





Local, Federal & Veterans Affairs Subcommittee

February 22, 2017
8:00 AM – 10:30 AM
12 HOB

Meeting Packet

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB LFV 17-01 Florida National Guard Foundation/DSO
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local, Federal & Veterans Affairs Subcommittee		Renner 	Miller 

SUMMARY ANALYSIS

Citizen support (CSOs) and direct-support organizations (DSOs) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and also, for most, by a written contract with the agency the CSO or DSO was created to support.

In 2000, the Florida National Guard Foundation (FLNGF) became a DSO under the Department of Military Affairs (DMA). The mission of the FLNGF is to:

- Provide support to Florida National Guard members in times of emergencies and deployments;
- Honor and assist those soldiers and airmen who have sacrificed their health and well-being for the security of the state and nation; and
- Preserve the Florida National Guard's rich history so the sacrifices of the soldiers and airmen are not forgotten.

The FLNGF's primary function is to fund and administer an emergency financial assistance and a scholarship grant program for current members of the FLNG, and in some cases their families. All current members of the Florida National Guard are eligible to apply for both grant types.

The statutory authority for the DMA DSO is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature.

PCB LVF 17-01 saves from repeal provisions of law authorizing DMA to establish a DSO.

PCB LVF 17-01 does not appear to have a fiscal impact on state or local governments.

PCB LVF 17-01 has an effective date of July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Citizen Support Organizations and Direct-Support Organizations

Citizen support (CSOs) and direct-support organizations (DSOs) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO or DSO are prescribed by its enacting statute and also, for most, by a written contract with the agency the CSO or DSO was created to support.

Prior to 2014, there was no formal review process in law to determine whether a CSO or DSO was established pursuant to such authorization, or whether the rationale for the authorization remained applicable.

Chapter 2014-96, Laws of Florida¹ established reporting and transparency requirements for each CSO or DSO that is created or authorized pursuant to law or executive order and created, approved or administered by a state agency. The CSO or DSO must report information related to its organization, mission, and finances to the agency it was created to support by August 1 of each year.² Specifically, a CSO or DSO must provide:³

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the DSO;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

Each agency receiving the above information from a CSO or DSO must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the CSO or DSO's website.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO's submission and posting of this information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency is required to terminate the contract between the agency and the CSO or DSO.⁶

By August 15 of each year, each agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by the CSO or DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each organization.⁷

¹ Section 20.058, F.S.

² Section 20.058(1), F.S.

³ Section 20.058(1)(a)-(f), F.S.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ Section 20.058(3), F.S.

Lastly, a law creating, or authorizing the creation of, a CSO or DSO must state that the creation of or authorization for the CSO or DSO is repealed on October 1 of the 5th year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. CSOs or DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.

CSO and DSO Audit Requirements

CSOs or DSOs with annual expenditures in excess of \$100,000 that are administered by a state agency are statutorily-required to provide for an annual financial audit of accounts and records to be conducted by an independent certified public accountant. Such audit report is submitted by the CSO or DSO within nine months after the end of the fiscal year to the Auditor General and to the state agency responsible for its creation, administration, or approval.⁸

Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of the CSO's or DSO's accounts and records.⁹ The Auditor General is authorized to require and receive any records from the CSO or DSO, or from its independent auditor.¹⁰

CSO and DSO Ethics Code Requirements

Section 112.3251, F.S., requires a CSO or DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in ss. 112.313 and 112.3143(2), F.S. A CSO or DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹¹

Florida National Guard Foundation

The Florida National Guard Foundation (FLNGF) was founded as a non-profit organization in 1983 to provide charitable and educational aide in the form of money and other property and services. In 2000, the FLNGF became a DSO under the Department of Military Affairs (DMA).¹²

The FLNGF is a corporation not for profit, incorporated under Ch. 617, F.S., and is approved by the Department of State. The FLNGF must:¹³

- Be organized and operate exclusively to raise funds;
- Request and receive grants, gifts, and bequests of moneys;
- Acquire, receive, hold, invest, and administer in its own name securities, funds, or property;
- Support the processing of requests for assistance from the Soldiers and Airmen Assistance Program or similar programs, as directed by the Adjutant General; and
- Make expenditures to or for the direct or indirect benefit of the DMA or the Florida National Guard.

The FLNGF must also be determined by DMA to be operating in a manner consistent with the goals of DMA and the Florida National Guard in the best interest of the state.¹⁴

The mission of the FLNGF is to:¹⁵

⁸ Section 215.981, F.S.

⁹ Section 11.45(3), F.S.

¹⁰ Section 11.45(3)(d), F.S.

¹¹ Section 112.3251, F.S.

¹² Chapter 2000-258, Laws of Fla.

¹³ Section 250.115(1)(a), F.S.

¹⁴ *Id.*

¹⁵ FLNGF website, *Our Mission*, available at <http://www.floridanationalguardfoundation.org/> (last visited January 21, 2017).

- Provide support to Florida National Guard members in times of emergencies and deployments;
- Honor and assist those soldiers and airmen who have sacrificed their health and well-being for the security of the state and nation; and
- Preserve the Florida National Guard's rich history so the sacrifices of the soldiers and airmen are not forgotten.

The FLNGF's primary function is to fund and administer an emergency financial assistance and a scholarship grant program for current members of the FLNG, and in some cases their families. All current members of the Florida National Guard are eligible to apply for both grant types.

The FLNGF's emergency financial assistance program grants are provided to cover expenses relating to housing, food, child care, utilities, transportation, medical, and other immediate needs. The emergency financial assistance program also serves those who are eligible for the Soldiers and Airmen Assistance Program (see below).

The FLNGF's scholarship program provides grants to Florida National Guard members and their dependents pursuing advanced academic and vocational opportunities.

The FLNGF is governed by an eight-member board of directors who are appointed by the president of the board. The Adjutant General appoints the president.¹⁶

The FLNGF must operate under a written contract with DMA which must provide the following:¹⁷

- Certification by DMA that the FLNGF is complying with the terms of the contract and is doing so consistent with the goals and purposes of DMA and in the best interests of the state. The certification must be made annually and reported in the official minutes of a meeting of the FLNG.
- Reversion of moneys and property held by the FLNGF to DMA if the FLNGF is no longer approved to operate for DMA, to DMA if the FLNGF ceases to exist, or to the state if DMA ceases to exist.
- The disclosure of the material provisions of the contract, and the distinction between the DMA and the FLNGF, to donors of gifts, contributions, or bequests, including the disclosure on all promotional and fundraising publications.

Each year the FLNGF must submit to the DMA its annual budget and financial reports, federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023), and a federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).¹⁸

Additionally, the FLNGF must provide for an annual financial audit if its expenditures exceed \$100,000.¹⁹ For FY 2014-15, FLNFG expenditures exceeded \$100,000.²⁰

The FLNGF is funded primarily by individual and corporate charitable contributions. However, for FY 2016-17, the FLNGF received state funding for the first time, in the amount of \$500,000, to be used exclusively to support Florida National Guard members and their immediate families in circumstances of exceptional financial need.²¹

¹⁶ Section 250.115(2), F.S.

¹⁷ Section 250.115(3), F.S.

¹⁸ Section 250.115(6), F.S.

¹⁹ Section 250.115(7), F.S.

²⁰ FLNGF IRS Form 990 (2014), at <http://www.floridanationalguardfoundation.org/Reports/Tax%20Return%202014.pdf> (last visited February 14, 2017).

²¹ See 2016 General Appropriations Act (HB 5001), Line 2952.

Soldiers and Airmen Assistance Program

The Soldiers and Airmen Assistance Program²² (program) provides financial assistance and services to eligible servicemembers²³ of the Florida National Guard and eligible members of their families. The program is administered by DMA; however, the FLNGF is authorized to assist DMA in the processing of applications and the administration of the program. The FLNGF also funds the program.

Assistance authorized under the program may include:

- Housing
- Living expenses
- Vehicle expenses
- Health care expenses; and
- Other expenses not specifically enumerated but considered reasonable under the circumstances.

The financial committee of the FLNGF board is required to perform a review of financial transactions each quarter, and provide the results to DMA. The committee may also request the Office of Inspector General to conduct additional reviews.

Staff Review of the FLNGF

Section 250.115, F.S., the statutory authority for the DMA DSO, is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature. Staff reviewed the FLNGF to verify its compliance with Florida Statutes.

Staff reviewed relevant FLNGF records from fiscal year 2009-10 to present, and found that the FLNGF is an active DSO that supports the DMA primarily by providing emergency financial assistance and scholarship grants to members of the Florida National Guard.

Staff identified eight deficiencies in which the DMA and the FLNGF were not in full compliance with the applicable Florida Statutes. The deficiencies are administrative or procedural. The deficiencies are as follows:

1. **The DSO is required to submit a DSO report to the DMA by August 1 of each year (s. 20.058(1), F.S.)**
 - a. The DSO report was signed by and addressed to incorrect entities.
2. **DMA must publish the DSO report required by s. 20.058(1), F.S., on the DMA's website (see s. 20.058(2), F.S.)**
 - a. The DSO report is not available on DMA's website.
3. **The DSO is required to adopt a code of ethics that contains the standards of conduct and disclosures required under ss. 112.313 and 112.3143(2), F.S. (See s. 112.3251, F.S.)**
 - a. The DSO intends to adopt an amended code of ethics at its February 22, 2017 board of directors meeting.
4. **For each year the DSO's expenditures exceed \$100,000, it must provide for an annual financial audit and submit the audit to the Auditor General within nine months after the end of the fiscal year (See s. 215.981, F.S.)**

²² Section 250.116, F.S.

²³ Section 250.01(19), F.S., defines a "servicemember" as any person serving as a member of the U.S. Armed Forces on active duty or state active duty and all members of the Florida National Guard and U.S. Reserve Forces.

- a. The DSO's annual expenditures exceeded \$100,000 in FYs 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, and 2014-15. The DSO has submitted the past due audits to the Auditor General on December 3, 2016.
5. **The DSO board of directors is required by s. 250.115, F.S., and the DMA-DSO contract to perform certain functions that necessitate at least one annual meeting.**
 - a. The DSO board of directors did not conduct an official board of directors meeting in 2010 and 2013. The board of directors is scheduled to meet on February 22, 2017.
 6. **The DMA must annually certify that the DSO is compliant with the terms of the DMA-DSO contract. The DSO must report the annual DMA certification in the DSO meeting minutes (See s. 250.115(3), F.S.)**
 - a. The DSO application for certification was not signed by the appropriate authority.
 - b. The DSO did not submit its application for certification to the DMA prior to the deadline.
 - c. The DSO did not attach all required documents with its application for certification.
 - d. The DMA did not respond in writing to the DSO's application for certification in a timely manner.
 - e. The DSO did not report the annual DSO certification in its meeting minutes.
 7. **The DSO is required to submit its annual budget to the DMA (See s. 250.115(6), F.S.)**
 - a. The DSO has not submitted its annual budget to DMA.
 8. **Each quarter the DSO must review the financial transactions of the Soldiers and Airmen Assistance Program and provide the review to the DMA (See s. 250.116(6), F.S.)**
 - a. The DSO did not conduct the quarterly reviews of the Soldiers and Airmen Assistance Program and submit to the DMA.

In response to staff's findings, the DMA and the FLNGF developed an internal checklist of statutory requirements to ensure future compliance.

Effect of PCB LVF 17-01

PCB LVF 17-01 repeals s.250.115(8), F.S., providing for repeal of the section creating the DSO unless reviewed and saved from repeal by the Legislature. This will enable the DSO to remain in existence, correct any remaining noted deficiencies, and continue providing assistance and services to Florida National Guard members.

B. SECTION DIRECTORY:

- | | |
|-----------|---|
| Section 1 | Amends s. 250.115, F.S., saving from repeal the DMA direct-support organization, which is scheduled to repeal on October 1, 2017. |
| Section 2 | Provides an effective date of July 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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By saving the DSO from repeal, members of the Florida National Guard will have another source for financial and direct assistance.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

PCB LVF 17-01 neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Appendix A

Table 1: Florida National Guard Foundation Total Annual Revenues²⁴							
FY 2009-10 through FY 2015-16							
Fiscal Year	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>Total</u>
Total Revenue	\$755,323	\$89,403	\$242,990	\$290,902	\$295,407	\$166,820	\$1,840,845

Table 2: Florida National Foundation Total Annual Expenditures²⁵							
FY 2009-10 Through FY 2015-16							
Fiscal Year	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>Total</u>
DSO Service Expenses	\$770,041	\$138,233	\$111,556	\$245,724	\$243,745	\$120,935	\$1,630,234
Administrative Expenses	\$79,585	\$18,662	\$10,387	\$7,856	\$9,313	\$8,762	\$134,565
Fundraising Expenses	\$0	\$0	\$0	\$92,735	\$51,643	\$1,000	\$145,378
Total Expenditures	\$849,626	\$156,895	\$121,943	\$346,315	\$304,701	\$130,697	\$1,910,177

²⁴ Data retrieved from the FLNGF's IRS Form 990, Part VIII.

²⁵ Data retrieved from the FLNGF's IRS Form 990, Part IX.

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A bill to be entitled
An act relating to the Department of Military Affairs
direct-support organization; amending s. 250.115,
F.S.; abrogating the scheduled repeal of provisions
governing a direct-support organization established
under the department; providing an effective date.
Be It Enacted by the Legislature of the State of Florida:
Section 1. Section 250.115, Florida Statutes, is amended
to read:
250.115 Department of Military Affairs direct-support
organization.—
(1) DEFINITIONS.—As used in this section, the term:
(a) "Direct-support organization" means an organization
that is:
1. A Florida corporation not for profit, incorporated
under chapter 617, and approved by the Department of State.
2. Organized and operated exclusively to raise funds;
request and receive grants, gifts, and bequests of moneys;
acquire, receive, hold, invest, and administer in its own name
securities, funds, or property; support the processing of
requests for assistance from the Soldiers and Airmen Assistance
Program or similar programs, as directed by the Adjutant
General; and make expenditures to or for the direct or indirect

26 benefit of the Department of Military Affairs or the Florida
27 National Guard.

28 3. Determined by the Department of Military Affairs to be
29 operating in a manner consistent with the goals of the
30 Department of Military Affairs and the Florida National Guard
31 and in the best interest of the state. Any organization that is
32 denied certification by the Adjutant General may not use the
33 name of the Florida National Guard or the Department of Military
34 Affairs in any part of its name or its publications.

35 (b) "Personal services" includes full-time or part-time
36 personnel as well as payroll processing.

37 (2) BOARD OF DIRECTORS.—The organization shall be governed
38 by a board of directors. The Adjutant General, or his or her
39 designee, shall appoint a president of the board. The board of
40 directors shall be appointed by the president of the board.

41 (3) CONTRACT.—The direct-support organization shall
42 operate under a written contract with the department. The
43 written contract must provide for:

44 (a) Certification by the department that the direct-
45 support organization is complying with the terms of the contract
46 and is doing so consistent with the goals and purposes of the
47 department and in the best interests of the state. This
48 certification must be made annually and reported in the official
49 minutes of a meeting of the direct-support organization.

50 (b) The reversion of moneys and property held by the

51 direct-support organization:

52 1. To the department if the direct-support organization is
53 no longer approved to operate by the department;

54 2. To the department if the direct-support organization
55 ceases to exist; or

56 3. To the state if the department ceases to exist.

57 (c) The disclosure of the material provisions of the
58 contract and the distinction between the department and the
59 direct-support organization to donors of gifts, contributions,
60 or bequests, including such disclosure on all promotional and
61 fundraising publications.

62 (4) USE OF PROPERTY.—

63 (a) The Department of Military Affairs may permit the use
64 of property, facilities, and personal services of the Department
65 of Military Affairs by the direct-support organization, subject
66 to the provisions of this section.

67 (b) The Department of Military Affairs may prescribe by
68 rule any condition with which a direct-support organization
69 organized under this section must comply in order to use
70 property, facilities, or personal services of the Department of
71 Military Affairs.

72 (c) The Department of Military Affairs may not permit the
73 use of its property, facilities, or personal services by any
74 direct-support organization organized under this section which
75 does not provide equal employment opportunities to all persons

76 regardless of race, color, national origin, gender, age, or
 77 religion.

78 (5) ACTIVITIES; RESTRICTIONS.—Any transaction or agreement
 79 between the direct-support organization organized pursuant to
 80 this section and another direct-support organization must be
 81 approved by the Department of Military Affairs.

82 (6) ANNUAL BUDGETS AND REPORTS.—The direct-support
 83 organization shall submit to the Department of Military Affairs
 84 its annual budget and financial reports, its federal Internal
 85 Revenue Service Application for Recognition of Exemption form
 86 (Form 1023), and its federal Internal Revenue Service Return of
 87 Organization Exempt from Income Tax form (Form 990).

88 (7) ANNUAL AUDIT.—The direct-support organization shall
 89 provide for an annual financial audit in accordance with s.
 90 215.981.

91 ~~(8) REPEAL. This section is repealed October 1, 2017,~~
 92 ~~unless reviewed and saved from repeal by the Legislature.~~

93 Section 2. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB Lfv 17-02 Florida Veterans Foundation/DSO
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local, Federal & Veterans Affairs Subcommittee		Renner <i>JR</i>	Miller <i>EAM</i>

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In 2008, the Florida Veterans Foundation, Inc. (FVF) was established as a non-profit corporation to serve as the DSO for the Florida Department of Veterans' Affairs (FDVA). The mission of the FVF is to

- Serve Florida veterans and their families by providing direct and indirect services to veterans;
- Partner with the federal, state, and local governments, the VA, veteran service organizations; and educational institutions to improve veterans' physical, financial, mental, emotional, and social wellbeing; and
- Support the FDVA's mission of advocacy by educating veterans, the public and governmental entities to increase awareness on veteran-related issues.

The statutory authority for the FDVA DSO is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature.

PCB Lfv 17-02 saves from repeal provisions of law authorizing FDVA to establish a DSO.

PCB Lfv 17-02 does not appear to have a fiscal impact on state or local governments.

PCB Lfv 17-02 has an effective date of July 1, 2017.

FULL ANALYSIS

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- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the DSO;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

Each agency receiving the above information from a CSO or DSO must make the information available to the public through the agency's website. If the CSO or DSO maintains a website, the agency's website must provide a link to the CSO or DSO's website.⁴ Additionally, any contract between an agency and a CSO or DSO must be contingent upon the CSO or DSO's submission and posting of this information.⁵ If a CSO or DSO fails to submit the required information for two consecutive years, the agency is required to terminate the contract between the agency and the CSO or DSO.⁶

By August 15 of each year, each agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by the CSO or DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each organization.⁷

¹ Section 20.058, F.S.

² Section 20.058(1), F.S.

³ Section 20.058(1)(a)-(f), F.S.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ Section 20.058(3), F.S.

Lastly, a law creating, or authorizing the creation of, a CSO or DSO must state that the creation of or authorization for the CSO or DSO is repealed on October 1 of the 5th year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. CSOs or DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.

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Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of the CSO's or DSO's accounts and records.⁹ The Auditor General is authorized to require and receive any records from the CSO or DSO, or from its independent auditor.¹⁰

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Florida Veterans Foundation, Inc. DSO

In 2008, the Florida Veterans Foundation, Inc. (FVF) was established as a non-profit corporation to serve as the DSO for the FDVA. The mission of the FVF is to¹²

- Serve Florida veterans and their families by providing direct and indirect services to veterans;
- Partner with the federal, state, and local governments, the VA, veteran service organizations; and educational institutions to improve veterans' physical, financial, mental, emotional, and social wellbeing; and
- Support the FDVA's mission of advocacy by educating veterans, the public and governmental entities to increase awareness on veteran-related issues.

The FVF primarily provides assistance to veterans for emergency shelter, monthly rent or rental deposits, and utility bills. Veterans will only receive a onetime financial aid grant unless there are compelling reasons to do otherwise. The Foundation does NOT pay for car repairs or loans, insurance of any kind, cell phone or cable bills, college loans, property taxes, late fees, home repairs, and bills in the name of anyone other than the veteran.

Additionally, the FVF hosts and contributes funding for Veterans Stand down events and Veterans Summits across the state. These events provide supplies and services to homeless veterans and veterans' benefits counseling. The FVF is statutorily required to administer the Florida Veterans' Walk of Honor and the Florida Veterans' Memorial Garden. The FVF also provides annual funding for the Florida Veterans' Hall of Fame, which is administered by the FDVA.

⁸ Section 215.981, F.S.

⁹ Section 11.45(3), F.S.

¹⁰ Section 11.45(3)(d), F.S.

¹¹ Section 112.3251, F.S.

¹² 2016 annual FDVA report. On file with staff of the Local, Federal & Veterans Affairs Subcommittee.

The FVF must:¹³

- Be organized and operated exclusively to obtain funds;
- Request and receive grants, gifts, and bequests of moneys;
- Acquire, receive, hold, invest, and administer in its own name securities, funds, or property; and
- Make expenditures to or for the direct or indirect benefit of FDVA, the veterans of this state, and congressionally chartered veteran service organizations having subdivisions that are incorporated in Florida.

The FVF must also be determined by FDVA to be operating in a manner consistent with the goals of FDVA and in the best interest of the state.¹⁴

The FVF must be governed by a board of directors and consist of no fewer than five members appointed by the executive director of FDVA. The board members have three-year term limits and may be reappointed when his or her term expires. They must also be current residents of Florida and the majority must be veterans.¹⁵

The FVF must operate under a written contract with FDVA and must provide for the following:¹⁶

- Certification by FDVA that the FVF is complying with the terms of the contract and is doing so consistent with the goals and purposes of FDVA and in the best interests of the state. The certification must be made annually and reported in the official minutes of a FVF meeting.
- Reversion of moneys and property held by the FVF to FDVA if the Foundation is no longer approved to operate for FDVA, to FDVA if the FVF ceases to exist, or to the state if FDVA ceases to exist.
- The disclosure of the material provisions of the contract, and the distinction between the FDVA and the FVF, to donors of gifts, contributions, or bequests, including the disclosure on all promotional and fundraising publications.

The fiscal year for the FVF begins on July 1 each year and ends on June 30 of the following year. Each year the FVF must submit to FDVA its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

Additionally, as detailed above, a DSO must provide for an annual financial audit if its annual expenditures exceed \$100,000.¹⁷ Since FY 2011-12, the FVF has exceeded \$100,000.¹⁸

Staff Review of the FVF

Section 292.055, F.S., the statutory authority for the FDVA DSO, is scheduled to repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature. Staff reviewed the FVR to verify its compliance with Florida Statutes.

Staff reviewed FVF records from fiscal year 2009-10 to present, and found that the FVF is an active DSO that supports the FDVA primarily by providing emergency financial assistance and outreach programs to Florida veterans.

¹³ Section 292.055(2)(b)2., F.S.

¹⁴ Section 292.055(2)(b)3., F.S.

¹⁵ See s. 292.055(3), F.S.

¹⁶ Section 292.055(4), F.S.

¹⁷ Section 292.055(8), F.S.

¹⁸ Data retrieved from FVF's IRS Form 990 for FY 2009-10 through FY 2014-15 and FVF's annual financial audit for FY 2014-16.

The FVF's FY 2015-16 IRS Form 990 is not yet available. On file with staff of the Local, Federal & Veterans Affairs Subcommittee.

Staff identified five deficiencies in which the FDVA and FVF were not in full compliance with the applicable Florida Statutes, including the FVF's code of ethics that did not include the standards of conduct and disclosures required by s. 112.3251, F.S. The deficiencies were administrative or procedural. The FDVA and FVF have resolved each deficiency and intend to comply with applicable Florida Statutes moving forward.

Effect of Proposed Changes

PCB LVF 17-02 amends s. 292.055, F.S., to save from repeal the FDVA's direct-support organization, which is currently scheduled to repeal on October 1, 2017.

B. SECTION DIRECTORY:

- Section 1 Amends s. 292.055, F.S., saving from repeal the FDVA direct-support organization, which is scheduled to repeal on October 1, 2017.
- Section 2 Provides an effective date of July 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:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By saving the DSO from repeal, veterans have another source for financial and direct assistance.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision:
None.
- 2. Other:
None.

B. RULE-MAKING AUTHORITY:

PCB LVF 17-02 neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

Appendix A

Table 1: Florida Veterans Foundation Total Annual Revenues¹⁹
FY 2009-10 through FY 2015-16

Fiscal Year	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>Total</u>
Total Revenue	\$129,018	\$65,448	\$239,700	\$392,404	\$257,333	\$335,407	\$837,447	\$2,256,757

Table 2: Florida Veterans Foundation Total Annual Expenditures²⁰
FY 2009-10 Through FY 2015-16

Fiscal Year	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>Total</u>
DSO Service Expenses	\$59,665	\$20,664	\$107,361	\$134,285	\$248,515	\$210,402	\$468,385	\$1,249,277
Administrative Expenses	\$18,066	\$30,061	\$50,929	\$70,490	\$102,903	\$101,358	\$179,659	\$535,616
Fundraising Expenses	\$0	\$0	\$0	\$0	\$31,850	\$8,129	\$1,788	\$41,767
Total Expenditures	\$77,731	\$50,725	\$158,290	\$204,775	\$383,268	\$319,889	\$649,832	\$1,844,510

¹⁹ Data retrieved from FVF's IRS Form 990, Part VIII for FY 2009-10 through FY 2014-15 and FVF's annual financial audit for FY 2015-16.

²⁰ Data retrieved from FVF's IRS Form 990, Part IX for FY 2009-10 through FY 2014-15 and FVF's annual financial audit for FY 2015-16.

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A bill to be entitled
An act relating to the Department of Veterans' Affairs
direct-support organization; amending s. 292.055,
F.S.; abrogating the scheduled repeal of provisions
governing a direct-support organization established
under the department; providing an effective date.

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

Section 1. Section 292.055, Florida Statutes, is amended
to read:

292.055 Direct-support organization.—

(1) SHORT TITLE; DIRECT-SUPPORT ORGANIZATION ESTABLISHED.—

This section may be cited as the "Sergeant First Class Paul R.
Smith Memorial Act." The Department of Veterans' Affairs may
establish a direct-support organization to provide assistance,
funding, and support for the department in carrying out its
mission. This section governs the creation, use, powers, and
duties of the direct-support organization.

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

(a) "Department" means the Department of Veterans'
Affairs.

(b) "Direct-support organization" means an organization
that is:

1. A Florida corporation not for profit, incorporated

26 under chapter 617, exempted from filing fees, and approved by
 27 the Department of State.

28 2. Organized and operated exclusively to obtain funds;
 29 request and receive grants, gifts, and bequests of moneys;
 30 acquire, receive, hold, invest, and administer in its own name
 31 securities, funds, or property; and make expenditures to or for
 32 the direct or indirect benefit of the department, the veterans
 33 of this state, and congressionally chartered veteran service
 34 organizations having subdivisions that are incorporated in this
 35 state.

36 3. Determined by the department to be operating in a
 37 manner consistent with the goals of the department and in the
 38 best interest of the state.

39 (c) "Personal services" includes full-time or part-time
 40 personnel.

41 (3) BOARD OF DIRECTORS.—The direct-support organization
 42 shall be governed by a board of directors.

43 (a) The board of directors shall consist of no fewer than
 44 five members appointed by the executive director of the
 45 department. Veteran service organizations in this state may
 46 recommend nominees to the executive director of the department.

47 (b) The term of office of the board members shall be 3
 48 years, except that the terms of the initial appointees shall be
 49 for 1 year, 2 years, or 3 years in order to achieve staggered
 50 terms. A member may be reappointed when his or her term expires.

51 The executive director of the department or his or her designee
 52 shall serve as an ex officio member of the board of directors.

53 (c) Members must be current residents of this state. A
 54 majority of the members must be veterans, as defined in s.
 55 1.01(14), and highly knowledgeable about the United States
 56 military, its service personnel, its veterans, and its missions.
 57 The executive director of the department may remove any member
 58 of the board for cause and with the approval of a majority of
 59 the members of the board of directors. The executive director of
 60 the department shall appoint a replacement for any vacancy that
 61 occurs.

62 (4) CONTRACT.—A direct-support organization shall operate
 63 under a written contract with the department. The written
 64 contract must provide for:

65 (a) Certification by the department that the direct-
 66 support organization is complying with the terms of the contract
 67 and is doing so consistent with the goals and purposes of the
 68 department and in the best interests of the state. This
 69 certification must be made annually and reported in the official
 70 minutes of a meeting of the direct-support organization.

71 (b) The reversion of moneys and property held by the
 72 direct-support organization:

73 1. To the department if the direct-support organization is
 74 no longer approved to operate for the department;

75 2. To the department if the direct-support organization

76 ceases to exist; or
 77 3. To the state if the department ceases to exist.
 78 (c) The disclosure of the material provisions of the
 79 contract, and the distinction between the department and the
 80 direct-support organization, to donors of gifts, contributions,
 81 or bequests, including such disclosure on all promotional and
 82 fundraising publications.
 83 (5) USE OF PROPERTY.—
 84 (a) The department may permit the use of property,
 85 facilities, and personal services of the department by the
 86 direct-support organization, subject to this section.
 87 (b) The department may prescribe by contract any condition
 88 with which the direct-support organization must comply in order
 89 to use property, facilities, or personal services of the
 90 department.
 91 (c) The department may not permit the use of its property,
 92 facilities, or personal services by any direct-support
 93 organization organized under this section which does not provide
 94 equal employment opportunities to all persons regardless of
 95 race, color, national origin, gender, age, or religion.
 96 (6) ACTIVITIES; RESTRICTIONS.—Any transaction or agreement
 97 between the direct-support organization organized under this
 98 section and another direct-support organization or other entity
 99 must be approved by the executive director of the department.
 100 (7) ANNUAL BUDGETS AND REPORTS.—

101 (a) The fiscal year of the direct-support organization
102 shall begin on July 1 of each year and end on June 30 of the
103 following year.

104 (b) The direct-support organization shall submit to the
105 department its federal Internal Revenue Service Application for
106 Recognition of Exemption form (Form 1023) and its federal
107 Internal Revenue Service Return of Organization Exempt from
108 Income Tax form (Form 990).

109 (8) ANNUAL AUDIT.—The direct-support organization shall
110 provide for an annual financial audit in accordance with s.
111 215.981.

112 (9) CONFIDENTIALITY OF DONORS.—

113 (a) Any information identifying a donor or prospective
114 donor to the direct-support organization who desires to remain
115 anonymous is confidential and exempt from s. 119.07(1) and s.
116 24(a), Art. I of the State Constitution.


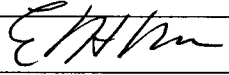
117 (b) Portions of meetings of the direct-support
118 organization during which the identity of a donor or prospective
119 donor, whose identity is confidential and exempt pursuant to
120 paragraph (a), is discussed are exempt from s. 286.011 and s.
121 24(b), Art. I of the State Constitution.

122 ~~(10) REPEAL.—This section is repealed October 1, 2017,~~
123 ~~unless reviewed and saved from repeal by the Legislature.~~

124 Section 2. This act shall take effect July 1, 2017.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 107 Disturbing the Contents of a Grave or Tomb
SPONSOR(S): Cortes
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	14 Y, 0 N, As CS	Merlin	White
2) Local, Federal & Veterans Affairs Subcommittee		Darden 	Miller 
3) Judiciary Committee			

SUMMARY ANALYSIS

Currently, s. 872.02, F.S., provides that it is a third degree felony to willfully and knowingly damage or remove a tomb, monument, or other specified structure and a second degree felony to willfully and knowingly disturb the contents of a tomb. These offenses, however, do not apply to a:

- Person acting under the direction of the Division of Historical Resources of the Department of State;
- Cemetery regulated by the Department of Financial Services (DFS) under ch. 497, F.S.; or
- Person otherwise authorized by law to disturb a tomb, monument, or other specified structure.

On occasion, a cemetery may seek to remove or relocate the contents of a tomb for a legitimate purpose such as maintenance, expansion, or modernization. Currently, a cemetery regulated by DFS may remove or relocate the contents of a tomb only after receiving written authorization from a legally authorized representative of the decedent or a court. For cemeteries that are exempt from DFS regulation, there are no statutorily-specified requirements for the removal or relocation of the contents of a tomb.

Theoretically, an exempt cemetery that relocates the contents of a tomb could be in violation of the criminal offenses specified in s. 872.02, F.S.; however, in a recent case involving the relocation of a tomb by an exempt cemetery, which was not authorized by a representative of the decedent or the court, law enforcement authorities declined to prosecute due to a belief that the criminal offenses apply only to someone entering a cemetery without permission to commit a criminal act.

The bill amends s. 872.02, F.S., to:

- Clarify that the second degree felony offense of disturbing the contents of a tomb includes conduct such as excavation, exposure, movement, or removal of the contents of a tomb.
- Provide an exemption from the section’s criminal offenses for an exempt cemetery that:
 - Conducts ordinary maintenance that does not relocate the tomb;
 - Obtains written authorization for the relocation from a legally authorized person or a court;
 - Relocates a tomb if the relocation is necessitated by damage from a natural disaster; or
 - Publishes a notice of the relocation of tomb that is more than 75 years old in a newspaper in the relevant county and does not receive an objection or, if an objection is received, is granted approval for the relocation by the local governing body.

The Criminal Justice Impact Conference has not yet met to determine the impact of this bill. The bill may increase the need for prison beds to the extent that it clarifies the type of conduct that results in commission of the second degree felony offense of disturbing the contents of a tomb. The bill may also have a fiscal impact on local government entities for hearings required by the bill in specified circumstances and on exempt cemeteries that publish notice in newspapers for certain tomb relocations. Please see “FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT,” *infra*.

The bill provides an effective date of October 1, 2017.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0107a.LFV.DOCX

DATE: 2/14/2017

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Criminal Offenses Concerning Dead Bodies and Graves under Chapter 872, F.S.

In Florida, criminal offenses concerning dead bodies and graves are governed by Chapter 872, F.S.¹ Within that chapter are a number of statutory prohibitions and limitations.² In part relevant to this bill, s. 872.02(1) and (2), F.S., make it a:

- Third degree felony³ for a person to willfully and knowingly destroy, mutilate, deface, injure, or remove any:
 - Tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or other structure or thing placed or designed for a memorial of the dead; or
 - Fence, railing, curb, or other thing intended for the protection or ornamentation of any tomb, monument, gravestone, burial mound, earthen or shell monument containing human skeletal remains or associated burial artifacts, or structure or thing placed or designed for a memorial of the dead or for any enclosure for the burial of the dead.
- Third degree felony for a person to willfully destroy, mutilate, remove, cut, break, or injure any tree, shrub, or plant placed or being within any enclosure for the burial of the dead.
- Second degree felony⁴ to willfully and knowingly disturb the contents of a tomb or grave.⁵

The section provides that a “tomb’ includes any mausoleum, columbarium, or belowground crypt.”⁶

Finally, the section specifies that the offenses described above do not apply to:

- Any person acting under the direction or authority of the Division of Historical Resources of the Department of State;⁷
- Cemeteries operating under ch. 497, F.S.; or
- Any person otherwise authorized by law to remove or disturb a tomb, monument, gravestone, burial mound, or similar structure, or its contents.”⁸

¹ Ch. 872, F.S. is entitled, “Offenses Concerning Dead Bodies and Graves.”

² This includes selling or trafficking in dead bodies; injuring or removing a tomb or monument; disturbing the contents of a grave or tomb; cremating human bodies less than 48 hours after death; performing autopsies without consent; discovering human remains; and abusing dead bodies. *See* ss. 872.01-872.06, F.S.

³ A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss. 775.082, 775.083, and 775.084, F.S.

⁴ A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. ss. 775.082, 775.083, and 775.084, F.S.

⁵ Violations of s. 872.02, F.S., are not frequently charged. According to data from the Florida Department of Law Enforcement, there were 158 arrests for a violation of s. 872.02, F.S., during the 11-year period between 2006 and 2016, i.e., less than an average of 15 arrests per year. Email from Ronald Draa, Director of External Affairs, Florida Department of Law Enforcement (January 17, 2017) (on file with the Florida House of Representatives, Criminal Justice Subcommittee).

⁶ Section 872.02(4), F.S.

⁷ The powers and duties of the Division of Historical Resources of the Department of State are set forth in s. 267.031, F.S. Subject to some limitations, a State Archaeologist, as employed by the Division, may assume jurisdiction over an unmarked human burial site in order to initiate efforts for the proper protection of the burial and the human skeletal remains and associated burial artifacts. *See* ss. 872.05(4), (5), and (6), F.S.

⁸ Section 872.02(3), F.S. Few appellate cases in Florida reference s. 872.02, F.S. Only one case has discussed the interpretation of s. 872.02, F.S., and that case involved interpretation of language that has since been amended. *See Newman v. State*, 174 So. 2d 479

Cemetery Regulation under Chapter 497, F.S.

As referenced above, one of the statutory exceptions to the criminal offenses established in s. 872.02, F.S., is for "cemeteries operating under ch. 497." Chapter 497, F.S., is entitled the Florida Funeral, Cemetery, and Consumer Services Act ("the Act").⁹ The Act authorizes the Board of Funeral, Cemetery, and Consumer Services ("the Board") within the Department of Financial Services (DFS) to regulate cemeteries,¹⁰ columbaria,¹¹ cremation services and practices, cemetery companies, dealers and monument builders, funeral directors, and funeral establishments.¹²

The Act specifically exempts, however, certain types of cemeteries from its regulations. To be exempt, a cemetery must be a:

- Religious institution cemetery of less than five acres which provide only single-level ground burial;
- County or municipal cemetery;
- Community and nonprofit association cemetery that provides only single-level ground burial and does not sell burial spaces or burial merchandise;
- Cemetery owned and operated or dedicated by a religious institution before June 23, 1976;
- Cemetery beneficially owned and operated since July 1, 1915, by a fraternal organization or its corporate agent;
- Columbarium consisting of less than one-half acre contiguous to and owned by an existing religious institution subject to local government zoning;
- Family cemetery of less than two acres not selling burial spaces or merchandise;
- A mausoleum of two acres or less contiguous to and owned by a religious institution subject to local government zoning, incorporated at least 25 years and possessing sufficient funds in an endowment fund to construct the mausoleum; or
- Columbarium consisting of five acres or less which is located on the main campus of a state university.¹³

Cemeteries Seeking to Remove or Relocate a Tomb or Grave

On occasion, a cemetery may seek to remove or relocate the contents of a tomb or grave for a legitimate purpose such as maintenance, expansion, or modernization. Currently, a cemetery operating under ch. 497, F.S., may disinter or reinter human remains only after receiving written authorization from a legally authorized representative¹⁴ or written authorization from a court of competent jurisdiction. Failure to comply with such requirements subjects the cemetery to discipline by the Board.¹⁵

(Fla. 2d DCA 1965) (reversing a conviction for wantonly and maliciously disturbing the contents of a tomb or grave under a prior version of s. 872.02, F.S., where there was no evidence that the grave was on Native American land; the grave was open without any fencing or warning; the skull found by the defendant was not attached to the body; the defendant never made any attempt to conceal the fact that he took the skull; and defendant testified that he did not intend to commit a moral wrong).

⁹ s. 497.001, F.S.

¹⁰ Section 497.005(11), F.S., defines a "cemetery" as comprising one of the following: "land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the interment or disposition of cremated remains; or any combination of one or more of such structures or places."

¹¹ Section 497.005(16), F.S., defines a "columbarium" as "a structure or building that is substantially above the ground and that is intended to be used for the inurnment of cremated remains."

¹² s. 497.103(1) and (2), F.S.

¹³ s. 497.260(1), F.S. All cemeteries in this state, whether exempt or subject to regulation under ch. 497, F.S., must comply with the regulations specified in ss. 497.276(1), 497.152(1)(d), 497.164, 497.2765, 497.278, 497.280, and 497.284, F.S. s. 497.260(2), F.S. Regulations imposed under these sections of law include requirements for the maintenance of burial records and solicitation of certain sales and prohibitions against discrimination based on race, color, creed, marital status, sex, or national origin. These regulations do not address the removal or relocation of the contents of a tomb

¹⁴ Section 497.005(43), F.S., defines "legally authorized person" as meaning, in the priority listed: (a) the decedent, when written inter vivos authorizations and directions are provided by the decedent; (b) the person designated by the decedent as authorized to direct disposition pursuant to specified federal laws; (c) the surviving spouse, unless the spouse has been arrested for committing against the deceased an act of domestic violence as defined in s. 741.28 that resulted in or contributed to the death of the deceased; (d) a son or

There are no statutorily-specified requirements for the disinterment or reinterment of human remains by a cemetery that is exempt from regulation by the Board. Accordingly, an exempt cemetery is not expressly required by law to first obtain the approval of a legally authorized representative of the decedent for such conduct. Theoretically, an exempt cemetery engaging in such conduct could be in violation of the criminal offenses specified in s. 872.02, F.S., proscribing the removal of a tomb, monument, and other specified items and proscribing the disturbance of the contents of a tomb or grave; however, based on an incident that occurred in 2013, it appears law enforcement authorities may be reluctant at times to prosecute such cases under the current language of s. 872.02, F.S.¹⁶

In December 2013, a complaint was filed with DFS in which it was alleged that an exempt cemetery in Casselberry, Florida relocated a grave without prior authorization from family members of the decedent. The matter was reviewed by DFS investigators and it was determined that the cemetery had moved the grave approximately three feet away from its former location.¹⁷ The cemetery owner admitted moving and lowering the grave as necessary for the cemetery's redevelopment plan and would reduce the risk of damage to the exposed grave vault by vandals or storms. The family, upset by the relocation, reported the matter to local law enforcement and DFS, but neither agency believed action could be taken against the cemetery. DFS was without jurisdiction in the matter because the cemetery was exempt from regulation under ch. 497, F.S. Further, DFS noted that in a previous report regarding an alleged unauthorized grave relocation that law enforcement had stated that s. 872.02, F.S. "is for 'grave robbers' or someone entering onto a cemetery without permission to commit a criminal act and does not relate to this . . . scenario" involving an exempt cemetery. DFS agreed with this finding.¹⁸

Effect of the Bill

The bill amends s. 872.02(1), F.S., to create definitions for the terms used in the statute. Under the bill:

- An "exempt cemetery" means a cemetery that is exempt from regulation pursuant to s. 497.260(1), F.S., i.e., a cemetery that is not subject to regulation by the Board.
- A "legally authorized person" has the same meaning as provided in s. 497.005, F.S.
- A "memorial" means a structure or thing placed or designed for a memorial of the dead, including a monument or gravestone.
- An "operator" means an owner, officer, employee, or agent.

daughter who is 18 years of age or older; (e) a parent; (f) a brother or sister who is 18 years of age or older; (g) a grandchild who is 18 years of age or older; (h) a grandparent; or (i) any person in the next degree of kinship. The term may also include, if no family member exists or is available, the guardian of the dead person at the time of death; the personal representative of the deceased; the attorney in fact of the dead person at the time of death; the health surrogate of the dead person at the time of death; a public health officer; the medical examiner, county commission, or administrator acting under part II of chapter 406 or other public administrator; a representative of a nursing home or other health care institution in charge of final disposition; or a friend or other person not listed in this subsection who is willing to assume the responsibility as the legally authorized person.

¹⁵ See s. 497.384(3), F.S. ("The funeral director shall obtain written authorization from a legally authorized person or a court of competent jurisdiction prior to the disinterment and reinterment of a dead human body."); see also s. 497.152, F.S. (imposing discipline or other enforcement action against a licensee for specified conduct which includes "[f]ailing to obtain written authorization from a legally authorized person before entombment, interment, disinterment, disentombment, or disinurnment of the remains of any human being."); and Rule 69K-6.007(4)(a)-(c), F.A.C. (requiring cemeteries regulated by DFS to obtain all required permits and specified written authorization or a court order before performing a disinterment).

¹⁶ See "Report: Casselberry Cemetery Cleared of Wrongdoing After Moving Grave," WFTV 9 (April 25, 2014), available at <http://www.wftv.com/news/local/report-casselberry-cemetery-cleared-wrongdoing-aft/106726697> (last viewed on Feb. 13, 2017).

¹⁷ Schuller, Kurt, Investigator, Florida Department of Financial Services, Report of Investigation, Case No. ATN-21993, at *2-3 (April 10, 2014) (on file with the House Subcommittee on Criminal Justice).

¹⁸ *Id.*

- A “tomb” includes a grave space,¹⁹ mausoleum,²⁰ columbarium,²¹ or belowground crypt,²² as those terms are defined in s. 497.005, F.S., and a burial mound or earthen or shell monument containing human skeletal remains or associated burial artifacts.

The bill also amends:

- Section 872.02(2), F.S., to make technical changes for purposes of eliminating redundancies, using consistent terminology, and clarifying the language.
- Section 872.02(3), F.S., to clarify that the second degree felony offense of disturbing the contents of a tomb includes conduct such as excavation, exposure, movement, and removal of the contents of a tomb.

Finally, the bill adds exceptions providing that the law’s criminal offenses do not apply to an operator of an exempt cemetery:

- Who is conducting ordinary maintenance if such maintenance does not relocate the memorial, tomb, or contents of a tomb to another plot or site; or
- Who relocates a memorial, tomb, or contents of a tomb to another plot or site if:
 - Before the relocation, the operator obtains written authorization for the relocation from a legally authorized person or a court order authorizing the relocation;
 - A natural disaster causes damage to the exempt cemetery which necessitates the relocation; or
 - More than 75 years have elapsed since the interment, entombment, or inurnment²³ at the exempt cemetery and the operator of the exempt cemetery publishes a public notice, once a week for 4 consecutive weeks, in a newspaper of general circulation within the county in which the exempt cemetery is located.

The bill specifies that the public notice must include the:

- Name of the exempt cemetery;
- Name, address, and telephone number of the cemetery representative with whom written objections may be filed;
- Reason and necessity for the relocation;
- Name of the deceased person interred, entombed, or inurned;
- Date of initial interment, entombment, or inurnment;
- Proposed site of relocation; and
- Proposed date of relocation, which may not be less than 30 days from the last date of publication.

If a written objection to the relocation is not received from a legally authorized person within 30 days after the last date of publication of the notice, the exempt cemetery may proceed with the relocation.

If such objection is received, a public hearing shall be held before the city council if the exempt cemetery is located in a municipality or before the applicable county commission if the exempt cemetery is not located within a municipality. At the hearing, interested parties must have an

¹⁹ Section 497.005(40), F.S., defines a “grave space” as “a space of ground in a cemetery intended to be used for the interment in the ground of human remains.”

²⁰ Section 497.005(46), F.S., defines a “mausoleum” as “a structure or building that is substantially exposed above the ground and that is intended to be used for the entombment of human remains.”

²¹ See Footnote 12.

²² Section 497.005(4), F.S., defines “belowground crypts” as “interment space in preplaced chambers, either side by side or multiple depth, covered by earth and sod and known also as ‘lawn crypts,’ ‘westminsters,’ or ‘turf-top crypts.’”

²³ The word “inurn” means “1. Entomb; 2. To place (as cremated remains) in an urn.” The noun form of “inurn” is “inurnment.” See <https://www.merriam-webster.com/dictionary/inurn> (last viewed Jan. 30, 2017).

opportunity to be heard and introduce testimony. The council or commission must determine whether to grant or deny the request for the relocation. If granted, the exempt cemetery may proceed with the relocation.

The bill takes effect on October 1, 2017.

B. SECTION DIRECTORY:

Section 1. Amends s. 872.02, F.S., relating to injuring or removing tomb or monument; disturbing contents of grave or tomb; penalties; exceptions.

Section 2. Provides an effective date of October 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The Criminal Justice Impact Conference has not yet met to determine the impact of this bill. It is anticipated that the bill may increase the need for prison beds to the extent that it clarifies the type of conduct that results in commission of the second degree felony offense of disturbing the contents of a tomb. Such potential increase, however, may be offset by the exceptions created by the bill for the relocation of tombs by exempt cemeteries that comply with the bill's requirements for such relocations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

A city council or county commission could incur expenses to hold hearings regarding relocations unless the council or commission assesses fees from the parties for such expenses.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be a fiscal impact to the operator of a cemetery who chooses to publish notice regarding a proposed relocation in a newspaper of general circulation.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

on a municipality or county as a result of the bill's requirement for a hearing in specified circumstances would be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 8, 2017, the Criminal Justice Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute (CS). The CS differs from the bill as filed in that the CS:

- Added definitions for the terms used in the statute and made technical changes to create clearer and more consistent language.
- Provided that the offense of disturbing the contents of a tomb includes conduct such as excavation, exposure, movement, and removal of the contents of a tomb.
- Added exceptions for the operators of exempt cemeteries who conduct ordinary maintenance without relocating a memorial, tomb, or its contents or who conduct relocation or removal with a court order.
- Increased the amount of time that an exempt cemetery is must publish notice of its intent to relocate a memorial, tomb, or its contents from two weeks to four weeks.

This analysis is drafted to the CS as passed by the Criminal Justice Subcommittee.

1 A bill to be entitled
 2 An act relating to criminal offenses involving tombs
 3 and memorials; amending s. 872.02, F.S.; creating and
 4 revising definitions; making technical changes;
 5 prohibiting the excavation, exposition, movement,
 6 removal, or other disturbance of the contents of a
 7 tomb or memorial; providing criminal penalties;
 8 providing exceptions to the prohibition against
 9 disturbance of the contents of a tomb or memorial for
 10 cemeteries exempted from certain regulation; providing
 11 an effective date.

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

14
 15 Section 1. Section 872.02, Florida Statutes, is amended to
 16 read:

17 872.02 Injuring or removing tomb or memorial ~~monument~~;
 18 disturbing contents of ~~grave or~~ tomb; penalties; exceptions.-

19 (1) For purposes of this section, the term:

20 (a) "Exempt cemetery" means a cemetery that is exempt from
 21 regulation pursuant to s. 497.260(1).

22 (b) "Legally authorized person" has the same meaning
 23 provided in s. 497.005.

24 (c) "Memorial" means a structure or thing placed or
 25 designed for a memorial of the dead. The term includes a

26 monument or gravestone.

27 (d) "Operator" means an owner, officer, employee, or
 28 agent.

29 (e) "Tomb" includes a grave space, mausoleum, columbarium,
 30 or belowground crypt, as those terms are defined in s. 497.005,
 31 and also includes a burial mound or an earthen or shell monument
 32 containing human skeletal remains or associated burial
 33 artifacts.

34 (2) A person commits a felony of the third degree,
 35 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 36 if the person ~~who~~ willfully and knowingly:

37 (a) Destroys, mutilates, defaces, injures, or removes:

38 1. ~~A any tomb or memorial;~~ ~~monument, gravestone, burial~~
 39 ~~mound, earthen or shell monument containing human skeletal~~
 40 ~~remains or associated burial artifacts, or other structure or~~
 41 ~~thing placed or designed for a memorial of the dead, or~~

42 2. ~~A any fence, railing, curb, or other thing intended~~
 43 for:

44 a. The protection or ornamentation of ~~a any tomb or~~
 45 ~~memorial;~~ ~~monument, gravestone, burial mound, earthen or shell~~
 46 ~~monument containing human skeletal remains or associated burial~~
 47 ~~artifacts, or other structure before mentioned, or~~

48 b. ~~An for any enclosure for the burial of the dead,~~ ~~or~~
 49 willfully

50 (b) Destroys, mutilates, removes, cuts, breaks, or injures

51 a any tree, shrub, or plant placed or being within an any such
 52 enclosure for the burial of the dead, ~~commits a felony of the~~
 53 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~
 54 ~~or s. 775.084.~~

55 (3)(2) A person who willfully and knowingly excavates,
 56 exposes, moves, removes, or otherwise disturbs the contents of a
 57 tomb ~~or grave~~ commits a felony of the second degree, punishable
 58 as provided in s. 775.082, s. 775.083, or s. 775.084.

59 (4)(3) This section shall not apply to:

60 (a) A any person acting under the direction or authority of
 61 the Division of Historical Resources of the Department of State,
 62 to cemeteries operating under chapter 497, or to a any person
 63 otherwise authorized by law to commit an act ~~remove or disturb a~~
 64 ~~tomb, monument, gravestone, burial mound, or similar structure,~~
 65 ~~or its contents, as described in subsection (2)(1) or subsection~~
 66 (3).

67 (b) An operator of an exempt cemetery who is conducting
 68 ordinary maintenance, if such maintenance does not relocate a
 69 memorial, tomb, or the contents of a tomb to another plot or
 70 site.

71 (c) An operator of an exempt cemetery who relocates a
 72 memorial, a tomb, or the contents of a tomb to another plot or
 73 site if:

74 1. Before the relocation, the operator obtains written
 75 authorization for the relocation from a legally authorized

76 person or a court order authorizing the relocation;

77 2. A natural disaster causes damage to the exempt cemetery
 78 which necessitates the relocation; or

79 3. More than 75 years have elapsed since the interment,
 80 entombment, or inurnment at the exempt cemetery and the operator
 81 of the exempt cemetery publishes a public notice, once a week
 82 for 4 consecutive weeks, in a newspaper of general circulation
 83 within the county in which the exempt cemetery is located.

84 a. The public notice must contain the name of the exempt
 85 cemetery; the name, address, and telephone number of the
 86 representative of the exempt cemetery with whom written
 87 objections may be filed; the reason and necessity for the
 88 relocation; the name of the deceased person interred, entombed,
 89 or inurned; the date of initial interment, entombment, or
 90 inurnment; the proposed site of relocation; and the proposed
 91 date of relocation. The proposed date of relocation may not be
 92 less than 30 days from the last date of publication.

93 b. If a written objection to the relocation:

94 (I) Is not received from a legally authorized person
 95 within 30 days after the last date of publication of the public
 96 notice, the exempt cemetery may proceed with the relocation.

97 (II) Is received from a legally authorized person, a
 98 public hearing shall be held before the city council if the
 99 exempt cemetery is located in a municipality or before the
 100 applicable county commission if the exempt cemetery is not

101 located within a municipality. Interested parties shall have the
 102 opportunity to be heard at the hearing in person or by counsel
 103 and to introduce testimony. The council or commission shall
 104 determine whether to grant or deny the request for the
 105 relocation. If granted, the exempt cemetery may proceed with the
 106 relocation.

107 ~~(4) For purposes of this section, the term "tomb" includes~~
 108 ~~any mausoleum, columbarium, or belowground crypt.~~

109 Section 2. This act shall take effect October 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment

Between lines 76 and 77, insert:

7 a. A written and signed contract between the operator and a
 8 legally authorized person permitting relocation may serve as a
 9 written authorization.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HR 281 Objecting to United Nations Security Council Resolution 2334
SPONSOR(S): Moskowitz
TIED BILLS: IDEN./SIM. **BILLS:** SR 574

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Renner <i>JR</i>	Miller <i>CHM</i>
2) Government Accountability Committee			

SUMMARY ANALYSIS

After being the first country to recognize Israel as a state in 1948, United States-Israel relations are characterized by support, cultural resonance, and cooperative mutual interests.

In regards to the Israeli-Palestinian conflict, official U.S. policy continues to favor a two-state solution to address core Israeli security demands as well as Palestinian aspirations for national self-determination.

As one of the five permanent members of the United Nations Security Council that can veto resolutions, the United States routinely vetoed resolutions negatively pertaining to Israel, oftentimes being the lone veto.

On December 23, 2016, the Security Council adopted Resolution 2334, which, among other matters, states that Israel's settlement activity constitutes a flagrant violation of international law, has no legal validity, and is a major obstacle to the vision of two states living side-by-side in peace and security.

In explaining the abstention vote, the United States stated that it has been a long-standing position of this nation that settlements undermined Israel's security and eroded prospects for peace and stability.

HR 281 pronounces that the Florida House of Representatives opposes and requests the repeal or fundamental alteration of United Nations Security Council Resolution 2334 so that the resolution:

- Is no longer one sided and anti-Israel.
- Authorizes all final-status issues toward a two-state solution to be resolved through direct, bilateral negotiations between the parties involved.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

United States-Israel relations

After Israel's founding in 1948, the United States was the first country to recognize the State of Israel.¹ The United States-Israel relations are characterized by support, cultural resonance, and cooperative mutual interests. The shared democratic values and religious affinities of the two countries have contributed to the bilateral ties.²

Israel's security concerns influence U.S. policy considerations regarding the Middle East, "and Congress actively provides oversight of executive branch dealings with Israel and other actors in the region."³ In 2016, a new U.S.-Israel memorandum of understanding will provide Israel with \$38 billion (\$3.8 billion per year) in military assistance from FY 2019 to FY 2028.⁴ This will allow Israel to update its fighter aircraft fleet, increase its missile defense, and acquire other defense capabilities needed to meet its threat environment.

In regards to the Israeli-Palestinian conflict, official U.S. policy continues to favor a two-state solution to "address core Israeli security demands as well as Palestinian aspirations for national self-determination."⁵ The U.S., together with the European Union and the United Nations, continues to advocate for Israeli-Palestinian talks in order to broker a peace deal.

United Nations

Founded in 1945, the United Nations is an international organization made up of 193 member states. The organization views it has a mission to take action on issues such as peace and security, climate change, sustainable development, human rights, disarmament, terrorism, humanitarian and health emergencies, gender equality, governance, food production, and other issues.⁶ As stated in its Charter, the purposes of the United Nations include maintaining international peace and security, suppressing acts of aggression, developing international relations based on respect for the equal rights and self-determination of all peoples, achieving international co-operation to resolve economic, social, humanitarian problems, and to respect the principle of sovereign equality among its members.⁷

The United Nations Charter was ratified by China, France, the Soviet Union, the United Kingdom, the United States, and a majority of other signatories.⁸

¹ U.S. Department of State, *U.S. Relations with Israel*, available at <https://www.state.gov/r/pa/ei/bgn/3581.htm> (last visited January 30, 2017).

² Congressional Research Service report, *Israel: Background and U.S. Relations*, October 28, 2016, available at <https://webcache.googleusercontent.com/search?q=cache:kCSNhsZzquUJ:https://fas.org/sgp/crs/mideast/RL33476.pdf+&cd=1&hl=en&ct=clnk&gl=us> (last visited February 3, 2017).

³ *Id.*

⁴ The White House Fact Sheet on *Memorandum of Understanding Reached with Israel*, September 14, 2016, available at <https://obamawhitehouse.archives.gov/the-press-office/2016/09/14/fact-sheet-memorandum-understanding-reached-israel> (last visited February 2, 2017).

⁵ *Supra* note 2

⁶ United Nations *Overview*, available at <http://www.un.org/en/sections/about-un/overview/index.html> (last visited January 31, 2017).

⁷ Charter of the United Nations, ch. I, art. 1, ss. 1-3, art. 2, s. 1, at <http://www.un.org/en/sections/un-charter/chapter-i/index.html> (last visited February 14, 2017).

⁸ United Nations *History of the United Nations*, available at <http://www.un.org/en/sections/history/history-united-nations/index.html> (last visited January 31, 2017).

The United Nations consists of six principal organs:⁹

- General Assembly- main deliberative policymaking and representative organ that consists of all 193 member states.
- Security Council – has primary responsibility, under the UN Charter, for the maintenance of international peace and security.
- Economic and Social Council – Principal body for coordination, policy review, policy dialogue and recommendations on economic, social and environmental issues.
- Trusteeship Council – Suspended since 1994.
- International Court of Justice – Primary judicial organ
- Secretariat – Provides studies, information, and facilities needed by the UN.

Security Council

As stated above, the primary responsibility of the Security Council is to maintain international peace and security. The Council has 15 members, five of which are permanent members:

- China
- France
- Russian Federation
- United Kingdom
- United States

The permanent members can veto any substantive Security Council resolution, regardless of the level of international support the resolution has.

United Nations Security Council Resolutions

The United States has long stood in the minority in defending Israel, particularly when it comes to Security Council Resolutions. Oftentimes, the United States has been the one veto, including in the following resolutions:¹⁰

- **1995**
 - Calling upon Israel to refrain from East Jerusalem settlement activities.
- **1997**
 - Calling upon Israel to refrain from East Jerusalem settlement activities.
 - Demanding Israel's immediate cessation of construction at Jabal Abu Ghneim in East Jerusalem.
- **2001**
 - On the withdrawal of Israeli forces from Palestinian controlled territory and condemning acts of terror against civilians.
 - On establishing a UN observer force to protect Palestinian civilians.
- **2002**
 - On the killing by Israeli forces of several United Nations employees and the destruction of the World Food Programme warehouse.
- **2003**
 - On the security wall built by Israel in the West Bank.
 - On the Israeli decision to "remove" Palestinian Authority leader Yasser Arafat.
- **2004**

⁹ United Nations *Main Organs*, available at <http://www.un.org/en/sections/about-un/main-organs/index.html> (last visited February 1, 2017).

¹⁰ Global Policy Forum on *Subjects of UN Security Council Vetoes*, available at: <https://www.globalpolicy.org/component/content/article/102/40069.html> (last visited February 2, 2017).

- On the demand to Israel to halt all military operations in northern Gaza and withdraw from the area.
- On the condemnation of the killing of Ahmed Yassin, the leader of the Islamic Resistance Movement *Hamas*.
- **2006**
 - On the Israeli military operations in Gaza, the Palestinian rocket fire into Israel, the call for immediate withdrawal of Israeli forces from the Gaza Strip and a cessation of violence from both parties in the conflict.
 - On the demand for the unconditional release of an Israeli soldier captures earlier as well as Israel's immediate withdrawal from Gaza and the release of dozens of Palestinian officials detained by Israel.
- **2011**
 - Condemning Israeli settlements established since 1967 as illegal.

U.S. House of Representatives Concurrent Resolution 165

Congress routinely passes resolutions supporting Israel's right to defend itself and for a two-state solution. On November 29, 2016, the United States House of Representatives passed Concurrent Resolution 165¹¹ which expresses the sense of Congress that:¹²

- Sustainable peace agreement between Israel and the Palestinians will come only through direct bilateral negotiations between the parties;
- Any widespread international recognition of a unilateral declaration of Palestinian statehood outside of the context of such a peace agreement would cause severe harm to the peace process and would likely trigger the implementation of penalties under provisions of the Consolidated Appropriations Act, 2016 regarding limitations on assistance to support a Palestinian state and uses of funds for assistance for the West Bank and Gaza;
- Efforts by outside bodies, including the United Nations Security Council, to impose an agreement are likely to set back the cause of peace; and
- The U.S. government should continue to oppose and veto Security Council resolutions that seek to impose solutions to final status issues or that are one-sided and anti-Israel, and should continue to support and facilitate the resumption of negotiations without preconditions toward a sustainable peace agreement.

United Nations Security Council Resolution 2334

On December 23, 2016, the United Nations Security Council adopted Resolution 2334. The resolution passed in a 14-0 vote. Four members with Security Council veto power, China, France, Russia, and the United Kingdom, voted for the resolution. The United States abstained.

The resolution states that Israel's settlement activity constitutes a flagrant violation of international law, has no legal validity, and is a major obstacle to the vision of two states living side-by-side in peace and security. Furthermore, the resolution stated that it would not recognize any changes to the June 4, 1967 lines, including with regard to Jerusalem, other than those agreed by the two sides through negotiations. The resolution also called on all parties "to continue to exert collective efforts to launch credible negotiations on all final-status issues in the Middle East peace process."¹³

¹¹ Expressing the sense of Congress and reaffirming longstanding United States policy in support of a direct bilaterally negotiated settlement of the Israeli-Palestinian conflict and opposition to United Nations Security Council resolutions imposing a solution to the conflict, H.Con.Res. 165, 114th Cong. (Nov. 29, 2016).

¹² Congress.gov site on *House Concurrent Resolution 165*, available at: <https://www.congress.gov/bill/114th-congress/house-concurrent-resolution/165> (last visited January 31, 2017).

¹³ United Nations Security Resolution 2334 press release, December 23, 2016, available at: <https://www.un.org/press/en/2016/sc12657.doc.htm> (last visited February 3, 2017).

In explaining the abstention vote, the United States stated that it has been a long-standing position of the United States that settlements undermined Israel's security and eroded prospects for peace and stability.¹⁴

Effect of the Resolution

HR 281 pronounces that the Florida House of Representatives opposes and requests the repeal or fundamental alteration of United Nations Security Council Resolution 2334 so that the resolution:

- Is no longer one sided and anti-Israel.
- Authorizes all final-status issues toward a two-state solution to be resolved through direct, bilateral negotiations between the parties involved.

B. SECTION DIRECTORY:

Not applicable

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None

House Resolution

A resolution opposing United Nations Security Council Resolution 2334 and requesting its repeal or fundamental alteration.

WHEREAS, the United States has long supported a negotiated settlement leading to a sustainable two-state solution with the democratic, Jewish state of Israel and a demilitarized, democratic Palestinian state living side-by-side in peace and security, and

WHEREAS, since 1993, the United States has facilitated direct, bilateral negotiations between both parties toward achieving a two-state solution and ending all outstanding claims, and

WHEREAS, it is the long-standing policy of the United States that a peaceful resolution to the Israeli-Palestinian conflict will only come through direct, bilateral negotiations between the two parties, and

WHEREAS, it was the long-standing position of the United States to oppose and, if necessary, veto United Nations Security Council resolutions dictating additional binding parameters on the peace process, and

WHEREAS, it was also the long-standing position of the United States to oppose and, if necessary, veto one-sided or anti-Israel United Nations Security Council resolutions, and

26 WHEREAS, the United States has stood in the minority
 27 internationally over successive administrations in defending
 28 Israel in international forums, including vetoing one-sided
 29 resolutions in 1995, 1997, 2001, 2002, 2003, 2004, 2006, and
 30 2011 before the United Nations Security Council, and

31 WHEREAS, the United States recently signed a new memorandum
 32 of understanding with the Israeli government regarding security
 33 assistance, consistent with long-standing support for Israel
 34 among successive administrations and Congresses and representing
 35 an important United States commitment toward Israel's
 36 qualitative military edge, and

37 WHEREAS, on November 29, 2016, the United States House of
 38 Representatives unanimously passed House Concurrent Resolution
 39 165, expressing and reaffirming long-standing United States
 40 policy in support of a direct, bilaterally negotiated settlement
 41 of the Israeli-Palestinian conflict and in opposition to United
 42 Nations Security Council resolutions that impose a solution to
 43 the conflict, and

44 WHEREAS, on December 23, 2016, the United States Permanent
 45 Representative to the United Nations disregarded House
 46 Concurrent Resolution 165 and departed from long-standing United
 47 States policy by abstaining and permitting United Nations
 48 Security Council Resolution 2334 to be adopted under Chapter VI
 49 of the United Nations Charter, and

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50 WHEREAS, the United States' abstention on United Nations
51 Security Council Resolution 2334 contradicts the Oslo Accords
52 and its associated process that is predicated on resolving the
53 Israeli-Palestinian conflict between the parties through direct,
54 bilateral negotiations, and

55 WHEREAS, United Nations Security Council Resolution 2334
56 claims that "the establishment by Israel of settlements in the
57 Palestinian territory occupied since 1967, including East
58 Jerusalem, has no legal validity and constitutes a flagrant
59 violation under international law and a major obstacle to the
60 achievement of the two-State solution and a just, lasting and
61 comprehensive peace," and

62 WHEREAS, by referring to the "4 June 1967 lines" as the
63 basis for negotiations, United Nations Security Council
64 Resolution 2334 effectively states that the Jewish Quarter of
65 the Old City of Jerusalem and the Western Wall, Judaism's
66 holiest site, are "occupied territory," thereby equating these
67 sites with outposts in the West Bank that the Israeli government
68 has deemed illegal, and

69 WHEREAS, passage of United Nations Security Council
70 Resolution 2334 effectively legitimizes efforts by the
71 Palestinian Authority to impose its own solution through
72 international organizations and unjustified boycotts or
73 divestment campaigns against Israel by calling "upon all States,
74 bearing in mind paragraph 1 of this resolution, to distinguish,

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75 in their relevant dealings, between the territory of the State
 76 of Israel and the territories occupied since 1967," and will
 77 require the United States and Israel to take effective action to
 78 counteract the resolution's potential harmful impacts, and

79 WHEREAS, United Nations Security Council Resolution 2334
 80 did not directly call upon Palestinian leadership to fulfill
 81 their obligations toward negotiations or mention that part of
 82 the eventual Palestinian state is currently controlled by Hamas,
 83 a designated terrorist organization, and

84 WHEREAS, United Nations Security Council Resolution 2334
 85 sought to impose or unduly influence solutions to final-status
 86 issues and is biased against Israel, NOW, THEREFORE,

87
 88 Be It Resolved by the House of Representatives of the State of
 89 Florida:

90
 91 That the Florida House of Representatives finds:

92 (1) The passage of United Nations Security Council
 93 Resolution 2334 undermined the long-standing position of the
 94 United States to oppose and veto United Nations Security Council
 95 resolutions that seek to impose solutions to final-status issues
 96 or are one sided and anti Israel, reversing decades of
 97 bipartisan agreement.

98 (2) The passage of United Nations Security Council
 99 Resolution 2334 undermines the prospect of Israelis and

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100 Palestinians resuming productive, direct, bilateral
101 negotiations.

102 (3) The passage of United Nations Security Council
103 Resolution 2334 contributes to the politically motivated acts of
104 boycotting, divesting from, and sanctioning Israel and
105 represents a concerted effort to extract concessions from Israel
106 outside of direct, bilateral negotiations between the Israelis
107 and Palestinians, which must be actively rejected.

108 (4) Any future measures taken by any organization,
109 including the United Nations Security Council, to impose an
110 agreement or parameters for an agreement will set back the peace
111 process, harm the security of Israel, contradict the enduring
112 bipartisan consensus on strengthening the United States-Israel
113 relationship, and weaken support for such organizations.

114 (5) A durable and sustainable peace agreement between
115 Israel and the Palestinians is only possible with direct,
116 bilateral negotiations between the parties resulting in a
117 Jewish, democratic state living next to a demilitarized
118 Palestinian state in peace and security.

119 (6) The United States government should work to facilitate
120 serious, direct, unconditional negotiations between the parties
121 toward a sustainable peace agreement.

122 (7) The United States government should oppose and veto
123 future one-sided, anti-Israel United Nations Security Council

124 resolutions that seek to impose solutions to final-status
 125 issues.



126 That the Florida House of Representatives opposes and
 127 requests the repeal or fundamental alteration of United Nations
 128 Security Council Resolution 2334 so that the resolution:

- 129 (1) Is no longer one sided and anti Israel.
- 130 (2) Authorizes all final-status issues toward a two-state
 131 solution to be resolved through direct, bilateral negotiations
 132 between the parties involved.

133 BE IT FURTHER RESOLVED that copies of this resolution be
 134 presented to the President of the United States, the President
 135 and Secretary of the United States Senate, the Speaker and Clerk
 136 of the United States House of Representatives, and the Israeli
 137 Embassy in Washington, D.C., for transmission to the proper
 138 authorities of the State of Israel as a tangible token of the
 139 sentiments expressed herein.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 401 Notaries Public
SPONSOR(S): Abruzzo
TIED BILLS: IDEN./SIM. BILLS: SB 440

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Renner 	Miller 
2) Government Accountability Committee			

SUMMARY ANALYSIS

A notary public is a state-appointed official who administers oaths and serves as an impartial witness when important documents are signed. A notary identifies each signer, and makes sure the signer has entered into the agreement knowingly and willingly. To confirm that a document and its signature are authentic, the notary affixes his or her signature and official seal to it.

A notary public may not notarize a signature on a document unless he or she personally knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual described in and who is executing the instrument. Acceptable forms of identification which a notary public may rely on in notarizing a signature on a document include the following:

- A Florida identification card or driver license issued by the public agency authorized to issue driver licenses;
- A passport issued by the Department of State of the United States;
- A passport issued by a foreign government if the document is stamped by the United States Bureau of Citizenship and Immigration Services;
- A driver license or an identification card issued by a public agency authorized to issue driver licenses in a state other than Florida, a territory of the United States, or Canada or Mexico;
- An identification card issued by any branch of the armed forces of the United States;
- An inmate identification card issued on or after January 1, 1991, by the Florida Department of Corrections for an inmate who is in the custody of the department;
- An inmate identification card issued by the United States Department of Justice, Bureau of Prisons, for an inmate who is in the custody of the department;
- A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized; or
- An identification card issued by the United States Bureau of Citizenship and Immigration Services.

The bill expands the list of forms of identification which a notary public may rely on in notarizing a signature on a document to include a veteran health identification card issued by the U.S. Department of Veterans Affairs.

The bill is not expected to have a fiscal impact on state or local governments.

The effective date of the bill is July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

A notary public is a state-appointed official who administers oaths and serves as an impartial witness when important documents are signed. A notary identifies each signer, and makes sure the signer has entered into the agreement knowingly and willingly. To confirm that a document and its signature are authentic, the notary affixes his or her signature and official seal to it.¹

Notaries public are governed by Chapter 117, F.S. Provisions concerning appointment of notaries public, application, fees, administration of oaths, seal and permitted duties are outlined in this chapter.

Pursuant to s. 117.01, F.S., a person wishing to become a notary public may obtain an application and information from a bonding company approved to submit applications electronically to the Department of State, Notary Commissions and Certifications Section. The application fee is \$39, \$4 of which is appropriated to the Executive Office of the Governor to be used to educate and assist notaries public. The rest is directed to General Revenue.

The application that is sent to the Department of State must contain: the full name, residence address and telephone number, business address and telephone number, date of birth, race, sex, social security number, citizenship status, driver's license number or the number of other official state-issued identification, affidavit of good character from someone unrelated to the applicant who has known the applicant for one year or more, a list of all professional licenses and commissions issued by the state to the applicant during the previous 10 years and a statement as to whether or not such license or commission was revoked or suspended, and a statement as to whether or not the applicant has been convicted of a felony, and, if there has been a conviction, a statement of the nature of the felony and restoration of civil rights. If the notary's name changes during the period of the commission, a completed name change form is required by DOS and a \$25 fee is assessed.

The Department of State (DOS) serves as the custodian of records for notary public applications, and maintains the record for the full term of a notary commission.

A notary public may not notarize a signature on a document unless he or she personally knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual described in and who is executing the instrument.² "Satisfactory evidence" means the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the person whose signature is to be notarized is not the person he or she claims, and may be any one of the following:³

1. The sworn written statement of one credible witness personally known to the notary public or the sworn written statement of two credible witnesses whose identities are proven to the notary public upon the presentation of satisfactory evidence that each of the following is true:
 - a) That the person whose signature is to be notarized is the person named in the document;
 - b) That the person whose signature is to be notarized is personally known to the witnesses;

¹ See National Notary Association website, available at <https://www.nationalnotary.org/florida/become-a-notary> (last visited February 9, 2017).

² Section 117.05(5), F.S.

³ Section 117.05(5)(b), F.S.

- c) That it is the reasonable belief of the witnesses that the circumstances of the person whose signature is to be notarized are such that it would be very difficult or impossible for that person to obtain another acceptable form of identification;
 - d) That it is the reasonable belief of the witnesses that the person whose signature is to be notarized does not possess any of the identification documents specified below; and
 - e) That the witnesses do not have a financial interest in nor are parties to the underlying transaction; or
2. Reasonable reliance on the presentation to the notary public of any one of the following forms of identification, if the document is current or has been issued within the past 5 years and bears a serial or other identifying number:
- a) A Florida identification card or driver license issued by the public agency authorized to issue driver licenses;
 - b) A passport issued by the Department of State of the United States;
 - c) A passport issued by a foreign government if the document is stamped by the United States Bureau of Citizenship and Immigration Services;
 - d) A driver license or an identification card issued by a public agency authorized to issue driver licenses in a state other than Florida, a territory of the United States, or Canada or Mexico;
 - e) An identification card issued by any branch of the armed forces of the United States;
 - f) An inmate identification card issued on or after January 1, 1991, by the Florida Department of Corrections for an inmate who is in the custody of the department;
 - g) An inmate identification card issued by the United States Department of Justice, Bureau of Prisons, for an inmate who is in the custody of the department;
 - h) A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized; or
 - i) An identification card issued by the United States Bureau of Citizenship and Immigration Services.

Veteran Health Identification Card

In order to receive a Veteran Health Identification Card (VHIC), a veteran must be enrolled in the VA health care system. Generally, if a person served in the active military service and was separated under any condition other than dishonorable, he or she may qualify for VA health care benefits.⁴

A VHIC is used as identification and check-in at VA appointments. The card contains a photo, member ID, Plan ID, branch of service, and any special awards. For increased security, a veteran must show one form of primary identification and one form of secondary identification when requesting a VHIC.⁵

Effect of Proposed Changes

The bill expands the list of forms of identification which a notary public may rely on in notarizing a signature on a document to include a veteran health identification card.

B. SECTION DIRECTORY:

Section 1 Amends s. 117.05, F.S., by expanding the list of forms of identification which a notary public may rely on in notarizing a signature on a document to include a veteran health identification card.

⁴ United States Department of Veterans Affairs website on *Health Benefits*, available at <https://www.va.gov/HEALTHBENEFITS/apply/veterans.asp> (last visited February 10, 2017).

⁵ See United States Department of Veterans Affairs website, *Veteran Health Identification Cards*, available at <https://www.va.gov/healthbenefits/vhic/index.asp> (last visited February 10, 2017)>

Section2 Provides an effective date of July 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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides no authority nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

On line 6 of the bill, due to an inadvertent scrivener's error, the language should say "veteran health identification card" instead of "veteran health information card."

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to notaries public; amending s.
 3 117.05, F.S.; expanding the list of forms of
 4 identification which a notary public may rely on in
 5 notarizing a signature on a document to include a
 6 veteran health information card; providing an
 7 effective date.

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

10
 11 Section 1. Paragraph (b) of subsection (5) of section
 12 117.05, Florida Statutes, is amended to read:

13 117.05 Use of notary commission; unlawful use; notary fee;
 14 seal; duties; employer liability; name change; advertising;
 15 photocopies; penalties.-

16 (5) A notary public may not notarize a signature on a
 17 document unless he or she personally knows, or has satisfactory
 18 evidence, that the person whose signature is to be notarized is
 19 the individual who is described in and who is executing the
 20 instrument. A notary public shall certify in the certificate of
 21 acknowledgment or jurat the type of identification, either based
 22 on personal knowledge or other form of identification, upon
 23 which the notary public is relying.

24 (b) For the purposes of this subsection, "satisfactory
 25 evidence" means the absence of any information, evidence, or

26 other circumstances which would lead a reasonable person to
 27 believe that the person whose signature is to be notarized is
 28 not the person he or she claims to be and any one of the
 29 following:

30 1. The sworn written statement of one credible witness
 31 personally known to the notary public or the sworn written
 32 statement of two credible witnesses whose identities are proven
 33 to the notary public upon the presentation of satisfactory
 34 evidence that each of the following is true:

35 a. That the person whose signature is to be notarized is
 36 the person named in the document;

37 b. That the person whose signature is to be notarized is
 38 personally known to the witnesses;

39 c. That it is the reasonable belief of the witnesses that
 40 the circumstances of the person whose signature is to be
 41 notarized are such that it would be very difficult or impossible
 42 for that person to obtain another acceptable form of
 43 identification;

44 d. That it is the reasonable belief of the witnesses that
 45 the person whose signature is to be notarized does not possess
 46 any of the identification documents specified in subparagraph
 47 2.; and

48 e. That the witnesses do not have a financial interest in
 49 nor are parties to the underlying transaction; or

50 2. Reasonable reliance on the presentation to the notary

51 public of any one of the following forms of identification, if
52 the document is current or has been issued within the past 5
53 years and bears a serial or other identifying number:

54 a. A Florida identification card or driver license issued
55 by the public agency authorized to issue driver licenses;

56 b. A passport issued by the Department of State of the
57 United States;

58 c. A passport issued by a foreign government if the
59 document is stamped by the United States Bureau of Citizenship
60 and Immigration Services;

61 d. A driver license or an identification card issued by a
62 public agency authorized to issue driver licenses in a state
63 other than Florida, a territory of the United States, or Canada
64 or Mexico;

65 e. An identification card issued by any branch of the
66 armed forces of the United States or a veteran health
67 identification card issued by the United States Department of
68 Veterans Affairs;

69 f. An inmate identification card issued on or after
70 January 1, 1991, by the Florida Department of Corrections for an
71 inmate who is in the custody of the department;

72 g. An inmate identification card issued by the United
73 States Department of Justice, Bureau of Prisons, for an inmate
74 who is in the custody of the department;

75 h. A sworn, written statement from a sworn law enforcement

76 officer that the forms of identification for an inmate in an
77 institution of confinement were confiscated upon confinement and
78 that the person named in the document is the person whose
79 signature is to be notarized; or

80 i. An identification card issued by the United States
81 Bureau of Citizenship and Immigration Services.

82 Section 2. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Local, Federal & Veterans
 2 Affairs Subcommittee
 3 Representative Abruzzo offered the following:

Amendment (with title amendment)

6 Remove lines 66-80 and insert:
7 armed forces of the United States;

8 f. A veteran health identification card issued by the
9 United States Department of Veterans Affairs;

10 g.f. An inmate identification card issued on or after
11 January 1, 1991, by the Florida Department of Corrections for an
12 inmate who is in the custody of the department;

13 h.g. An inmate identification card issued by the United
14 States Department of Justice, Bureau of Prisons, for an inmate
15 who is in the custody of the department;



Amendment No. 1

16 ~~i.h.~~ A sworn, written statement from a sworn law
17 enforcement officer that the forms of identification for an
18 inmate in an institution of confinement were confiscated upon
19 confinement and that the person named in the document is the
20 person whose signature is to be notarized; or

21 ~~j.i.~~ An identification card issued by the United States
22

23 -----


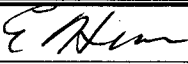
24 **T I T L E A M E N D M E N T**

25 Remove line 6 and insert:

26 veteran health identification card; providing an

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 531 Solid Waste Authority of Palm Beach County
SPONSOR(S): Berman
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee		Darder 	Miller 
2) Government Accountability Committee			

SUMMARY ANALYSIS

The Solid Waste Authority of Palm Beach County (Authority) is a dependent special district created by special act in 1975. The Authority provides "economical [and] environmentally conscious" solid waste management in Palm Beach County, servicing over 1.4 million residents and businesses. The Authority has approximately 400 employees.

The Authority is currently authorized to grant or extend franchises for up to five years. To enter into an exclusive franchise agreement, the Authority is required to comply with ch. 286, F.S. and use a process that "encourage[s] competition" among potential franchisees.

The bill extends the maximum duration of a franchise agreement entered into by the Solid Waste Authority of Palm Beach County from five years to seven years.

According to the Economic Impact Statement, the bill is projected to cause an indeterminate reduction in costs for the Authority, as the change in contract duration will increase competition for Authority franchises. The change is expected to result in lower costs for consumers.

The bill shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Solid Waste Authority of Palm Beach County

The Solid Waste Authority of Palm Beach County (Authority) is a dependent special district¹ of Palm Beach County. The Authority was created by a special act of the Legislature in 1975 and its charter was re-codified in 2001.² The Authority is responsible for providing an “economical environmentally conscious Integrated Solid Waste Management System” for Palm Beach County. The Authority has approximately 400 employees and provides services to over 1.4 million residents and businesses. The Authority’s system includes two waste-to-energy facilities, landfills, a materials recycling facility, a biosolids processing facility, seven household hazardous waste collection facilities, and six transfer stations.³

The Palm Beach County Board of County Commissioners serves as the governing body of the Authority.⁴ The Authority was created to provide for the safe and sanitary processing and disposal of solid waste, to provide a coordinated countywide program for the management of hazardous waste and control of solid waste processing and disposal, and to require the municipalities and the county to plan for and develop an adequate solid waste collection system.⁵

The Authority currently levies an annual assessment of \$174 on single family homes, \$100 on multi-family homes, and \$167 on mobile homes in Palm Beach County.⁶ The assessment does not include the expense of disposing waste at a disposal facility or transfer station managed by the Authority. The assessment is billed to owners as part of their property tax bill.

The Authority is authorized to grant franchises and contracts for solid waste collection in the county.⁷ These franchises, however, are subject to restrictions set forth in the Authority’s charter:⁸

- No franchise may be granted or extended for longer than five years.
- A public hearing must be held prior to the adoption of any rates, fees, or charges to the public.
- All franchise agreements must comply with ch. 286, F.S., encourage competition among potential franchisees, be awarded during a regular meeting of the Authority and confirmed by a subsequent resolution, and provide any party aggrieved by the franchise a right of appeal to the Authority.

The Authority has encouraged competition among potential franchisees by utilizing a competitive bidding process.⁹ The result of the competitive bidding process is a collective franchise agreement between the county and the franchisee.¹⁰

¹ Section 189.012(2), F.S.

² See ch. 2001-331, Laws of Fla., s. 2 (codifying, reenacting, amending, and repealing chapter laws governing Authority).

³ *About Us*, Solid Waste Authority of Palm Beach County, available at <http://www.swa.org/27/About-Us> (last assessed Feb. 13, 2017).

⁴ Section 3, Charter of the Solid Waste Authority of Palm Beach County, as codified in ch. 2001-331, Laws of Fla. (herein Charter of the Solid Waste Authority of Palm Beach County).

⁵ Section 2, Charter of the Solid Waste Authority of Palm Beach County.

⁶ *Residential Rates*, Solid Waste Authority of Palm Beach County, available at <http://www.swa.org/241/Residential-Rates> (last assessed Feb. 13, 2017).

⁷ Section 6(22), Charter of the Solid Waste Authority of Palm Beach County.

⁸ Section 10, Charter of the Solid Waste Authority of Palm Beach County.

⁹ See *Fiscal Year 2013 Adopted Budget and Five Year Capital Improvement Program*, Solid Waste Authority of Palm Beach County, at 5. Available at <http://swa.org/DocumentCenter/View/403>.

STORAGE NAME: h0531.LFV.DOCX

DATE: 2/14/2017

Depreciation Schedules

Depreciation allows businesses to take a tax deduction to recover the cost of certain types of property used in the course of business.¹¹ Most types of tangible property and certain types of intangible property may be depreciated.¹² To claim a depreciation deduction, a business must own the property for which the deduction is being claimed, use the property in the business or an income-producing activity, the property must have a determinable useful life, and the property must be expected to be in use longer than one year.¹³ Property may be depreciated in the first year it is used in the business and may continue being depreciated until the full cost or other basis has been recovered or the property is retired from use, whichever occurs first.¹⁴

Most property acquired since 1987 can be depreciated using the Modified Accelerated Cost Recovery System (MACRS).¹⁵ Property subject to MACRS can be depreciated using the General Depreciation System (GDS) or the Alternative Depreciation System. Property depreciated under GDS is divided into nine classifications, seven based on the estimated period of use (ranging from 3 to 25 years) and two for certain kinds of structures.¹⁶ Property that does not have an otherwise specified use period and has not been designated by law as belonging to a particular class is treated a seven-year property.¹⁷

Effect of Proposed Changes

The bill extends the maximum duration of a franchise agreement entered into by the Solid Waste Authority of Palm Beach County from five years to seven years.

According to the Economic Impact Statement submitted with the bill, several companies have not bid on Authority franchises due to the maximum contract length.¹⁸ This is because most equipment used in the waste hauling industry is depreciable over a period of seven years and potential franchisees prefer the contract term to match the depreciation window for their equipment.

The bill is expected to reduce costs associated with the provision of solid waste services and thereby result in lower rates for Authority users.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2001-331, Laws of Fla., extending the maximum duration of franchise agreements entered into by the Solid Waste Authority of Palm Beach County to seven years.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 16, 2016

¹⁰ *E.g.* Sample Solid Waste and Recycling Collection Franchise Agreement, Solid Waste Authority of Palm Beach County, available at <http://www.swa.org/DocumentCenter/View/1519>.

¹¹ Publication 946 – How to Depreciate Property, Internal Revenue Service, p. 3, available at <https://www.irs.gov/pub/irs-pdf/p946.pdf> (last assessed Feb. 13, 2017).

¹² *Id.* at 4.

¹³ *Id.*

¹⁴ *Id.* at 7.

¹⁵ *Id.* at 30.

¹⁶ *Id.* at 31-32.

¹⁷ *Id.* at 31.

¹⁸ Economic Impact Statement for HB 531 (2017).

WHERE?

Palm Beach Post, a daily newspaper of general circulation in Palm Beach County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to the Solid Waste Authority of Palm
Beach County, Palm Beach County; amending ch. 2001-
331, Laws of Florida; increasing the time period for
granting or extending a franchise, contract, or
permit; providing an effective date.

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

Section 1. Subsection (1) of section 10 of section 3 of
chapter 2001-331, Laws of Florida, is amended to read:

Section 10. Limitations on franchises.—The Authority shall
adopt by resolution a procedure for granting exclusive
franchises, subject to the following limitations:

(1) No franchise, contract, or permit shall be granted or
extended for a period of time exceeding 7 ~~5~~ years.

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

George Romagnoli, Community Development Director, Pasco County

George Romagnoli, an affordable housing veteran, manages federal and state programs for housing, community development and the homeless in Pasco County as the Community Development Director (since March 2003).

Mr. Romagnoli created the County's housing programs, including the Homebuyer Assistance Program and programs to assist neighborhoods. Pasco County is among the ten largest county housing departments in the state of Florida.

Under his leadership, Pasco County has helped over 3,200 families become homeowners, rehabilitated 1,100 homes, and saved over 300 homes from foreclosures. His department received the largest infrastructure grant ever from HUD in the southern United States, the \$14 million Tommytown Redevelopment project.

Mr. Romagnoli received his undergraduate degree from Stetson University, and a Master of Science in Urban and Regional Planning from Florida State University.

He is a member of the American Institute of Certified Planners, and he has been appointed twice by former Governors to serve on the Affordable Housing Study Commission, which was the state housing policy committee. He is the Chairman of the Board of the Florida Housing Coalition, which is a broad group of affordable housing industry members that sponsors trainings and promotes advocacy for affordable housing in Florida.

Shawn Wilson, President and CEO, Blue Sky Communities

An over 20-year affordable housing veteran with experience in several for-profit and non-profit organizations, Mr. Wilson leads as President and Chief Executive Officer of Blue Sky Communities.

Mr. Wilson is responsible for identifying new opportunities, determining financial feasibility, and interacting with land sellers and other key stakeholders. He creates the financial plan for each development and obtains all necessary funding. He guides the design, permitting, loan closing, and construction administration of all developments.

In the early 1990's he worked for two prominent non-profit housing organizations in Miami, including living through Hurricane Andrew and being involved in both short-term and long-term housing recovery efforts. During this time he was responsible for the development of more than 200 housing units. Starting in 1996 he was responsible for the development of more than 3,000 affordable rental units (tax-credit) with several top for-profit developers in South Florida. In 2012, he went out on his own, together with the other partners, to form Blue Sky.

Mr. Wilson has a Bachelor of Arts from Ohio University and a Master of Public and International Affairs from the University of Pittsburgh.

Libby Lane, Executive Director, Tallahassee Lenders' Consortium

Libby Lane currently serves as the Executive Director for the Tallahassee Lenders' Consortium (since March 2005). In this role, she is responsible for planning and management of the nonprofit regarding credit counseling, homebuyer education, delinquency counseling, lending, neighborhood revitalization and affordable housing production. Ms. Lane has oversight responsibility for financial management, contract management and compliance and direct responsibility over board development, staff development and supervision, fundraising, grant writing, program performance standards, quality control, contract procurement and the development of affordable housing.

Ms. Lane's career includes 20 years with the State of Florida. She is licensed as a Mortgage Loan Originator. Ms. Lane's career includes 20 years of experience with the State of Florida.

Pasco County SHIP

State Housing Initiatives Partnership Program
George Romagnoli, Director
Pasco County Community Development Department

What is SHIP?

- The minimum requirements:
 - 30% of All Funding for Very Low Income Households
 - 30% of All Funding for Low Income Households
 - 140% Median Income Top Income Level
 - 65% of Allocation for Homeownership
 - 75% of Allocation for Construction
 - 20% of Allocation for Special Needs Population
- Local governments create their own program to meet their needs

What are Pasco's Needs

- Poor Quality of Housing Stock
- Homeownership Rates Dropped in Older Neighborhoods
- Little Decent Affordable Rental Housing
- Homeless Numbers Increasing

Response - Homebuyer Assistance

- Homebuyer Programs
 - Downpayment Assistance Program
 - Work With Lenders
 - All Buyers Go through an 8 hour class
 - All Buyers also have one-on-one counseling session
 - Limits on rates and fees
 - Strict Income Qualifications
 - 3rd Party Verifications
 - Prior Tax Return Review
 - No non-occupant co-signers

Response - Pasco Opportunity Program

- POP is our not-for-profit homeownership delivery program
 - Almost every Habitat for Humanity Home is funded by SHIP
- POP Housing Agencies
 - County lends funds to agencies to buy homes, repair them, and sell to eligible homeowners
 - POP Leveraging Program
 - Investors lend money to POP agencies so they can construct more housing
 - 2% loan guaranteed by County
 - Investors have pledged \$3.25 million, led by \$1.5 million from Withlacoochee Electric and \$250,000 from United Way

Response - ELI Program

- Not enough affordable decent housing, especially for Extremely Low Income Persons (Under 30% of Median)
 - This is especially true of homeless families and individuals with Rapid ReHousing Funds
- County is taking properties that have been foreclosed or escheated to the County, making them safe and decent
- Catholic Charities taking ownership
- Rent is \$400 per month, up to one year of tenancy