 3, 4, 5, 6, 7, 8, 9,
 291 10, 11, 12, 13, 14, 15, and closed alley recorded in
 292 Official Record Book 11597-1171 Block 9. Lots 18, 19,
 293 20, 21, 22, and 23 Block 12. Lots 14 and part closed
 294 street lying South thereof, 15, 16, 17, 18, and 19
 295 Block 13, New Riverside, according to the plat thereof
 296 as recorded in Plat Book 3 Page 54 of the Current
 297 Public records of Duval County, Florida. Lots 1, 2,
 298 and 3, Valz & Yerkes Subdivision, according to the
 299 plat thereof as recorded in Plat Book 7 Page 32 of the
 300 Current Public records of Duval County, Florida.
 301 Parcels of land being part of Government Lot 4 in
 302 Section 22, Township 2 South, Range 26 East, Duval
 303 County Florida as described in Deed Book 127 Page177,
 304 Deed Book 127 Page 178, Official record Book 754
 305 Page176, Official Record Book 1140 Page 279, Official
 306 Record Book 2314 Page 133, and Official Record Book
 307 4024 Page 200.
 308
 309 Riverside Avondale Commercial Character Area #7: Lot 6
 310 Block 83, Riverside, according to the plat thereof as
 311 recorded in Plat Book 4 Page 6 of the Current Public

312 records of Duval County, Florida. The West 60FT and
 313 the North 25FT of the East 10FT of Lot 7 and the North
 314 25FT of the West 1/2 of Lot 6, Block 83, Riverside,
 315 according to the plat thereof as recorded in Plat Book
 316 2 Page 24 of the Current Public records of Duval
 317 County, Florida. The East 50FT of the common area
 318 parcel of the John Gorrie Condominium described in
 319 Official record Book 15698 Page 444 of the Current
 320 Public Records of Duval County, Florida.

321
 322 Riverside Avondale Commercial Character Area #8: All
 323 of Lots 2 through 8, together with that portion of a
 324 15FT alley (closed by ordinance 2002-393) lying
 325 Southerly of said lots 7 and 8. Lots 1, 2, 3, 4, 5, 6,
 326 7, 20, 21, 22 and part of a closed alley lying
 327 southerly to Lots 6 and 7 and Easterly to Lots 6, 7,
 328 and 22 Block 9. Fractional Lot 1 Block 11. Lots 1, 2,
 329 3, 4, 5 and closed alley lying Easterly of Lots 6 & 26
 330 Block 12 (except any part in right of way), R I CO's
 331 addition to Riverside, according to the plat thereof
 332 as recorded in Plat Book 5 Page 47 of the Current
 333 Public Records of Duval County, Florida. Part of Lot
 334 4, Riverside, according to the plat thereof as
 335 recorded in Plat Book 1 Page 109 of the Current Public
 336 Records of Duval County, Florida. West 1/2 Lot 5,
 337 fractional Lot 6, and the West 1/2 of Lot 7 Block 102,

338 Riverside, according to the plat thereof as recorded
 339 in Plat Book 4 Page 6 of the Current Public Records of
 340 Duval County, Florida.

341
 342 Riverside Avondale Commercial Character Area #9: Lots
 343 1 through 10 Block 51. Lots 1, 2, 3, and part of Lot 4
 344 recorded in Official Record Book 11528 Page 2345 Block
 345 52, Riverside, according to the plat thereof as
 346 recorded in Plat Book 1 Page 109 of the Current Public
 347 Records of Duval County, Florida. A part of Oak Street
 348 North of Block 51, plat of Riverside, as recorded in
 349 Official record Book 9853 Page 1080 of the Public
 350 Records of Duval County, Florida.



351
 352 Section 2. Notwithstanding ~~the provisions of~~ s. 561.20(1),
 353 Florida Statutes, in the areas herein described as Northside
 354 West, Northside East, Southbank, Riverside Avondale ~~and~~ Urban
 355 Transition Area, and Riverside Avondale Commercial Character
 356 Areas, the Division of Alcoholic Beverages and Tobacco of the
 357 Department of Business Regulation may issue a special alcoholic
 358 beverage license to any bona fide restaurant containing all
 359 necessary equipment and supplies for and serving full course
 360 meals regularly and having accommodations at all times for
 361 service of 100 or more patrons at tables and occupying not less
 362 than 1,800 square feet of floor space which derive no less than
 363 51 percent of gross income per annum from the sale of food

364 consumed on the premises; provided that such licenses shall be
365 subject to local zoning requirements ~~setting distance~~
366 ~~requirements between liquor-serving establishments and churches~~
367 ~~and schools~~ and to any provision of the alcoholic beverage laws
368 of the state and rules of the division not inconsistent
369 herewith.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 891 Northwest Florida Community Hospital Board of Trustees, Washington County
SPONSOR(S): Drake
TIED BILLS: IDEN./SIM. BILLS:

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|-----------|--|---|
| 1) Local Government Affairs Subcommittee | 10 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 Northwest Florida Community Hospital District, an independent special district, by repealing ch. 88-532, Laws of Florida. Any assets and liabilities of the district are transferred to the Board of County Commissioners for Washington 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,¹ special act,² local ordinance,³ or by rule of the Governor and Cabinet.⁴ 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.⁵ A special district may be "dependent"⁶ or "independent."⁷

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.⁸ 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.⁹ 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.¹⁰
 - 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.¹¹
 - Fails to respond to an inquiry from DEO within 21 days.¹²

¹ Section 189.031(3), F.S.

² Id.

³ Section 189.02(1), F.S.

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

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

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

⁶ 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.

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

⁸ 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).

⁹ 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.

¹⁰ Section 189.062(1)(a)1., F.S.

¹¹ Section 189.062(1)(a)2., F.S.

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

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.¹⁸ The notice must state that any objections to declaring the district inactive must be filed with DEO pursuant to chapter 120, F.S.,¹⁹ within 21 days after the publication date.²⁰ If no objection is filed within the 21 day period, DEO declares the district inactive.²¹

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.²² The statute provides that the declaration of inactive status is sufficient notice under the Florida Constitution²³ to authorize the repeal of special laws creating or amending the charter of the inactive district.²⁴ 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.²⁵

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.²⁶

A district declared inactive may not collect taxes, fees, or assessments.²⁷ This prohibition continues until the declaration of invalidity is withdrawn or revoked by DEO²⁸ or invalidated in an administrative proceeding²⁹ or civil action³⁰ timely brought by the governing body of the special district.³¹ Failure of the

¹² Section 189.062(1)(a)3., F.S.

¹³ Section 189.067, F.S.

¹⁴ Section 189.066, F.S.

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

¹⁶ Section 189.062(1)(a)5., F.S.

¹⁷ Section 189.062(1)(a)6., F.S.

¹⁸ 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.

¹⁹ The Florida Administrative Procedure Act.

²⁰ 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.

²¹ Section 189.062(1)(c), F.S.

²² Section 189.062(3), F.S.

²³ Art. III, s. 10, Fla. Const.

²⁴ Section 189.062(3), F.S.

²⁵ Section 11.02, F.S.

²⁶ Section 189.062(2), F.S.

²⁷ Section 189.062(5), F.S.

²⁸ Section 189.062(5)(a), F.S.

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

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

³¹ 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.³²

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 Legislature³³ or the entity that created the district.³⁴

Northwest Florida Community Hospital District

The Northwest Florida Community Hospital District was created as an independent special district by special act in 1988. The act authorized a seven member board of trustees to oversee the Washington County Hospital, composed of the chief of the hospital medical staff, five members appointed by the Board of County Commissioners registered in the members' respective county commission districts, and one member appointed by the Board of County Commissioners from the county at large.³⁵ The act granted the Board of Trustees "all of the powers and duties" under ch. 155, F.S., including the ability to levy a property tax within the district of up to 10 mils based upon the financial needs of the hospital.³⁶

On November 3, 2011, the registered agent of the Northwest Florida Community Hospital Board of Trustees, Ms. Camilla Schmitz, notified DEO that the District had not taken any action for two or more years³⁷ and requested that DEO declare the District inactive.³⁸ On January 21, 2012, DEO published the "Notice of Proposed Declaration of Inactive Status of the Northwest Florida Community Hospital District" in the Washington County News. Pursuant to statute, the notice required any objections to the District being placed on inactive status to be filed with DEO within 21 days of the initial publication of the notice; no objections were received. On February 13, 2012, DEO declared the District inactive. DEO notified the Speaker of the House, the President of the Senate, pursuant to statute that the district had been declared inactive.³⁹

EFFECT OF THE BILL

The bill dissolves the Northwest Florida Community Hospital District by repealing ch. 88-532, Laws of Florida. Any assets and liabilities of the district are transferred to the Board of County Commissioners for Washington County.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 88-532, Laws of Florida.

Section 2: Abolishes the Northwest Florida Community Hospital Board of Trustees and transfers all assets and liabilities of the district to the Board of County Commissioners of Washington County.

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

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

³³ Sections 189.071(3), 189.072(3), F.S.

³⁴ 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.

³⁵ Ch. 88-532, Laws of Florida.

³⁶ Section 155.12, F.S.

³⁷ The Northwest Community Hospital is no longer owned by Washington County and the dissolution of the district apparently will not impact the current management or efficacy of the hospital. See Florida Hospital Association, <http://www.fha.org/reports-and-resources/hospital-directory.aspx>.

³⁸ Letter from the Department of Economic Opportunity to President of the Senate Mike Haridopolos and Speaker of the House Dean Cannon, "Re: Declaration of Inactive Status of the Northwest Florida Community Hospital District" (February 22, 2012).

³⁹ 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. (2012). In 2014 the statute was revised to require additional notice to specified standing legislative committees. See ch. 2014-22, s. 24, Laws of Florida.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 22, 2012

WHERE? Leon County, FL

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,⁴⁰ proof of such publication typically is in the form of an affidavit.⁴¹ However, in this instance the notice of declaring inactive status in and of itself is sufficient to satisfy the constitutional requirement.⁴² To satisfy the requirement of general law that evidence of the necessary publication "be established" in the Legislature before the bill is passed,⁴³ 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

⁴⁰ Section 11.02, F.S.

⁴¹ Section 11.03, F.S.

⁴² Section 189.062(3), F.S.

⁴³ Section 11.021, F.S.

Rep. O'Toole
HB 1081 LB

SUBSTITUTE NOTICE OF PUBLICATION

Re: North Sumter County Hospital District

The Special District Accountability Program in the Department of Economic Opportunity has declared the North Sumter County Hospital District, in Sumter County, to be inactive. By notice dated February 29, 2008, 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.

Rick Scott
GOVERNOR



Cynthia R. Lorenzo
INTERIM EXECUTIVE DIRECTOR

February 22, 2012

The Honorable Mike Haridopolos, President
Florida Senate
Room 312, Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

The Honorable Dean Cannon, Speaker
Florida House of Representatives
420 The Capitol
402 South Monroe Street
Tallahassee, Florida 32399-1300

Re: Declaration of Inactive Status of the Northwest Florida Community Hospital District

Dear President Haridopolos and Speaker Cannon:

The Department of Economic Opportunity (the "Department") administers Chapter 189, Florida Statutes (the Uniform Special District Accountability Act of 1989). This Act charges the Department with a number of responsibilities as they relate to special districts. Among these responsibilities is the requirement to declare special districts inactive for dissolution under certain circumstances. When special districts created by special act of the Legislature become inactive, the Department must notify the Speaker of the House of Representatives and the President of the Senate.

Section 189.4044, Florida Statutes, describes four conditions in which the Department must declare special districts inactive. One of these conditions is met when the Department is notified in writing by a special district's registered agent that the special district has taken no action for two or more years.

On November 3, 2011, Ms. Camilla Schmitz, the registered agent of the Northwest Florida Community Hospital District (the "District"), an independent special district located in Washington County, notified the Department in writing that the District has not taken any action since 2004. Ms. Schmitz asked the Department to declare the District inactive.

The Calkins Building 107 E. Madison Street Tallahassee, Florida 32399-1120 850-545-7625
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An equal opportunity employer/program. Auxiliary aids and services are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TDD equipment via the Florida Relay Service at 711.

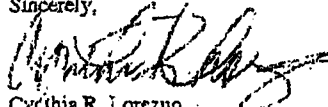
The Honorable Mike Haridopolos
The Honorable Dean Cannon
Page Two

On January 21, 2012, the Department published a "Notice of Proposed Declaration of Inactive Status of the Northwest Florida Community Hospital District" in the Washington County News. This notice required any party objecting to the inactive status to file an objection with the Department pursuant to Chapter 120, Florida Statutes, within twenty-one (21) days after the date of publication of the notice. The Department did not receive any objections. Therefore, on February 13, 2012, the Department declared the Authority inactive by changing its status on the Official List of Special Districts from "active" to "inactive."

Section 189.4044(3), Florida Statutes, provides that this declaration of inactive status 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. According to our records, the Authority was established by Chapter 19421, Laws of Florida, and amended by Chapters 76-502 and 88-532, Laws of Florida. The Department requests that the Legislature dissolve the Authority by repealing its special acts.

Please contact Mr. Darrick McGhee, Legislative and Cabinet Affairs Director, at 850-245-7370 if you have any questions or need further assistance.

Sincerely,


Cynthia R. Lorezno
Interim Executive Director

CRL/jg

cc: Ms. Marcey M. Black, Registered Agent, Northwest Florida Community Hospital District
Mr. Jeff Goodman, Washington County Attorney
✓ Mr. Jack Gaskins Jr., Special District Information Program

HOUSE OF REPRESENTATIVES

2016 LOCAL BILL CERTIFICATION FORM

BILL #: ~~HB 891~~ HB 891
SPONSOR(S): Representative Brad Drake
RELATING TO: Northwest Florida Community Hospital Board of Trustees
NAME OF DELEGATION: Washington County
CONTACT PERSON: Rhonda Thomas
PHONE NO.: (850) 718-0047 E-Mail: Thomas.rhonda@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 [checked] NO []

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

YES [checked] NO []

Date hearing held: November 10, 2015

Location: Board of County Commissioners' Boardroom at 1331 South Blvd Chipley, FL

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

YES [checked] NO []

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

YES [checked] 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 [checked] NO [] DATE 2/22/2012

Where? Letter per s. 189.4044, F.S. (2011) 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)

11/10/15

Date

Brad Drake

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 377~~ HB 891
SPONSOR(S): _____
RELATING TO: Northwest Florida Community Hospital Board of Trustees
[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: | \$ _____ | \$ _____ |
| Revenue increase due to bill: | \$ _____ | \$ _____ |

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> |
|--|-----------------|-----------------|
| | \$ _____ | \$ _____ |

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

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: | \$ _____ | \$ _____ |
| State: | \$ _____ | \$ _____ |
| Federal: | \$ _____ | \$ _____ |

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.

- Advantages to Individuals: Dissolves a unit of local government that is inactive and no longer necessary.
- Advantages to Businesses: Dissolves a unit of local government that is inactive and no longer necessary.
- Advantages to Government: Dissolves an inactive unit of local 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.

- 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.

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A bill to be entitled
 An act relating to the Northwest Florida Community
 Hospital Board of Trustees, Washington County;
 repealing chapter 88-532, Laws of Florida; abolishing
 the board; transferring assets and liabilities of the
 board; providing an effective date.

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


Section 1. Chapter 88-532, Laws of Florida, is repealed.

Section 2. The Northwest Florida Community Hospital Board
of Trustees is dissolved. All assets and liabilities of the
board are transferred to the Board of County Commissioners of
Washington County.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1081 North Sumter County Hospital District, Sumter County
SPONSOR(S): O'Toole
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|-----------|--|---------------------------------------|
| 1) Local Government Affairs Subcommittee | 10 Y, 0 N | Walker | Miller |
| 2) Local & Federal Affairs Committee | | Walker  | Kiner <i>KLK</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 North Sumter County Hospital District, an independent special district, by repealing ch. 2004-451, Laws of Florida. Any assets and liabilities of the district are transferred to the Board of County Commissioners for Sumter 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,¹ special act,² local ordinance,³ or by rule of the Governor and Cabinet.⁴ 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.⁵ A special district may be "dependent"⁶ or "independent."⁷

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.⁸ 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.⁹ 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.¹⁰
 - 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.¹¹
 - Fails to respond to an inquiry from DEO within 21 days.¹²

¹ Section 189.031(3), F.S.

² Id.

³ Section 189.02(1), F.S.

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

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

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

⁶ 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.

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

⁸ 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).

⁹ 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.

¹⁰ Section 189.062(1)(a)1., F.S.

¹¹ Section 189.062(1)(a)2., F.S.

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

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.¹⁸ The notice must state that any objections to declaring the district inactive must be filed with DEO pursuant to chapter 120, F.S.,¹⁹ within 21 days after the publication date.²⁰ If no objection is filed within the 21 day period, DEO declares the district inactive.²¹

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.²² The statute provides that the declaration of inactive status is sufficient notice under the Florida Constitution²³ to authorize the repeal of special laws creating or amending the charter of the inactive district.²⁴ 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.²⁵

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.²⁶

A district declared inactive may not collect taxes, fees, or assessments.²⁷ This prohibition continues until the declaration of invalidity is withdrawn or revoked by DEO²⁸ or invalidated in an administrative proceeding²⁹ or civil action³⁰ timely brought by the governing body of the special district.³¹ Failure of the

¹² Section 189.062(1)(a)3., F.S.

¹³ Section 189.067, F.S.

¹⁴ Section 189.066, F.S.

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

¹⁶ Section 189.062(1)(a)5., F.S.

¹⁷ Section 189.062(1)(a)6., F.S.

¹⁸ 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.

¹⁹ The Florida Administrative Procedure Act.

²⁰ 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.

²¹ Section 189.062(1)(c), F.S.

²² Section 189.062(3), F.S.

²³ Art. III, s. 10, Fla. Const.

²⁴ Section 189.062(3), F.S.

²⁵ Section 11.02, F.S.

²⁶ Section 189.062(2), F.S.

²⁷ Section 189.062(5), F.S.

²⁸ Section 189.062(5)(a), F.S.

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

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

³¹ 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.³²

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 Legislature³³ or the entity that created the district.³⁴

North Sumter County Hospital District

The North Sumter County Hospital District (the District) was created as an independent special district by special act in 2004. The act authorized a five member board of trustees to oversee the Sumter County Hospital, with each member appointed by the governor to serve six year terms. The act granted the Board of Trustees “all of the powers of a body corporate” including the power to contract and purchase property. In addition, the District was given eminent domain as well as the ability to levy a property tax within the district of up to 1 mil based upon the financial needs of the hospital.³⁵

The District’s electors did not approve the necessary ad valorem tax to fund the district. By 2008, the registered agent of the District, Mr. James Rogan, notified the Division of Community Planning in the Department of Community Affairs (DCA)³⁶ that the District had not taken any action for two or more years and requested that DCA declare the District inactive.³⁷ On January 17, 2008, DCA published the “Notice of Proposed Declaration of Inactive Status of the North Sumter County Hospital District” in the Sumter County Times. Pursuant to statute, the notice required any objections to the District being placed on inactive status to be filed with DEO within 21 days of the initial publication of the notice; no objections were received. On February 13, 2008, DCA declared the District inactive. DCA notified the Speaker of the House, the President of the Senate, pursuant to statute that the district had been declared inactive.³⁸

EFFECT OF THE BILL

The bill dissolves the North Sumter County Hospital District by repealing ch. 2004-451, Laws of Florida. Any assets and liabilities of the district are transferred to the Board of County Commissioners for Sumter County.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 2004-451, Laws of Florida.

Section 2: Abolishes the North Sumter County Hospital District and transfers all assets and liabilities of the district to the Board of County Commissioners of Sumter County.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

³³ Sections 189.071(3), 189.072(3), F.S.

³⁴ 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.

³⁵ Ch. 2004-451, s. 4, Laws of Florida.

³⁶ 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.

³⁷ Letter from the Department of Community Affairs to President of the Senate Ken Pruitt and Speaker of the House Marco Rubio, “Re: Notice of Declaration of Inactive Status of the North Sumter County Hospital District, an independent special district located in Sumter County, Florida, established by Chapter 2004-451, Laws of Florida” (February 29, 2008).

³⁸ 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. (2008). In 2014 the statute was revised to require additional notice to specified standing legislative committees. See ch. 2014-22, s. 24, Laws of Florida.

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? February 29, 2008

WHERE? Leon County, FL

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,³⁹ proof of such publication typically is in the form of an affidavit.⁴⁰ However, in this instance the notice of declaring inactive status in and of itself is sufficient to satisfy the constitutional requirement.⁴¹ To satisfy the requirement of general law that evidence of the necessary publication "be established" in the Legislature before the bill is passed,⁴² 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

³⁹ Section 11.02, F.S.

⁴⁰ Section 11.03, F.S.

⁴¹ Section 189.062(3), F.S.

⁴² Section 11.021, F.S.

Rep. O'Toole
HB 1081 LB

SUBSTITUTE NOTICE OF PUBLICATION

Re: North Sumter County Hospital District

The Special District Accountability Program in the Department of Economic Opportunity has declared the North Sumter County Hospital District, in Sumter County, to be inactive. By notice dated February 29, 2008, 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"

CHARLIE CRIST
Governor

THOMAS D. PELHAM
Secretary

February 29, 2008

The Honorable Ken Pruitt
President, Florida Senate
Senate Office Building, Room 312
404 South Monroe Street
Tallahassee, Florida 32399-1100

The Honorable Marco Rubio
Speaker, Florida House of Representatives
The Capitol, Room 420
402 South Monroe Street
Tallahassee, Florida 32399-1300

Re: Notice of Declaration of Inactive Status of the North Sumter
County Hospital District, an independent special district located in
Sumter County, Florida, established by Chapter 2004-451, Laws of
Florida

Dear Mr. President and Mr. Speaker:

The North Sumter County Hospital District (District) has become inactive within the meaning of Section 189.4044(1)(a)1., Florida Statutes. As required by Section 189.4044(1), Florida Statutes, the Department of Community Affairs (Department) is providing this Notice of Declaration of Inactive Status (Notice) to both of you. According to subsections 189.4044(3) and (4), Florida Statutes, this Notice is sufficient as required by Section 10, Article III, of the Florida Constitution, to authorize the Legislature to repeal Chapter 2004-451, Laws of Florida, the special district's enabling law.

The inactive status is based upon notification by Mr. James Rogan, the District's Registered Agent, that the District has taken no action in over two years because the District's electors, by a majority vote in a referendum, did not approve the District's authority to levy an ad valorem tax to fund the District. Mr. Bradley Arnold, Sumter County Administrator, verified that the Sumter County Board of County Commissioners desires the Department to declare the District inactive for legislative dissolution.

2555 SHUMARD OAK BOULEVARD TALLAHASSEE, FL 32399-2100
Phone: 850-488-8466/5015 SUNCOM 278-8466 Fax: 850-421-0781/SUNCOM 281-0781

WebSite

COMMUNITY PLANNING

Phone: 850-488-2366/5015 FAX: 850-488-3300/5015

AREAS OF SPECIAL STATE CONCERN FIELD OFFICE

Phone: 305-298-3402 Fax: 305-298-2442

HOUSING AND COMMUNITY DEVELOPMENT

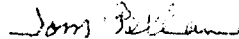
Phone: 850-496-1556/5015 FAX: 850-496-1556/5015

The Honorable Ken Pruitt
The Honorable Marco Rubio
February 29, 2008
Page 2

As required by Section 189.4044(1)(b), Florida Statutes, the Department published a Notice of Proposed Declaration of Inactive Status (Proposed Notice) of the North Sumter County Hospital District in the *Sumter County Times*, a newspaper of general circulation in Sumter County, on January 17, 2008. This Proposed Notice required any party objecting to the dissolution of the District to file an objection pursuant to Chapter 120, Florida Statutes, within 21 days after the publication date. The Department provided a copy of this Proposed Notice by certified mail to Mr. Rogan and Mr. Arnold. Because no objections were filed within 21 days, on February 13, 2008, the Department's Special District Information Program changed the District's formal status from active to inactive. Based on this status change, the Department requests that the Legislature dissolve the District by repealing Chapter 2004-451, Laws of Florida.

Please do not hesitate to contact Barbara Jo Finer, Assistant General Counsel, at 850/488-0410, if you have any questions or need further assistance.

Sincerely yours,



Thomas G. Pelham
Secretary

TGP/jg

cc: Mr. James Rogan, Registered Agent, North Sumter County Hospital District
Mr. Bradley Arnold, Sumter County Administrator
Mr. Jack Gaskins, Jr., Special District Information Program

HOUSE OF REPRESENTATIVES

2016 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1081

SPONSOR(S): Rep. O'Toole

RELATING TO: North Sumter County Hospital District
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: Sumter County

CONTACT PERSON: Joshua Blake

PHONE NO.: (352) 315-4445 E-Mail: Joshua.Blake@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: 12/10/15

Location: The Villages Sumter County Services Center 7375 Powell Road

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

YES NO 34785

(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 2/29/2008

Where? Letter per s. 189.4044, F.S. (2007) 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.

H. Marlene O'Toole
Delegation Chair (Original Signature)

12/11/15
Date

H. MARLENE O'TOOLE
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 1081
SPONSOR(S): Rep. O'Toole
RELATING TO: North Sumter County Hospital 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>0.00</u> | \$ <u>0.00</u> |
| Revenue increase due to bill: | \$ <u>0.00</u> | \$ <u>0.00</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>0.00</u> | \$ <u>0.00</u> |

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

The North Sumter County Hospital District is inactive so there is no change in either
revenues nor expenditures in dissolving it.

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>0.00</u> | \$ <u>0.00</u> |
| State: | \$ <u>0.00</u> | \$ <u>0.00</u> |
| Federal: | \$ <u>0.00</u> | \$ <u>0.00</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.

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:

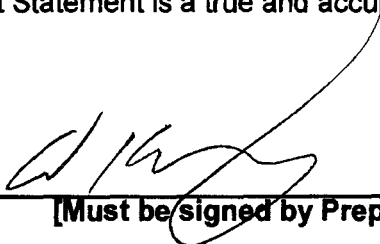
Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

No estimates were used. Since the district is inactive there are no financial consequences for dissolving it.

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: William Kleinsorge, CPA

12/8/2015

Date

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

Finance Director

REPRESENTING: Sumter County

PHONE: 352-569-6616

E-MAIL ADDRESS: bkleinsorge@sumterclerk.com

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A bill to be entitled
 An act relating to the North Sumter County Hospital
 District, Sumter County; repealing chapter 2004-451,
 Laws of Florida; abolishing the district; transferring
 assets and liabilities of the district to the Board of
 County Commissioners of Sumter County; providing an
 effective date.

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

Section 1. Chapter 2004-451, Laws of Florida, is repealed.

Section 2. The North Sumter County Hospital District is
 abolished. All assets and liabilities of the district are
 transferred to the Board of County Commissioners of Sumter
 County.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7059 PCB SAC 16-04 Election Dates for Municipal Office
SPONSOR(S): State Affairs Committee, Caldwell
TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--------------------------------------|-----------|------------------|--|
| Orig. Comm.: State Affairs Committee | 10 Y, 6 N | Toliver | Camechis |
| 1) Local & Federal Affairs Committee | | Kiner <i>KLK</i> | Kiner <i>KLK</i> |

SUMMARY ANALYSIS

Under current law, elections for members of a municipality's governing body are conducted during the general election in November of even-numbered years unless the governing body of the municipality adopts an ordinance to change the date. A municipality that changes its election date is authorized to provide for the orderly transition of office resulting from the date change.

The PCB expressly preempts to the state the authority to establish the dates of elections of municipal officers and provides the exclusive method for establishing those dates. Any state law, municipal charter, or municipal ordinance that conflicts with the PCB is superseded to the extent of the conflict. As a result, a municipality will no longer have authority to unilaterally establish the date of its municipal officer elections.

The PCB requires the date of elections for municipal officers to be established in accordance with one of the following options:

Option 1: All elections of municipal officers in a county may be held on the same date as the general election in November of each even-numbered year or on the first Tuesday after the first Monday in November of each odd-numbered year, or both, as determined by the supervisor of elections (SOE);

or

Option 2: All elections of municipal officers in a county may be held on one alternative fixed date each year if the SOE and all municipalities within the county agree to the date and each municipality within the county adopts the date by ordinance. Each ordinance must also provide the dates for qualifying for the election and the date on which the elected officers' terms of office commence.

The dates for elections of municipal officers may be selected under either Option 1 or Option 2, but not both.

The provisions of the PCB that establish the method of selecting municipal election dates do not affect the manner in which vacancies in municipal office are filled or the manner in which recall elections for municipal officers are conducted. However, the PCB allows municipal recall elections to be held concurrently with municipal elections provided the municipal election occurs during a specific time period.

In order to provide for an orderly transition of office, the PCB provides that the terms of incumbent elected municipal officers affected by the change in election dates will be extended to the next municipal election.

Lastly, the PCB repeals s. 101.75, F.S., which allows a municipality to change election dates in order to hold its elections concurrently with a statewide or countywide election or, if the voting devices for a statewide or countywide election are not available, to hold its elections 30 days before or after the statewide or countywide election.

The PCB does not appear to have a fiscal impact on the state, but it may reduce or increase elections costs for certain municipalities. While the PCB may require some municipalities to expend funds, article VII, section 18, of the Florida Constitution explicitly exempts election laws from the county/municipality "mandates" provision within that section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Article VI, section 5(a) of the Florida Constitution requires a general election to be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective state and county officer whose term will expire before the next general election. Section 100.031, F.S., incorporates that constitutional provision into statute, but also requires a general election to be held in each county on the first Tuesday after the first Monday in November of each even-numbered year to choose a successor to each elective federal and district officer whose term will expire before the next general election.

Article VI, section 6 of the Florida Constitution provides that registration and elections in municipalities must, and in other governmental entities created by statute may, be provided by general law. The Florida Election Code,¹ which is a collection of general laws, provides that it governs the conduct of municipal elections in the absence of an applicable special act, charter, or ordinance.² However, no act, charter, or ordinance may be adopted which conflicts with or exempts a municipality from any provision in The Florida Election Code that expressly applies to municipalities.³

Elections for municipal officers are conducted during the general election in November of even-numbered years unless the governing body of a municipality has adopted an ordinance to change the dates for qualifying and for the election of members of the governing body of the municipality.⁴ The ordinance may also provide for the orderly transition of office resulting from the date changes.

Section 101.75, F.S., allows the governing body of a municipality to move the date of any municipal election to a date concurrent with any statewide or countywide election provided the election date and dates for qualifying for the election are specifically provided for in the ordinance.⁵ However, if the voting devices used in the county are not available to the municipality during the statewide or countywide election, the municipality may provide that its election will be held 30 days before or after the statewide or countywide election.⁶

Any member of the governing body of a municipality may be removed from office by the electors of the municipality provided certain requirements are met.⁷ If the requirements are met but the municipal officer does not resign his or her office, a municipal recall election is held for the removal of that officer.⁸ A municipal recall election is held in conjunction with a general or special election if such an election is held during the defined timeframe for conducting a recall election.⁹

A municipality pays for the printing and delivery of ballots and instruction cards for a municipal election.¹⁰

Effect of the Bill

The PCB expressly preempts to the state the authority to establish the dates of elections of municipal officers and provides the exclusive method for establishing those dates. Any general law, special law, local law,

¹ Chapters 97-106, F.S., are known as "The Florida Election Code."

² Section 100.3605(1), F.S.

³ *Id.*

⁴ Section 100.3605(2), F.S.; *see also* s. 166.021(4), F.S.

⁵ Section 101.75(3), F.S.

⁶ Section 101.75(1), F.S.

⁷ Section 100.361, F.S.

⁸ Section 100.361(4), F.S.

⁹ *Id.*

¹⁰ Section 101.21, F.S.

municipal charter, or municipal ordinance that conflicts with the municipal election date provisions in the PCB is superseded to the extent of the conflict. As a result, a municipality will no longer have authority to unilaterally establish the date of municipal officer elections.

The PCB requires the date of municipal elections to be established in accordance with one of the following options:

Option 1: All elections of municipal officers in a county may be held on the same date as the general election in November of each even-numbered year or on the first Tuesday after the first Monday in November of each odd-numbered year, or both, as determined by the supervisor of elections (SOE);

or

Option 2: All elections of municipal officers in a county may be held on one alternative fixed date each year if the SOE and all municipalities within the county agree to the date and each municipality within the county adopts the date by ordinance. Each ordinance must also provide the dates for qualifying for the election and the date on which the elected officers' terms of office commence.

Elections of municipal officers may be scheduled pursuant to either Option 1 or Option 2, but not both. If municipal officer elections within a county are conducted under Option 1, an SOE may choose to conduct elections for some municipalities in the county at the general election and conduct elections for other municipalities on the first Tuesday after the first Monday in November of an odd-numbered year, or the SOE may choose to conduct all municipal elections in the county on one of those dates. For example, if there are 10 cities in a county, the SOE may conduct municipal officer elections for three municipalities at the general election and conduct elections for the other seven municipalities at the November election in odd-numbered years. Or, the SOE may choose to conduct municipal officer elections for all 10 municipalities at the general election. Under Option 2, all of the municipalities within a county may select any one date each year on which to conduct their municipal officer elections, but all of the municipalities in the county must conduct their elections on the agreed upon date each year. In other words, Option 2 does not allow municipalities within a county to select multiple election dates each year.

The PCB does not require a municipality to alter or amend its charter. Any municipal charter provision that conflicts with the PCB is automatically superseded without further action by the municipality. Likewise, any ordinance that conflicts with the PCB is automatically superseded without any further action of the municipality. If all municipalities in a county and the SOE agree to conduct elections for municipal officers within the county on one alternative fixed date, the PCB requires each municipality in the county to adopt an ordinance to adopt the date, provide dates for qualifying, and establish the date on which the elected officers' terms of office commence. However, if the municipalities within a county and the SOE do not agree on one alternative fixed date for elections of municipal officers, the PCB does not require the municipalities to take any action.

The provisions of the PCB that establish the method of selecting municipal officer election dates does not affect the manner in which vacancies in municipal office are filled or the manner in which recall elections for municipal officers are conducted. However, the PCB allows municipal recall elections to be held concurrently with municipal elections provided the municipal election occurs during a specific time period.

In order to provide for an orderly transition of office, the PCB provides that the terms of incumbent elected municipal officers affected by the change in election dates will be extended to the next municipal election held in accordance with the provisions of the PCB.

Lastly, the PCB repeals s. 101.75, F.S., which allows a municipality to change municipal officer election dates in order to hold its elections concurrently with a statewide or countywide election or, if the voting devices for a statewide or countywide election are not available, to hold its elections 30 days before or after the statewide or countywide election.

B. SECTION DIRECTORY:

Section 1 amends s.100.3605, F.S., to require election dates for municipal officers to be held on a certain date.

Section 2 amends s. 100.361, F.S., to allow municipal recall elections to be held concurrently with a municipal election.

Section 3 repeals s. 101.75, F.S., relating to changes in municipal election dates for cause.

Section 4 amends s. 166.021, F.S., to remove the authorization for a municipality to choose election dates for its candidates and to change terms of office as necessitated by a change in election dates.

Section 5 creates an unnumbered section of law to extend the term of an incumbent elected municipal officer as a result of changes made by this act.

Section 6 provides an effective date of January 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues: None.
- 2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues: None.
- 2. Expenditures: The PCB may decrease or increase the cost of conducting elections for certain municipalities. The PCB does not require municipalities to amend their charters because all conflicting charter provisions are automatically superseded. If all municipalities and the SOE within a county agree to conduct elections for municipal officers in the county on one fixed date, the PCB requires each municipality to adopt an ordinance, for which there may be a cost.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision: This PCB may require some municipalities to spend funds or take action requiring the expenditure of funds in order to comply with the new election date requirements created by the PCB; however, Art. VII, section 18, of the Florida Constitution explicitly exempts election laws from the county/municipality "mandates" provision within that section.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to election dates for municipal office; amending s. 100.3605, F.S.; requiring municipal elections to be held on certain dates determined by the supervisor of elections or on alternative fixed dates agreed to by the supervisor of elections and all municipalities within the county; providing applicability; preempting to the state the authority to establish election dates for municipal elections; providing construction; amending s. 100.361, F.S.; requiring municipal recall elections to be held concurrently with municipal elections under certain conditions; repealing s. 101.75, F.S., relating to change of dates for cause in municipal elections; amending s. 166.021, F.S.; removing the authorization for a municipality to select election dates for its candidates and to change terms of office as necessitated by a change in election dates; providing that the terms of incumbent elected municipal officers are extended until the next municipal election; providing an effective date.

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

Section 1. Subsection (2) of section 100.3605, Florida Statutes, is amended to read:

27 100.3605 Conduct of municipal elections.—

28 (2) (a) Notwithstanding any law, municipal charter
 29 provision, or municipal ordinance, all elections for municipal
 30 office within a county shall be held:

31 1. On the same date as the general election or on the
 32 first Tuesday after the first Monday in November of each odd-
 33 numbered year, or both, as determined by the supervisor of
 34 elections; or

35 2. On one alternative fixed date each year if the
 36 supervisor of elections and all municipalities within the county
 37 agree to the alternative fixed date. Before a municipal election
 38 is conducted pursuant to this subparagraph, each municipality
 39 within the county must adopt the alternative fixed date by
 40 ordinance. Each ordinance must provide the dates for qualifying
 41 for the election and the date on which the elected officers'
 42 terms of office commence ~~The governing body of a municipality~~
 43 ~~may, by ordinance, change the dates for qualifying and for the~~
 44 ~~election of members of the governing body of the municipality~~
 45 ~~and provide for the orderly transition of office resulting from~~
 46 ~~such date changes.~~

47 (b) This subsection does not affect the manner in which
 48 vacancies in municipal office are filled or recall elections for
 49 municipal officers are conducted.

50 (c) The Legislature expressly preempts to the state the
 51 authority to establish the dates of elections for municipal
 52 office. Notwithstanding any general law, special law, local law,

53 municipal charter, or municipal ordinance, this subsection
 54 provides the exclusive method for establishing the dates of
 55 elections for municipal office in this state. Any general law,
 56 special law, local law, municipal charter, or municipal
 57 ordinance that conflicts with this subsection is superseded to
 58 the extent of the conflict.

59 Section 2. Subsection (4) of section 100.361, Florida
 60 Statutes, is amended to read:

61 100.361 Municipal recall.—

62 (4) RECALL ELECTION.—If the person designated in the
 63 petition files with the clerk, within 5 days after the last-
 64 mentioned notice, his or her written resignation, the clerk
 65 shall at once notify the governing body of that fact, and the
 66 resignation shall be irrevocable. The governing body shall then
 67 proceed to fill the vacancy according to the provisions of the
 68 appropriate law. In the absence of a resignation, the chief
 69 judge of the judicial circuit in which the municipality is
 70 located shall fix a day for holding a recall election for the
 71 removal of those not resigning. Any such election shall be held
 72 not less than 30 days or more than 60 days after the expiration
 73 of the 5-day period last-mentioned and at the same time as any
 74 other general, municipal, or special election held within the
 75 period; but if no such election is to be held within that
 76 period, the judge shall call a special recall election to be
 77 held within the period aforesaid.

78 Section 3. Section 101.75, Florida Statutes, is repealed.

79 Section 4. Subsection (4) of section 166.021, Florida
 80 Statutes, is amended to read:
 81 166.021 Powers.—
 82 (4) The provisions of this section shall be so construed
 83 as to secure for municipalities the broad exercise of home rule
 84 powers granted by the constitution. It is the further intent of
 85 the Legislature to extend to municipalities the exercise of
 86 powers for municipal governmental, corporate, or proprietary
 87 purposes not expressly prohibited by the constitution, general
 88 or special law, or county charter and to remove any limitations,
 89 judicially imposed or otherwise, on the exercise of home rule
 90 powers other than those so expressly prohibited. However,
 91 nothing in this act shall be construed to permit any changes in
 92 a special law or municipal charter which affect the exercise of
 93 extraterritorial powers or which affect an area which includes
 94 lands within and without a municipality or any changes in a
 95 special law or municipal charter which affect the creation or
 96 existence of a municipality, the terms of elected officers and
 97 the manner of their election except for the selection of
 98 ~~election dates and~~ qualifying periods for candidates ~~and for~~
 99 ~~changes in terms of office necessitated by such changes in~~
 100 ~~election dates~~, the distribution of powers among elected
 101 officers, matters prescribed by the charter relating to
 102 appointive boards, any change in the form of government, or any
 103 rights of municipal employees, without approval by referendum of
 104 the electors as provided in s. 166.031. Any other limitation of

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105 power upon any municipality contained in any municipal charter
106 enacted or adopted prior to July 1, 1973, is hereby nullified
107 and repealed.

108 Section 5. To provide for an orderly transition of office,
109 the terms of incumbent elected municipal officers are extended
110 until the next municipal election held in accordance with this
111 act.

112 Section 6. This act shall take effect January 1, 2017.