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# Local, Federal & Veterans Affairs Subcommittee

March 28, 2017  
12:00 PM -3:00 PM  
12 HOB

## Meeting Packet

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Local, Federal & Veterans Affairs Subcommittee

**Start Date and Time:** Tuesday, March 28, 2017 12:00 pm

**End Date and Time:** Tuesday, March 28, 2017 03:00 pm

**Location:** 12 HOB

**Duration:** 3.00 hrs

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

PCS for HB 903 -- Homestead Exemption Fraud  
HB 1235 Military and Veteran Support by Latvala  
HB 1289 Local Financial Emergencies by Raulerson  
HB 1291 City of Jacksonville, Duval County by Davis

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., March 27, 2017.


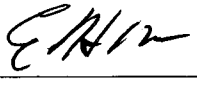
By request of Chair Plakon, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., March 27, 2017.

**NOTICE FINALIZED on 03/24/2017 4:25PM by Smith.Victoria**



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 903 Homestead Exemption Fraud  
**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		Darden 	Miller 

**SUMMARY ANALYSIS**

According to Florida Statutes, each property appraiser has the duty to examine each claim for homestead property tax exemption in the county and grant the exemption if found to be in accordance with the law. In addition, property appraisers may, but are not required to, file a tax lien on property if the property appraiser determines the property owner was granted a homestead exemption to which the property owner was not entitled, in order to collect unpaid taxes, interest, and penalties. Further, if a lien is filed, the normal tax certificate/collection process does not apply.

The bill authorizes the Central Florida Homestead Exemption Fraud Detection Pilot Program, allowing the property appraisers for Orange, Osceola, and Seminole Counties to conduct an audit of homestead tax exemptions to determine the percentage of property owners who were not entitled to the homestead exemption. If the audit reveals that more than five percent of property owners were claiming an exemption to which the owner was not entitled, the property appraiser may request the county contract for services to conduct a full examination and audit. The bill specifies the terms of the contract between the county and a contractor conducting an audit, including compensation and contact with the property owner. The bill provides that the pilot program terminates September 30, 2019.

The bill authorizes payment by the respective counties for information relating to violation of tax laws discovered by the Central Florida Homestead Exemption Fraud Detection Pilot Program.

The bill also requires a property appraiser, upon determining a property owner was granted a homestead exemption to which the owner was not entitled, to certify to the county tax collector the additional assessment due for each year and to provide notice to the property owner by mail. The bill provides that if it is determined that a homestead exemption was granted to which the owner was not entitled, a tax lien shall be filed if the taxes, penalties, fees, and interest owed are not paid within thirty days. The bill provides that if a homestead exemption was improperly granted as the result of a clerical mistake or omission by the property appraiser, the property owner shall not be assessed penalties, interest, and fees. The bill requires taxes, penalties, fees, and interest assessed due an improperly granted homestead exemption (except where granted due to a clerical mistake) to be included in the next tax notice and collected in the same manner as current ad valorem taxes. A property owner may appeal the disallowance of a homestead exemption under the pilot program to the county value adjustment board.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### Property Taxes in Florida

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

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a homestead tax exemption.<sup>6</sup>

According to Florida Statutes, each property appraiser has the duty to examine each claim for homestead exemption in the county and grant the exemption if found to be in accordance with the law.<sup>7</sup>

##### Delinquent Property Taxes

Each year, county property appraisers will certify the tax roll to the corresponding tax collector, and the tax collector will then send tax bills to all properties owing tax within the county.<sup>8</sup> Property taxes are due once a year, and can be paid beginning November 1st of the assessment year.<sup>9</sup> Generally, taxes become delinquent if not paid in full as of April 1st of the year after assessment.<sup>10</sup> Delinquent taxes will accrue interest until paid,<sup>11</sup> and may accrue penalties in certain circumstances.<sup>12</sup>

If delinquent ad valorem taxes are not paid by June 1 of the year after assessment, the County holds a tax certificate sale for real property located in the County on which the taxes became delinquent in that year.<sup>13</sup> A tax lien certificate is an interest bearing first lien representing unpaid delinquent real estate property taxes; however, it does not convey any property rights or ownership to the certificate holder.

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

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

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

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

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

<sup>6</sup> An additional homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

<sup>7</sup> Section 196.141, F.S.

<sup>8</sup> Section 197.322(2), (3), F.S.

<sup>9</sup> Section 197.333, F.S.

<sup>10</sup> Section 197.333, F.S.

<sup>11</sup> Section 197.152, F.S.

<sup>12</sup> See s. 196.161, F.S.

<sup>13</sup> Section 197.432, F.S.

The property owner has a period of two years from the date the taxes became delinquent to redeem the tax certificate by paying to the County the total due, including accrued interest.<sup>14</sup> After the two year period, if the taxes remain unpaid, the lien holder may make an application for tax deed auction with the County.<sup>15</sup> If tax deed auction proceedings begin, the property owner must pay all taxes for all years that are due and delinquent, plus fees and interest to stop the sale of the property at public auction.<sup>16</sup> If the tax certificate is not redeemed or sold at auction after seven years, the tax certificate is cancelled and considered null and void.<sup>17</sup>

Under current law, when any deferred taxes, assessments, or interest are collected, the tax collector maintains a record of the payment and distributes payments received to each taxing authority in the proportionate share of the collected taxes as reflected in the tax bill.<sup>18</sup> The tax collector will make this distribution at least four times during the first two months after the tax roll comes into the tax collector's possession for collection and at least one time in all other months.<sup>19</sup>

### Fraudulent Homestead Exemption Claims

Current law provides that if a property owner was granted a homestead exemption to which the property owner was not entitled, the property appraiser will send the owner a notice of intent to file a tax lien on any property owned by the owner in that county.<sup>20</sup> The property owner has 30 days to pay the taxes owed, plus penalties and interest.<sup>21</sup> If not paid within 30 days of notice, the property appraiser may file a tax lien.<sup>22</sup> Even if a tax lien is filed, current administration of the law does not follow the tax certificate process described above. Instead, the tax lien remains on the property until it is paid or expires after 20 years.<sup>23</sup>

### Value Adjustment Board

A property owner who disagrees with the assessment in the Truth in Millage (TRIM) notice or who was denied an exemption or property classification may appeal the property appraiser's decision to the county value adjustment board (VAB).<sup>24</sup>

A petition to the VAB concerning valuation issues may be filed at any time during the taxable year on or before the 25th day following the mailing of the TRIM notice.<sup>25</sup> Petitions concerning the denial of an exemption, a property classification application, or a deferral must be filed at any time during the taxable year on or before the 30th day following the mailing of the TRIM notice.<sup>26</sup>

VAB hearings must begin between 30 and 60 days after the mailing of the TRIM notice.<sup>27</sup> The VAB must remain in session from day to day until all petitions, complaints, appeals, and disputes are heard.<sup>28</sup> Current law does not establish a date when the VAB hearings must be concluded.

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<sup>14</sup> Section 197.502, F.S.

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

<sup>16</sup> Section 197.472, F.S.

<sup>17</sup> Section 197.482, F.S.

<sup>18</sup> Section 197.383., F.S.

<sup>19</sup> Section 197.383, F.S.

<sup>20</sup> Section 196.161, F.S.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> Section 95.091(1)(b), F.S.

<sup>24</sup> Section 194.011(3), F.S.

<sup>25</sup> Section 194.011(3)(d), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Section 194.032(1)(a), F.S.

<sup>28</sup> Section 194.032(3), F.S.

After challenges to assessed value of the property have been concluded, the VAB submits the VAB-adjusted assessment roll to the property appraiser<sup>29</sup> and to the Department of Revenue.<sup>30</sup> The property appraiser's certification of the tax roll occurs after making any adjustments to the assessment rolls caused by the VAB hearings.<sup>31</sup>

### **Proposed Changes**

The bill creates the Central Florida Homestead Exemption Fraud Detection Pilot Program, authorizing the property appraisers for Orange, Osceola, and Seminole Counties to conduct an audit of homestead tax exemptions by October 1, 2017 to determine the percentage of property owners who were not entitled to the homestead exemption.

For the purposes of the audit, the property owner will be considered entitled to the homestead exemption if the owner claims homestead exemption on the property and is either registered to vote at the address of the property or the address of the property is the legal residence provided by the owner to the Department of Highway Safety and Motor Vehicles when applying for a driver license or identification card. The property owner will also be considered entitled to the exemption if the owner lived in the property for the twelve months preceding admission to a long-term care facility.<sup>32</sup>

If the audit reveals that more than 5 percent of property owners were claiming an exemption to which the owner is not entitled, the property appraiser may request the county contract for services to conduct a full examination and audit. The county shall contract for services using the same purchasing processes and requirements in general use by the county. The county may not agree to pay the contractor more than 25 percent of the taxes, penalties, and interest found to be due to the county and must appropriate funds for payments through the county budget process.

If the contractor provides the property appraiser with information showing that the property owner was not entitled to a claimed homestead exemption, the property appraiser may disallow the claimed exemption and remove the homestead exemption from the previous tax rolls. The property appraiser may remove up to five years of claimed exemptions from the rolls. The property appraiser may not disallow and remove the homestead exemption if the owner is admitted to a long-term care facility.

The contractor may only contact property owners in a manner prescribed by the property appraiser or by the contract with the county. The contractor must inform the property owner that:

- The contractor is a third party who has been contracted by the county to examine or audit homestead tax exemptions.
- The property owner should contact the property appraiser if the owner has any questions and provide the property appraiser's contact information.

The contractor shall not:

- Simulate a governmental official;
- Communicate with the person between 9 p.m. and 8 a.m. in the person's time zone without the person's prior consent;
- Suggest, communicate, or threaten the person that any money is owed;
- Publish or post, threaten to publish or post, or cause to be published or posted to the public any individual names or list of names of people who have claimed a homestead exemption.

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<sup>29</sup> Section 193.122(2), F.S.

<sup>30</sup> Section 193.122(1), F.S.

<sup>31</sup> Section 193.122(2), F.S.

<sup>32</sup> A nursing home facility, assisted living facility, adult family-care home, board and care facility, or any other similar residential adult care facility. S. 400.0060(6), F.S.

If the property appraiser disallows and removes a property owner's claimed homestead exemption, the property owner may challenge the property appraiser's decision before the value adjustment board. The bill authorizes the value adjustment board to consider claims from previous tax years for the purposes of reviewing disallowed homestead exemption claims under this program.

The Central Florida Homestead Exemption Fraud Detection Pilot Program expires September 30, 2019.

The bill amends s. 196.161, F.S., to clarify that a tax lien based on a fraudulent homestead claim shall be filed for the taxes, penalties, and interest that remain unpaid 30 or more days after the notice of tax lien is sent. Further, the tax lien will remain on the property until the taxes, penalties, and interest are paid in full.<sup>33</sup>

The bill provides that the unpaid taxes, interest, and penalties will be added to the next tax assessment if not paid in accordance with s. 196.161, F.S., and shall be collected in the same manner as, and in addition to, the current ad valorem taxes under chapter 197 (including the sale of tax certificates).

The bill amends s. 213.30, F.S., to allow for the collection of money by contractors pursuant to s. 196.1611, F.S.<sup>34</sup>

#### B. SECTION DIRECTORY:

- Section 1: Creates s. 196.1611, F.S., creating the Central Florida Homestead Exemption Fraud Detection Pilot Program.
- Section 2: Amends s. 196.161, F.S., to clarify the tax lien procedure for fraudulent homestead claims.
- Section 3: Amends s. 213.30, F.S. to allow for the compensation of contractors pursuant to s. 196.1611, F.S.
- Section 4: 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:  
Local governments may collect more in taxes, interest, penalties, and fees through the use of contracted services.

<sup>33</sup> A lien issued pursuant to this section is a first lien, superior to all other liens on the property and will only be removed when discharged by payment or until barred under ch. 95. S. 197.122, F.S.

<sup>34</sup> Under current law, s. 213.30 is the sole means by which a person who provide information to the Department of Revenue leading to certain violations of tax laws may be compensated by the department.



2. Expenditures:

Local governments may expend funds to contract for services.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in additional business for firms that investigate homestead exemption fraud.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide 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 a homestead exemption fraud;  
creating s. 196.1611, F.S.; authorizing a homestead  
exemption fraud detection pilot program in Orange,  
Osceola, and Seminole Counties; authorizing property  
appraiser to conduct an audit of homestead exemption  
claims; setting criteria for audit of homestead  
exemption claims; authorizing the board of county  
commissioners to contract for the examination and  
audit of homestead exemption claims; specifying  
payment for such contracted services; specifying  
authorized and prohibited practices for such  
contractors in contacting certain people; amending s.  
196.161, F.S.; specifying property appraiser duties  
upon a determination that a person improperly received  
a homestead exemption from ad valorem taxation;  
specifying the time period by which a tax lien must be  
filed under certain circumstances; specifying the  
calculation to be used in determining the amount of  
the tax lien; requiring unpaid taxes, penalties, fees,  
and interest to be included in the next tax notice;  
providing methods of collection; amending s. 213.30,  
F.S.; specifying the governmental entities that may  
contract for certain services to collect money for the  
failure by a person to comply with the tax laws;

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ORIGINAL

YEAR

26 providing an effective date.

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

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30 Section 1. Section 196.1611, Florida Statutes, is created  
31 to read:

32 196.1611 .-- Central Florida Homestead Exemption Fraud  
33 Detection Pilot Program.-

34 (1) By October 1, 2017, the property appraisers for Orange,  
35 Osceola, and Seminole Counties each may conduct an audit of  
36 homestead tax exemptions claimed on the exemption rolls. The  
37 property appraiser shall determine the percentage of property  
38 owners who were not entitled to the claimed homestead exemption.  
39 For the purposes of the audit, a property owner shall be  
40 considered entitled to a homestead exemption if:

41 (a) The property owner claims homestead exemption on the  
42 property; and

43 1. The address of the property is the legal residence  
44 provided by the property owner to the Department of Highway  
45 Safety and Motor Vehicles when applying for a driver license or  
46 identification card under ch. 322; or

47 2. The property owner is registered to vote at the address.

48 (b) The property owner lived in the homestead property for  
49 the 12 months preceding admission to a long-term care facility  
50 as defined by s. 400.0060(6).

BILL

ORIGINAL

YEAR

51 (2) If a property appraiser authorized to conduct an audit  
 52 by subsection (1) finds that more than 5 percent of property  
 53 owners claiming a homestead exemption were not entitled to the  
 54 claimed exemption, the property appraiser may request the county  
 55 commission to contract for services to conduct a full  
 56 examination and audit of homestead tax exemptions claimed on  
 57 assessment rolls.

58 (a) If the county commission contracts for homestead  
 59 exemption examination services, the county commission shall  
 60 procure the services under the same purchasing process and  
 61 requirements in general use by the county.

62 (b) An agreement for contracted services shall specify that  
 63 the contractor may only receive as compensation an amount not to  
 64 exceed 25 percent of the back taxes, penalties, and interest  
 65 imposed pursuant to this chapter that are collected on any  
 66 assessment made as a result of the contractor's examination or  
 67 audit. Any payments made under this section must be approved by  
 68 the county commission as part of county budget or an amendment  
 69 to the county budget.

70 (3) If a contractor finds that an owner was not entitled to  
 71 an exemption, the property appraiser may disallow the claimed  
 72 exemption and remove the homestead exemption from previous tax  
 73 rolls subject to the following conditions:

74 (a) Claimed exemptions may be disallowed and removed from  
 75 the tax rolls under this section for no more than the previous 5

BILL

ORIGINAL

YEAR

76 years.

77 (b) No claimed exemptions shall be disallowed and removed  
 78 from the tax rolls under this section where the owner is  
 79 admitted to a long-term care facility as defined by s.  
 80 400.0060(6).

81 (4) A contractor retained pursuant to this section may only  
 82 contact persons claiming a homestead exemption in a manner  
 83 prescribed in the contract or by the property appraiser. At a  
 84 minimum, the contractor shall notify the person claiming the  
 85 homestead exemption that:

86 (a) The contractor is a third party who has been  
 87 contracted by the county to examine or audit homestead tax  
 88 exemptions.

89 (b) The person should contact the property appraiser if he  
 90 or she has any questions. The contractor shall provide the  
 91 property appraiser's contact information.

92 (5) The contractor may not:

93 (a) Simulate a governmental official in any manner.

94 (b) Communicate with the person between the hours of 9  
 95 p.m. and 8 a.m. in the person's time zone without prior consent  
 96 of the person.

97 (c) Suggest, communicate, or threaten that the person owes  
 98 any money.

99 (d) Publish or post, threaten to publish or post, or cause  
 100 to be published or posted before the general public individual

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ORIGINAL

YEAR

101 names or any list of names of people who have claimed a  
 102 homestead exemption.

103 (6) The property owner may appeal to the value adjustment  
 104 board the decision of the property appraiser refusing to allow  
 105 the exemption for which application was made as provided for in  
 106 s. 196.151. Notwithstanding the provisions of s. 196.151, when  
 107 reviewing the disallowance of claimed homestead exemptions under  
 108 this section, the value adjustment board may consider the  
 109 determination of the property appraiser as applied to previous  
 110 tax years.

111 (7) This section shall expire September 30, 2019.

112 Section 2. Section 196.161, Florida Statutes, is amended  
 113 to read:

114 196.161 Homestead exemptions; lien imposed on property of  
 115 person claiming exemption although not a permanent resident.—

116 (1) (a) When the estate of any person is being probated or  
 117 administered in another state under an allegation that such  
 118 person was a resident of that state and the estate of such  
 119 person contains real property situate in this state upon which  
 120 homestead exemption has been allowed pursuant to s. 196.031 for  
 121 any year or years within 10 years immediately prior to the death  
 122 of the deceased, then within 3 years after the death of such  
 123 person the property appraiser of the county where the real  
 124 property is located shall, upon knowledge of such fact, record a  
 125 notice of tax lien against the property among the public records

BILL

ORIGINAL

YEAR

126 of that county, and the property shall be subject to the payment  
 127 of all taxes exempt thereunder, a penalty of 50 percent of the  
 128 unpaid taxes for each year, plus 15 percent interest per year,  
 129 unless the circuit court having jurisdiction over the ancillary  
 130 administration in this state determines that the decedent was a  
 131 permanent resident of this state during the year or years an  
 132 exemption was allowed, whereupon the lien shall not be filed or,  
 133 if filed, shall be canceled of record by the property appraiser  
 134 of the county where the real estate is located.

135 (b)1. In addition, upon determination by the property  
 136 appraiser that for any year or years within the prior 10 years a  
 137 person who was not entitled to a homestead exemption was granted  
 138 a homestead exemption from ad valorem taxes, ~~it shall be the~~  
 139 ~~duty of the property appraiser making such determination shall~~  
 140 immediately certify to the county tax collector the additional  
 141 assessment for each year that the owner was not entitled to the  
 142 exemption and shall provide the owner the same information. The  
 143 tax collector may provide the notice to the owner by United  
 144 States Postal Service to the address of record and shall ~~to~~  
 145 serve upon the owner a notice of intent to record in the public  
 146 records of the county a notice of tax lien against any property  
 147 owned by that person in the county.~~7~~ ~~and~~ Such property shall be  
 148 identified in the notice of tax lien. Such property which is  
 149 situated in this state shall be subject to the taxes exempted  
 150 thereby, plus a penalty of 50 percent of the unpaid taxes for

BILL

ORIGINAL

YEAR

151 | each year and 15 percent interest per annum. The tax lien shall  
 152 | be filed for the taxes, penalties, fees, and interest that  
 153 | remain unpaid 30 or more days after the notice is sent and shall  
 154 | remain on the property until the taxes, penalties, fees, and  
 155 | interest are paid in full. ~~However, if a homestead exemption is~~  
 156 | ~~improperly granted as a result of a clerical mistake or an~~  
 157 | ~~omission by the property appraiser, the person improperly~~  
 158 | ~~receiving the exemption shall not be assessed penalty and~~  
 159 | ~~interest.~~ Before any such lien may be filed, the owner so  
 160 | notified must be given 30 days to pay the taxes, penalties, and  
 161 | interest.

162 |       2. If a homestead exemption is improperly granted as a  
 163 | result of a clerical mistake or an omission by the property  
 164 | appraiser, the person improperly receiving the exemption may not  
 165 | be assessed a penalty, interest, or fees.

166 |       (2) Except when the property appraiser makes a clerical  
 167 | error and improperly grants a homestead exemption, the taxes,  
 168 | penalties, fees, and interest assessed pursuant to this section  
 169 | that are not paid in full shall be included in the next tax  
 170 | notice and shall be collected in the same manner as, and in  
 171 | addition to, the current ad valorem taxes under chapter 197,  
 172 | including the annual tax certificate sale when appropriate ~~The~~  
 173 | ~~collection of the taxes provided in this section shall be in the~~  
 174 | ~~same manner as existing ad valorem taxes, and the above~~  
 175 | ~~procedure of recapturing such taxes shall be supplemental to any~~



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ORIGINAL

YEAR

176 ~~existing provision under the laws of this state.~~

177 (3) The lien herein provided shall not attach to the  
 178 property until the notice of tax lien is filed among the public  
 179 records of the county where the property is located. Prior to  
 180 the filing of such notice of lien, any purchaser for value of  
 181 the subject property shall take free and clear of such lien.  
 182 Such lien when filed shall attach to any property which is  
 183 identified in the notice of lien and is owned by the person who  
 184 illegally or improperly received the homestead exemption. Should  
 185 such person no longer own property in the county, but own  
 186 property in some other county or counties in the state, it shall  
 187 be the duty of the property appraiser to record a notice of tax  
 188 lien in such other county or counties, identifying the property  
 189 owned by such person in such county or counties, and it shall  
 190 become a lien against such property in such county or counties.

191 Section 3. Subsection (3) of section 213.30, Florida  
 192 Statutes, is amended to read:

193 213.30 Compensation for information relating to a  
 194 violation of the tax laws.—

195 (3) Notwithstanding any other provision of law, this  
 196 section and s. 196.1611 are ~~is~~ the sole means by which any  
 197 person may seek or obtain any moneys as the result of, in  
 198 relation to, or founded upon the failure by another person to  
 199 comply with the tax laws of this state. A person's use of any  
 200 other law to seek or obtain moneys for such failure is in

BILL

ORIGINAL

YEAR



201 | derogation of this section and s. 196.1611 and conflicts with  
202 | the state's duty to administer the tax laws.

203 |       Section 4. This act shall take effect July 1, 2017.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1235 Military and Veteran Support  
**SPONSOR(S):** Latvala  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1588

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

### SUMMARY ANALYSIS

The State of Florida provides many benefits to active duty servicemembers and veterans of the United States Armed Forces. The bill contains provisions relating to veteran-owned businesses, employment of military spouses and student veteran support. Specifically, the bill:

- Requires the Florida Department of Veterans Affairs (FDVA) to create a website to streamline the procedure for applying for certification as a veteran business enterprise;
- Authorizes the Florida Supreme Court to admit the spouse of a military servicemember to practice law in this state provided that the Florida Board of Bar Examiners certifies that the spouse meets certain criteria;
- Requires the Department of Education (DOE) to expedite the processing of educator certification requests for the spouse of a military servicemember and extends the validity period of a temporary educator certificate for two additional years; and
- Provides legislative intent regarding the collaboration between the State Board of Education and the Board of Governors on issues related to academic credit for military training and coursework, student progression and success, and student services.

The bill has an indeterminate fiscal impact on FDVA and DOE.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Florida Veteran Business Enterprise Opportunity Act**

###### Present Situation

The intent of the Florida Veteran Business Enterprise Opportunity Act (act)<sup>1</sup> is to rectify the economic disadvantage of service-disabled veterans and to recognize wartime veterans for their sacrifices.

The act creates a certification process within the Department of Management Services (DMS) for service-disabled veteran business enterprises (VBEs). The act also creates a tiebreaker preference for VBEs by requiring a state agency to award a procurement or contract to a bidder who is a certified VBE if two or more bids, proposals, or replies for the procurement of commodities or contractual services are equal with respect to all relevant considerations including price, quality, and service.<sup>2</sup> However, if a certified VBE and one or more VBE or businesses eligible for another statutory vendor preference, such as an MBE, submit bids or proposals that are equal with respect to all relevant considerations including price, quality, and service, the state agency must award the contract or proposal to the business having the smallest net worth.<sup>3</sup>

In order to become certified as a VBE, the owners and the business must satisfy statutory eligibility requirements. In order to be considered a "service-disabled veteran" eligible for certification, the veteran must be a permanent resident of Florida who has a service-connected disability as determined by the U.S. Department of Veterans Affairs or who was terminated from military service by reason of disability by the U.S. Department of Defense.<sup>4</sup> In order to be considered a "wartime veteran" eligible for certification, the veteran must:<sup>5</sup>

- Be a wartime veteran as defined in s. 1.01(14), F.S.<sup>6</sup>; or
- Be a veteran of a period of war, as used in 38 U.S.C. s. 1521, who served in the active military, naval, or air service:
  - For 90 days or more during a period of war;
  - During a period of war and was discharged or released from such service for a service-connected disability;
  - For a period of 90 consecutive days or more and such period began or ended during a period of war; or
  - For an aggregate of 90 days or more in two or more separate periods of service during more than one period of war.

In order to be certified as a VBE, a business enterprise must be an independently owned and operated business that:<sup>7</sup>

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<sup>1</sup> Section 295.187, F.S.

<sup>2</sup> Section 295.187(4)(a), F.S.

<sup>3</sup> Section 295.187(4)(b), F.S.

<sup>4</sup> Section 295.187(3)(b), F.S.

<sup>5</sup> Section 295.187(3)(d), F.S.

<sup>6</sup> Section 1.01(14), F.S. defines a "veteran" as a person so served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or during certain periods of wartime service. *See* s. 1.01(14)(a)-(i), F.S.

<sup>7</sup> Section 295.187(3)(c), F.S.

- Employs 200 or fewer permanent full-time employees;
- Together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments;
- Is organized to engage in commercial transactions;
- Is domiciled in Florida;
- Is at least 51 percent owned by one or more wartime veterans or service-disabled veterans; and
- The management and daily business operations of which are controlled by one or more wartime veterans or service-disabled veterans or, for a service-disabled veteran having a permanent and total disability, by the spouse or permanent caregiver of the veteran.

The certification process requires applicants to submit documentation demonstrating that the business meets the above-listed requirements. Certification is renewed biennially<sup>8</sup> and may be revoked for one year if the VBE fails to inform DMS within 30 days after any event that may significantly affect the certification of the business, including, but not limited to a change in ownership or change in management and daily business operations.<sup>9</sup>

The Florida Department of Veterans' Affairs (FDVA) must:<sup>10</sup>

- Assist DMS in establishing a certification procedure, which must be reviewed biennially and updated as necessary;
- Identify eligible veteran business enterprises by any electronic means, including electronic mail or internet website, or by any other reasonable means;
- Encourage and assist eligible veteran business enterprises to apply for certification under this section;
- Provide information regarding services that are available from the Office of Veterans' Business Outreach of the Florida Small Business Development Center to veteran business enterprises.

### Effect of Proposed Changes

The bill requires FDVA to create a website to streamline the procedure for applying for certification as a veteran business enterprise.

## **Supreme Court Admitting Attorneys to Practice Law**

### Present Situation

The Florida Supreme Court has the exclusive jurisdiction to regulate the admission of attorneys to The Florida Bar and to discipline members of the Bar.<sup>11</sup> Membership in The Florida Bar requires both admission by the Supreme Court and maintaining membership pursuant to applicable Florida Bar rules.<sup>12</sup> Applicants to the Bar must undergo a character and fitness investigation by the Florida Board of Bar Examiners and pass the bar examination.<sup>13</sup>

The Florida Bar has petitioned the Florida Supreme Court to amend the Rules Regulating the Florida Bar to include a new subchapter 21, authorizing military spouses to practice law in Florida.<sup>14</sup> Subchapter 21 would grant full membership to the Florida Bar to spouse of an active duty service member stationed in Florida. The spouse must:

<sup>8</sup> Section 295.187(5)(b), F.S.

<sup>9</sup> Section 295.187(5)(d), F.S.

<sup>10</sup> Section 295.187(6), F.S.

<sup>11</sup> Article V, s. 15, Fla. Const.

<sup>12</sup> R. Regulating Fla. Bar 1-3.1.

<sup>13</sup> R. Relating to Admissions to the Fla. Bar. 2-10.

<sup>14</sup> *In Re: Amendments to the Rules Regulating the Florida Bar –Chapter 21 Military Spouse Authorization to Engage in the Practice of Law in Florida* (Feb. 1, 2017).

- Be identified and enrolled in the Department of Defense's "Defense Enrollment Eligibility Report System" as the spouse of a full-time active duty member of the United States armed forces or a member of the Guard or Reserve components who is ordered to extended activity duty and transferred from outside of Florida to a duty station in Florida;
- Hold a J.D. or LL.B. degree from a law school accredited by the American Bar Association;
- Be admitted after passing a written examination to the practice of law in another jurisdiction;
- Be an active member of the bar in good standing who is eligible to practice in at least one jurisdiction;
- Be a member of good standing in every jurisdiction where the applicant has been admitted to practice law;
- Establish the applicant is not subject to discipline or a pending disciplinary matter in another jurisdiction;
- Not have failed the Florida Bar examination within the past 5 years or previously been denied admission to the Florida Bar for reasons of character and fitness;
- Reside in Florida with the service member stationed in Florida or provide evidence the applicant intends to reside in Florida with the service member within six months;
- Certify to having read the Florida Rules of Discipline,<sup>15</sup> the Florida Rules of Professional Conduct<sup>16</sup> and subchapter chapter 21 and agree to submit to the jurisdiction of the Supreme Court of Florida for disciplinary purposes;
- Submit an application to the Florida Board of Bar Examiners in the form required by that board, including a copy of the military member's orders to a duty station within Florida;
- Pay an application fee established by the Florida Board of Bar Examiners; and
- Establish the applicant's qualifications as to character and fitness to the satisfaction of the Florida Board of Bar Examiners.<sup>17</sup>

The spouse must complete the basic skills course requirement within six months of initial certification and must complete ten hours of continuing legal education during each year the authorization is renewed, including 2 hours of ethics each year.<sup>18</sup>

The spouse is granted full membership, but must associate with a certified lawyer if the spouse has not engaged in the active practice of law for at least three years cumulatively.<sup>19</sup> The spouse must be reauthorized annually and is responsible for the payment of annual membership fees at the same rate as other active members.

A spouse is no longer eligible under this rule if:

- The service member leaves active duty;
- The spouse and service member divorce;
- The service member receives a permanent transfer outside of Florida, except that the certified lawyer may continue to practice pursuant to this chapter if the service member has been assigned to an unaccompanied or remote assignment with no dependents authorized until the service member is assigned to a location with dependents authorized;
- The spouse relocates outside for Florida for more than six continuous months;

<sup>15</sup> R. Regulating Fla. Bar Ch. 3.

<sup>16</sup> R. Regulating Fla. Bar Ch. 4.

<sup>17</sup> *Florida Bar Rules Proposals*, The Florida Bar News (Jan. 1, 2017).

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

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

- The spouse requests certification be terminated; or
- The spouse becomes a member of the Florida Bar by meeting admission requirements.<sup>20</sup>

The certification may be revoked if the spouse fails to pay membership fees, fails to meet the continuing education requirement, takes and fails the Florida Bar Examination or the character and fitness investigation, or is disbarred or suspended by another jurisdiction.<sup>21</sup>

The Florida Bar Board of Governors approved the proposed amendment on December 9, 2016 without objection.<sup>22</sup>

### Effect of Proposed Changes

The bill authorizes the Florida Supreme Court to admit the spouse of a military servicemember, as defined in s. 250.01, F.S., to practice law in this state given that he or she is certified by the Florida Board of Bar Examiners. Certification by the board is contingent on the applicant:

- Registering in the Defense Enrollment Eligibility Reporting System established by the U.S. Department of Defense;
- Holding a Juris Doctor or Bachelor of Laws from a law school accredited by the American Bar Association;
- Being licensed to practice law in another state, the District of Columbia, or a territory of the U.S. after having passed a written examination;
- Establishing that he or she is a member in good standing in all jurisdictions where licensed to practice law and that he or she is not currently subject to discipline or a pending disciplinary matter relating to the practice of law;
- Demonstrating his or her presence in Florida as a spouse of a servicemember; and
- Otherwise fulfilling all requirements for admission to practice law in Florida.

Additionally, the Florida Supreme Court may specify circumstances under which the license and authorization to practice law in Florida of an attorney licensed in accordance with the above requirements terminates.

### Educator Certification Requirements

#### Present Situation

In order to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the Florida Department of Education (DOE).<sup>23</sup> Persons seeking employment at a public school as a school supervisor, principal, teacher, library media specialist, counselor, athletic coach, or in another instructional capacity must be certified.<sup>24</sup> The purpose of certification is to require school-based personnel to “possess the

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *In Re: Amendments to the Rules Regulating the Florida Bar –Chapter 21 Military Spouse Authorization to Engage in the Practice of Law in Florida* (Feb. 1, 2017).

<sup>23</sup> Sections 1012.55(1) and 1002.33(12)(f), F.S.

<sup>24</sup> Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certified individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-10502, F.A.C.; ss.1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.



credentials, knowledge, and skills necessary to allow the opportunity for a high-quality education in public schools.”<sup>25</sup>

Full reciprocity is granted to educators who hold a valid professional standard teaching certificate for a subject area issued by another state or the National Board for Professional Teaching Standards (NBPTS).<sup>26</sup> These individuals are deemed to have met the requirements for Florida professional certification, including mastery of general knowledge, subject area knowledge and professional preparation and education competence.<sup>27</sup> Partial reciprocity is granted to educators who hold American Board for Certification of Teacher Excellence (ABCTE) certification. ABCTE certification satisfies all requirements for a professional certificate, except the professional education competence demonstration requirement. Individuals who hold this certification must complete a professional education competence demonstration program.<sup>28</sup> Individuals who hold an out-of-state, NBPTS, or ABCTE certification must apply for a Florida professional certificate. In each case, the certificate must be comparable to, and require the same or higher level of training as, the Florida subject area certification.<sup>29</sup>

Current law requires that upon the receipt of a license application the agency examine the application and, within 30 days, provide notification of any errors or omissions. Unless a shorter time frame is provided by law, an application for a licensee must be approved or denied within 90 days after the receipt of the completed application.<sup>30</sup>

In addition to educator certificates, DOE may issue temporary certificates to applicants who:

- meet the basic eligibility requirements for certification;<sup>31</sup>
- obtain full-time employment in a position that requires a Florida educator certificate by a school district or private school that has a DOE-approved professional education competence demonstration program;<sup>32</sup> and
- do one of the following:
  - demonstrate mastery of subject area knowledge (e.g., passage of the appropriate subject area test);<sup>33</sup> or
  - complete the required degree or content course specified in state board rule for subject area specialization<sup>34</sup> and attain at least a 2.5 grade point average on a 4.0 scale in the subject area courses.<sup>35</sup>

<sup>25</sup> Section 1012.54, F.S.; see rule 6A-4.001(1), F.A.C.

<sup>26</sup> Section 1012.56(5)(e)-(f), F.S.; see rules 6A-4.002(!)(i)-(j) and 6A-4.003(2), F.A.C. (flush left provisions following paragraph (2)(e)); Florida Department of Education, *Reciprocity for Out-of-State Teachers and Administrators*, <http://www.fldoe.org/teaching/certification/pathways-routes/certified-teacher-or-administrator.shtml> (last visited March 13, 2017).

<sup>27</sup> Section 1012.56(3)(c)-(d), (5)(e)-(f), and (6)(c)-(d), F.S.; rule 6A-4.002(!)(i)1. And (j), F.A.C.

<sup>28</sup> Section 1012.56(5)(f), F.S.; Florida Department of Education, *Professional Preparation and Education Competence*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/professional-preparation-edu-competenc.shtml> (last visited March 13, 2017).

<sup>29</sup> See Rule 6A-4.002(1)(i) and (j), F.A.C.

<sup>30</sup> Section 120.60(1), F.S.

<sup>31</sup> Section 1012.5(2)(a)-(f) and (7)(b), F.S.

<sup>32</sup> Section 1012.56(1)(b), F.S.; rule 6A-4.004(1)(a)2., F.A.C.

<sup>33</sup> Section 1012.56(7)(b), F.S.; Florida Department of Education, *Subject Area Knowledge*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/subject-area-knowledge.shtml> (last visited March 13, 2017).

<sup>34</sup> Section 1012.56(7)(b), F.S. The degree and content requirements are specified in ch. 6A-4, F.A.C.

<sup>35</sup> Section 1012.56(2)(c), F.S.; see Florida Department of Education, *Certificate Types and Requirements*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/> (last visited March 13, 2017).

An educator who is employed under a temporary certificate must demonstrate mastery of general knowledge within one calendar year after employment in order to remain employed in a position that requires a certificate.<sup>36</sup> If the educator is employed under contract, the calendar year deadline for demonstrating mastery of general knowledge may be extended through the end of the school year.<sup>37</sup> An educator who has not demonstrated mastery of general knowledge may not be employed or continue to be employed in a position requiring a temporary certificate beyond this time period.<sup>38</sup> A temporary certificate is valid for 3 years and is nonrenewable.<sup>39</sup>

DOE may extend the validity period of a temporary certificate for 2 years when the requirements for the professional certificate, not including demonstrating mastery of general knowledge, were not completed due to serious illness or injury of the applicant or other extraordinary extenuating circumstance.<sup>40</sup> Upon the approval of the Commissioner of Education, DOE may reissue the temporary certificate for 2 additional years.<sup>41</sup>

According to DOE staff, 90 percent of the current educator certification applications are evaluated and processed within 30 days of the determination of the completed application and the remaining 10 percent within 40 days.<sup>42</sup>

### Effect of Proposed Changes

The bill requires DOE to process and approve or deny educator certification applications within 60 calendar days after the stamped receipted date of the completed application for an applicant who:

- Is the spouse of a servicemember, as defined in section 250.01(19), F.S.;
- Is stationed in the state; and
- Holds a current professional standard teaching certificate issued by another state.

The bill also allows DOE to extend the validity period of a temporary certificate for 2 additional years if the applicant is the spouse of a servicemember stationed in the state.

### Continuing Education of Veterans

#### Present Situation

More than 1.5 million veterans live in Florida, including more than 231,000 veterans of the Afghanistan and Iraq wars, and roughly 506,000 Vietnam-era veterans.<sup>43</sup>

Florida provides many educational benefits for veterans including awarding academic credit for military training and coursework, priority registration, and tuition and fee waivers.

Members of the U.S. Armed Forces are eligible to earn academic college credit at public postsecondary educational institutions for college-level training and education acquired in the military that is

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<sup>36</sup> Section 1012.56(7), F.S. (flush –left provisions at end of subsection); *see also* ss. 1012.56(3), F.S. for acceptable means of demonstrating mastery of subject area knowledge.

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

<sup>38</sup> Section 1012.56(7), F.S. (flush –left provisions at end of subsection)

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

<sup>40</sup> Section 1012.56(7), F.S.; rule 6A-4.002, F.A.C.

<sup>41</sup> *Id.*

<sup>42</sup> Benjamin Palazesi, Government Relations, Florida Department of Education, Re: Teacher Certification (March 21, 2017).

<sup>43</sup> Department of Veterans Affairs, Annual Report Fiscal Year 2015-16, available at <http://floridavets.org/wp-content/uploads/2016/11/2016-Annual-Report.pdf> (accessed March 14, 2017).

recognized by the American Council on Education. The Board of Governors (BOG) by regulations and the State Board of Education (SBE) by rules must provide procedures for credential evaluation and the award of academic credit, equivalency and alignment of military coursework with appropriate college courses, course descriptions, type and amount of college credit that may be awarded, and transfer of credit.<sup>44</sup> Awarded credit must be noted on the student's transcript and documentation of the credit equivalency evaluation must be maintained in the student veteran's file.<sup>45</sup>

State universities and Florida College System (FCS) institutions offering priority course registration for a segment of the student population, or upon implementation of such a policy, must provide priority course registration to veterans of the U.S. Armed Forces who are receiving GI Bill educational benefits. Individuals are eligible for priority course registration until the expiration of the GI educational benefits.<sup>46</sup> Independent postsecondary educational institutions are encouraged to provide priority course registration in the same manner as public postsecondary institutions.<sup>47</sup>

Florida offers a number of tuition assistance programs for veterans. The Congressman C.W. Bill Young Veteran Tuition Waiver Program provides an out-of-state fee waiver for honorably discharged veterans and those utilizing GI Bill educational benefits who physically reside in the state while enrolled in the institution.<sup>48</sup> In addition, Florida law waives undergraduate tuition for recipients of a Purple Heart or other superior combat decoration who are currently, or were at the time of the military action that led to the award, a resident of the state.<sup>49</sup> Current law also provides for tuition deferments for veterans using GI Bill educational benefits.<sup>50</sup>

Many of the state's public postsecondary institutions have also established student veteran centers to provide guidance and assistance to students as they transition from military service to campus life. Per federal regulation,<sup>51</sup> every postsecondary education institution that is approved for veterans' education and training must have a school certifying official on staff to certify that veterans are enrolled, are making adequate progress, and thereby remain eligible for educational benefits.

At state universities, these individuals are also responsible for assisting student veterans in obtaining academic advising, achieving course registration, and gaining access to student support services available through the university.<sup>52</sup> Additionally, in response to identified best practices presented at State University System (SUS) workshops on serving student veterans, some of the state universities have designated faculty and/or staff as veteran liaisons within academic discipline areas.<sup>53</sup> Examples of trained veteran liaisons are found in Florida Atlantic University's designated veteran student resource team, the University of South Florida's Office of Veterans Services with a fulltime staff dedicated to providing resources and tools to student veterans, and Florida State University's Veteran Student Center with fulltime staff and appointed veteran liaisons.

The Florida Association of Veteran Education Specialists (FAVES), a 501(c)(3) non-profit organization, promotes professional competency and communication among VA School Certifying Officials through

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<sup>44</sup> Section 1004.96, F.S.

<sup>45</sup> Regulation 6.013, Board of Governors; rule 6A-14.0302, F.A.C.

<sup>46</sup> Section 1004.075, F.S.

<sup>47</sup> Section 1005.09, F.S.

<sup>48</sup> Section 1009.26(13), F.S.

<sup>49</sup> Section 1009.26(8), F.S.

<sup>50</sup> Section 1009.27(2), F.S.

<sup>51</sup> 38 CFR s. 21.4266(a)(2)

<sup>52</sup> Email from Richard Stevens, Assistant Vice Chancellor, Academic and Student Affairs, Florida Board of Governors, RE: Veteran Student Centers (March 14, 2017).

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

State and regional conferences.<sup>54</sup> The FAVES Board of Directors includes representatives from the U.S. Department of Veterans Affairs and the Florida Department of Veterans' Affairs, State Approving Agency for Veterans' Education and Training.

#### Effect of Proposed Changes

In an effort to provide veterans increased access to postsecondary educational opportunities and success, the bill directs the Board of Governors and the State Board of Education to work collaboratively to:

- Align existing degree programs with applicable military training and experience to maximize academic credit awarded for such training and experience.
- Appoint and train specific faculty within each degree program as liaisons and contacts for veterans.
- Incorporate outreach services tailored to disabled veterans into existing disability services on campus to make available information on disability services provided by the U.S. Department of Veterans Affairs and other federal and state agencies, and private entities.
- Facilitate statewide meetings for personnel who provide student services for veterans to discuss and develop best practices, exchange ideas and experiences, and attend presentations by individuals with expertise in the unique needs of veterans.
- Make every effort to provide veterans with sufficient courses required for graduation, including, but not limited to, giving priority registration to veterans.

#### B. SECTION DIRECTORY:

- Section 1 Amends s. 295.187, F.S., relating to the Florida Veteran Business Enterprise Opportunity Act.
- Section 2 Amends s. 454.021, F.S., relating to the Supreme Court admitting attorneys to practice law.
- Section 3 Amends s. 1012.56, F.S., relating to educator certification requirements.
- Section 4 Provides legislative intent to require collaboration between the State Board of Education and the Board of Governors of the State University System to achieve specified goals regarding educational opportunities for veterans.
- Section 5 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:

Section 1 of the bill requires FDVA to create a website for businesses to apply for certification as a Veteran Business Enterprise. The cost for the FDVA to create such website is unknown at this time.

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<sup>54</sup> Florida Association of Veterans Education Specialists, *About Us*, available at <http://www.flfaves.org/about-us.php> (last visited March 20, 2017).

Section 3 of the bill requires DOE to expedite the processing of educator certification requests for spouses of military servicemembers stationed in Florida who current hold active Professional certificates from other states. DOE is currently in the process of developing a new technology system to process educator certification requests. A new process to properly identify certificate evaluation requests for these individuals will need to be added to the new system. The fiscal impact associated with this requirement is indeterminate.

**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:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill authorizes the Department of Education to adopt rules regarding extending validity of a temporary certificate if the applicant is a spouse of a servicemember stationed in Florida.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to military and veteran support;  
 3           amending s. 295.187, F.S.; requiring the Department of  
 4           Veterans' Affairs to create a website to streamline  
 5           the procedure for businesses applying for  
 6           certification as a veteran business enterprise;  
 7           amending s. 454.021, F.S.; authorizing the Supreme  
 8           Court to admit on motion a bar applicant who is the  
 9           spouse of a servicemember stationed in this state  
 10          under certain circumstances; amending s. 1012.56,  
 11          F.S.; requiring the Department of Education to  
 12          expedite the processing of an application for educator  
 13          certification submitted by a spouse of a servicemember  
 14          stationed in this state; requiring the State Board of  
 15          Education to adopt rules regarding extending validity  
 16          of a temporary certificate if the applicant is a  
 17          spouse of a servicemember stationed in this state;  
 18          providing legislative findings and intent regarding  
 19          continuing education for veterans of the United States  
 20          Armed Forces; providing legislative intent to require  
 21          collaboration between the State Board of Education and  
 22          the Board of Governors of the State University System  
 23          in achieving specified goals regarding educational  
 24          opportunities for veterans; providing an effective  
 25          date.

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

Section 1. Present paragraph (d) of subsection (6) of section 295.187, Florida Statutes, is redesignated as paragraph (e), and a new paragraph (d) is added to that subsection, to read:

295.187 Florida Veteran Business Enterprise Opportunity Act.—

(6) DUTIES OF THE DEPARTMENT OF VETERANS' AFFAIRS.—The department shall:

(d) Create a website to streamline the procedure for applying for certification as a veteran business enterprise.

Section 2. Subsection (4) is added to section 454.021, Florida Statutes, to read:

454.021 Attorneys; admission to practice law; Supreme Court to govern and regulate.—

(4) (a) The Supreme Court of Florida may admit on motion an applicant as an attorney at law authorized to practice in this state if the applicant is a spouse of a servicemember, as defined in s. 250.01, stationed in this state and upon certification by the Florida Board of Bar Examiners that the applicant meets the following requirements:

1. The applicant has registered in the Defense Enrollment Eligibility Reporting System established by the United States

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

51 Department of Defense;

52 2. The applicant holds a Juris Doctor or Bachelor of Laws  
 53 from a law school accredited by the American Bar Association;

54 3. The applicant is licensed to practice law in another  
 55 state, the District of Columbia, or a territory of the United  
 56 States after having passed a written examination;

57 4. The applicant can establish that he or she is a member  
 58 in good standing in all jurisdictions where licensed to practice  
 59 law and that he or she is not currently subject to discipline or  
 60 a pending disciplinary matter relating to the practice of law;

61 5. The applicant can demonstrate his or her presence in  
 62 this state as a spouse of a servicemember; and

63 6. The applicant has otherwise fulfilled all requirements  
 64 for admission to practice law in this state.

65 (b) The Supreme Court of Florida may specify circumstances  
 66 under which the license and authorization to practice law in  
 67 this state of an attorney licensed in accordance with paragraph  
 68 (a) terminates.

69 Section 3. Subsections (1) and (7) of section 1012.56,  
 70 Florida Statutes, are amended to read:

71 1012.56 Educator certification requirements.—

72 (1) APPLICATION.—Each person seeking certification  
 73 pursuant to this chapter shall submit a completed application  
 74 containing the applicant's social security number to the  
 75 Department of Education and remit the fee required pursuant to



76 s. 1012.59 and rules of the State Board of Education. Pursuant  
 77 to the federal Personal Responsibility and Work Opportunity  
 78 Reconciliation Act of 1996, each party is required to provide  
 79 his or her social security number in accordance with this  
 80 section. Disclosure of social security numbers obtained through  
 81 this requirement is limited to the purpose of administration of  
 82 the Title IV-D program of the Social Security Act for child  
 83 support enforcement. Pursuant to s. 120.60, the department shall  
 84 issue within 90 calendar days after the stamped receipted date  
 85 of the completed application:

86 (a) If the applicant meets the requirements, a  
 87 professional certificate covering the classification, level, and  
 88 area for which the applicant is deemed qualified and a document  
 89 explaining the requirements for renewal of the professional  
 90 certificate;

91 (b) If the applicant meets the requirements and if  
 92 requested by an employing school district or an employing  
 93 private school with a professional education competence  
 94 demonstration program pursuant to paragraphs (6)(f) and (8)(b),  
 95 a temporary certificate covering the classification, level, and  
 96 area for which the applicant is deemed qualified and an official  
 97 statement of status of eligibility; or

98 (c) If the ~~an~~ applicant does not meet the requirements for  
 99 either certificate, an official statement of status of  
 100 eligibility. The statement of status of eligibility must advise

101 the applicant of any qualifications that must be completed to  
 102 qualify for certification. Each statement of status of  
 103 eligibility is valid for 3 years after its date of issuance,  
 104 except as provided in paragraph (2) (d).

105  
 106 If the applicant is the spouse of a servicemember, as defined in  
 107 s. 250.01, stationed in this state and if the applicant holds a  
 108 current professional standard teaching certificate issued by  
 109 another state, the department shall expedite the processing of  
 110 the application and issue a certificate or statement as provided  
 111 under paragraphs (a)-(c) within 60 calendar days after the  
 112 stamped receipted date of the completed application.

113 (7) TYPES AND TERMS OF CERTIFICATION.—

114 (a) The Department of Education shall issue a professional  
 115 certificate for a period not to exceed 5 years to any applicant  
 116 who meets all the requirements outlined in subsection (2) or,  
 117 for a professional certificate covering grades 6 through 12, any  
 118 applicant who:

- 119 1. Meets the requirements of paragraphs (2) (a)-(h).
- 120 2. Holds a master's or higher degree in the area of
- 121 science, technology, engineering, or mathematics.
- 122 3. Teaches a high school course in the subject of the
- 123 advanced degree.
- 124 4. Is rated highly effective as determined by the
- 125 teacher's performance evaluation under s. 1012.34, based in part

126 on student performance as measured by a statewide, standardized  
 127 assessment or an Advanced Placement, Advanced International  
 128 Certificate of Education, or International Baccalaureate  
 129 examination.

130 5. Achieves a passing score on the Florida professional  
 131 education competency examination required by state board rule.

132 (b) The department shall issue a temporary certificate to  
 133 any applicant who completes the requirements outlined in  
 134 paragraphs (2) (a)-(f) and completes the subject area content  
 135 requirements specified in state board rule or demonstrates  
 136 mastery of subject area knowledge pursuant to subsection (5) and  
 137 holds an accredited degree or a degree approved by the  
 138 Department of Education at the level required for the subject  
 139 area specialization in state board rule.

140 (c) The department shall issue one nonrenewable 2-year  
 141 temporary certificate and one nonrenewable 5-year professional  
 142 certificate to a qualified applicant who holds a bachelor's  
 143 degree in the area of speech-language impairment to allow for  
 144 completion of a master's degree program in speech-language  
 145 impairment.

146  
 147 Each temporary certificate is valid for 3 school fiscal years  
 148 and is nonrenewable. However, the requirement in paragraph  
 149 (2) (g) must be met within 1 calendar year of the date of  
 150 employment under the temporary certificate. Individuals who are

151 employed under contract at the end of the 1 calendar year time  
 152 period may continue to be employed through the end of the school  
 153 year in which they have been contracted. A school district shall  
 154 not employ, or continue the employment of, an individual in a  
 155 position for which a temporary certificate is required beyond  
 156 this time period if the individual has not met the requirement  
 157 of paragraph (2)(g). The State Board of Education shall adopt  
 158 rules to allow the department to extend the validity period of a  
 159 temporary certificate for 2 years when the requirements for the  
 160 professional certificate, not including the requirement in  
 161 paragraph (2)(g), were not completed due to the serious illness  
 162 or injury of the applicant, due to the fact that the applicant  
 163 is the spouse of a servicemember stationed in this state, or due  
 164 to other extraordinary extenuating circumstances. The department  
 165 shall reissue the temporary certificate for 2 additional years  
 166 upon approval by the Commissioner of Education. A written  
 167 request for reissuance of the certificate shall be submitted by  
 168 the district school superintendent, the governing authority of a  
 169 university lab school, the governing authority of a state-  
 170 supported school, or the governing authority of a private  
 171 school.

172 Section 4. Legislative findings and intent; continuing  
 173 education of veterans of the United States Armed Forces.—The  
 174 Legislature finds that many veterans of the United States Armed  
 175 Forces in this state have completed training and coursework

176 during their military service, including overseas deployments,  
 177 resulting in tangible and quantifiable strides in their pursuit  
 178 of a postsecondary degree. The Legislature further finds that  
 179 the State Board of Education and the Board of Governors of the  
 180 State University System must work together to ensure that  
 181 military training and coursework are granted academic credit in  
 182 order to assist veterans in continuing their education.  
 183 Therefore, it is the intent of the Legislature that the State  
 184 Board of Education and the Board of Governors work  
 185 collaboratively to:

186 (1) Align existing degree programs, including, but not  
 187 limited to, vocational and technical degrees, at each state  
 188 university and Florida College System institution with  
 189 applicable military training and experience to maximize academic  
 190 credit awarded for such training and experience.

191 (2) Appoint and train specific faculty within each degree  
 192 program at each state university and Florida College System  
 193 institution as liaisons and contacts for veterans.

194 (3) Incorporate outreach services tailored to disabled  
 195 veterans into existing disability services on the campus of each  
 196 state university and Florida College System institution to make  
 197 available to such veterans information on disability services  
 198 provided by the United States Department of Veterans Affairs,  
 199 other federal and state agencies, and private entities.

200 (4) Facilitate statewide meetings for personnel at state

201 universities and Florida College System institutions who provide  
 202 student services for veterans to discuss and develop best  
 203 practices, exchange ideas and experiences, and attend  
 204 presentations by individuals with expertise in the unique needs  
 205 of veterans.

206 (5) Make every effort to provide veterans with sufficient  
 207 courses required for graduation, including, but not limited to,  
 208 giving priority registration to veterans.

209 Section 5. 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 Latvala offered the following:

**Amendment (with title amendment)**

Between lines 28 and 29, insert:

Section 1. Section 83.683, Florida Statutes, is amended to read:

83.683 Rental application by a servicemember.—

(1) If a landlord requires a prospective tenant to complete a rental application before residing in a rental unit, the landlord must complete processing of a rental application submitted by a prospective tenant who is a servicemember, as defined in s. 250.01, within 7 days after submission and must, within that 7-day period, notify the servicemember in writing of an application approval or denial and, if denied, the reason for



Amendment No. 1

17 denial. If the landlord requires the servicemember's spouse or  
18 any adult dependents of the servicemember who are to reside in  
19 the same rental unit to submit a rental application, the  
20 landlord must process those applications within the same 7-day  
21 period. Absent a timely denial of the rental application, the  
22 landlord must lease the rental unit to the servicemember if all  
23 other terms of the application and lease are complied with.

24 (2) If a condominium association, as defined in chapter  
25 718, a cooperative association, as defined in chapter 719, or a  
26 homeowners' association, as defined in chapter 720, requires a  
27 prospective tenant of a condominium unit, cooperative unit, or  
28 parcel within the association's control to complete a rental  
29 application before residing in a rental unit or parcel, the  
30 association must complete processing of a rental application  
31 submitted by a prospective tenant who is a servicemember, as  
32 defined in s. 250.01, within 7 days after submission and must,  
33 within that 7-day period, notify the servicemember in writing of  
34 an application approval or denial and, if denied, the reason for  
35 denial. If the association requires the servicemember's spouse  
36 or any adult dependents of the servicemember who are to reside  
37 in the same unit or parcel to submit a rental application, the  
38 association must process those applications within the same 7-  
39 day period. Absent a timely denial of the rental application,  
40 the association must allow the unit or parcel owner to lease the  
41 rental unit or parcel to the servicemember and the landlord must

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Amendment No. 1

42 lease the rental unit or parcel to the servicemember if all  
43 other terms of the application and lease are complied with.

44 (3) The provisions of this section may not be waived or  
45 modified by the agreement of the parties under any  
46 circumstances.

47

48

49

-----

50

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

51

Between lines 2 and 3, insert:

52

amending s. 83.683, F.S.; requiring landlords, condominium

53

associations, cooperative associations, and homeowners'

54

associations that require a servicemember's spouse or certain

55

adult dependents to submit a rental application to complete the

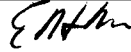
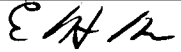
56

processing of the application within a specified timeframe;



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1289 Local Financial Emergencies  
**SPONSOR(S):** Raulerson  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1402

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	14 Y, 0 N	Whittaker	Harrington
2) Local, Federal & Veterans Affairs Subcommittee		Miller 	Miller 
3) Government Accountability Committee			

**SUMMARY ANALYSIS**

Local governmental entities, charter schools, charter technical career centers, and district school boards are subject to review and oversight by the Governor, the charter school sponsor, the charter technical career center sponsor, or the Commissioner of Education, as appropriate, when a financial emergency exists. The Governor or the Commissioner of Education, as appropriate, may implement measures to assist the local governmental entity or district school board in resolving a financial emergency. For example, a financial emergency board may be created to oversee the activities of the local governmental entity or the district school board. If a board is established for a local governmental entity, the Governor must appoint board members and select a chair. If the board is established for a district school board, the State Board of Education must appoint the board members and select a chair. Financial emergency boards may, among other tasks, provide recommendations and reports to the Governor or the Commissioner of Education.

The bill expands the entities that have oversight over local governmental entities, charter schools, charter technical career centers, and district school boards for financial emergencies. Specifically, the bill provides that those local governmental entities are subject to review and oversight by the Senate, the House of Representatives, and the Legislative Auditing Committee. As such, when certain financial emergencies exist, a local governmental entity, or an agency in certain cases, must also notify the President of the Senate and the Speaker of the House of Representatives. Upon notification of such an emergency, the Governor, in cooperation with the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee must contact the local governmental entity or the Commissioner of Education to determine what actions have been taken by the local governmental entity or district school board to resolve or prevent the condition and determine whether the local governmental entity or district school board needs state assistance.

The bill also revises the financial emergency boards. The bill specifies who can appoint members and establishes member qualifications. The bill revises the duties of the board and authorizes the board to assume operational and institutional control over a local governmental entity's or district school board's functions under certain circumstances.

The bill may have an indeterminate fiscal impact on the state and does not appear to have a fiscal impact on local governments. See Fiscal Comments.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Financial Emergencies

The Local Governmental Entity, Chart School, Charter Technical Career Center, and District School Board Financial Emergencies Act (act) governs certain local governmental financial emergencies.<sup>1</sup> The purposes of the act are to promote financial responsibility of the entities, assist the entities in providing essential services without interruption and in meeting their financial obligations, and to assist the entities through improvement of local financial management procedures.<sup>2</sup>

The act provides that local governmental entities, charter schools, charter technical career centers, and district school boards are subject to review and oversight by the Governor, the charter school sponsor, the charter technical career center sponsor, or the Commissioner of Education, as appropriate, when certain financial emergencies exist.<sup>3</sup>

- Failure within the same fiscal year in which due to pay short-term loans or failure to make bond debt service or other long-term debt payments when due, as a result of lack of funds.
- Failure to pay uncontested claims from creditors within 90 days after the claim is presented, as a result of lack of funds.
- Failure to transfer at the appropriate time, due to lack of funds:
  - Taxes withheld on the income of employees; or
  - Employer and employee contributions for:
    - Federal social security; or
    - Any pension, retirement, or benefit plan of an employee.
- Failure for one pay period to pay, due to lack of funds:
  - Wages and salaries owed to employees; or
  - Retirement benefits owed to former employees.

If a financial emergency exists due to a lack of funds, or will occur if action is not taken, a local government entity must notify the Governor and the Legislative Auditing Committee.<sup>4</sup> A charter school must notify the charter school sponsor, the Commissioner of Education, and the Legislative Auditing Committee. A charter technical career center must notify the charter technical career center sponsor, the Commissioner of Education, and the Legislative Auditing Committee. A district school board must notify the Commissioner of Education and the Legislative Auditing Committee.<sup>5</sup>

Any state agency must notify the Governor, charter school sponsor, charter technical career center sponsor, or the Commissioner of Education, as appropriate, within 30 days after determining there is a financial emergency that occurred or could occur if action is not taken to assist the local governmental entity, charter school, charter technical career center, or district school board.<sup>6</sup>

Upon notification that a financial emergency occurred or will occur, the Governor or his or her designee must contact the local governmental entity or the Commissioner of Education or his or her designee to determine what actions have been taken by the local governmental entity or district school board to

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<sup>1</sup> Sections 218.50 – 218.504, F.S.

<sup>2</sup> Section 218.501, F.S.

<sup>3</sup> Section 218.503(1), F.S.

<sup>4</sup> Section 218.503(2), F.S.

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

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

resolve or prevent the condition.<sup>7</sup> The information requested must be provided within 45 days of the request. The Governor, or the Commissioner of Education, as appropriate, must determine whether the local governmental entity or district school board needs state assistance to resolve or prevent the condition. If state assistance is needed, the local governmental entity or district school board is considered to be in a state of financial emergency. At that point, certain measures of assistance may occur, including:<sup>8</sup>

- Requiring approval of the local governmental entity's budget by the Governor or approval of the district school board's budget by the Commissioner of Education;
- Authorizing a state loan to a local governmental entity and providing for repayment of same;
- Prohibiting a local governmental entity or district school board from issuing bonds, notes, certificates of indebtedness, or any other form of debt until such time as it is no longer in a financial emergency;
- Making such inspections and reviews of records, information, reports, and assets of the local governmental entity or district school board as are needed;
- Consulting with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements;
- Providing technical assistance to the local governmental entity or the district school board;
- Establishing a financial emergency board to oversee the activities of the local governmental entity or the district school board; and
- Requiring and approving a plan, to be prepared by officials of the local governmental entity or district school board in consultation with the appropriate state officials, prescribing actions that will cause the local governmental entity or district school board to no longer be in a financial emergency.

### Financial Emergency Boards

If a financial emergency board is established for a local governmental entity, the Governor must appoint board members and select a chair.<sup>9</sup> If the board is established for a district school board, the State Board of Education must appoint the board members and select a chair.<sup>10</sup> The board must adopt roles necessary for conducting board business. The financial emergency board may:<sup>11</sup>

- Review records, reports, and assets of the local governmental entity or the district school board as are needed;
- Consult with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports of the local governmental entity or district school board into compliance with state requirements;
- Review the operations, management, efficiency, productivity, and financing of functions and operations of the local governmental entity or the district school board; and
- Consult with other governmental entities for consolidation of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

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<sup>7</sup> Section 218.503(3), F.S.

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

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

<sup>10</sup> *Id.*

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

Recommendations and reports made by the board must be submitted to the Governor for local governmental agencies or to the Commissioner of Education and the State Board of Education for district school boards for appropriate action.<sup>12</sup>

### **Effect of the Bill**

The bill expands the entities that have oversight over local governmental entities, charter schools, charter technical career centers, and district school boards for financial emergencies. Specifically, the bill provides that those local governmental entities are subject to review and oversight by the Senate, the House of Representatives, and the Legislative Auditing Committee. As such, when certain financial emergencies exist, a local governmental entity, or an agency in certain cases, must also notify the President of the Senate and the Speaker of the House of Representatives. Upon notification of such an emergency, the Governor, in cooperation with the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee must contact the local governmental entity or the Commissioner of Education to determine what actions have been taken by the local governmental entity or district school board to resolve or prevent the condition and determine whether the local governmental entity or district school board needs state assistance to resolve or prevent the condition.

The bill also revises the financial emergency boards. The bill provides that a financial emergency board must consist of an odd number of members comprised of at least seven members but not more than 13. If the board is established for a local governmental entity, the President of the Senate and the Speaker of the House of Representatives must each appoint two of the board members. The Governor must appoint the remainder of the board members and designate the chair. If the board is established for a district school board, the President of the Senate and the Speaker of the House of Representatives must each appoint two of the board members. The State Board of Education must appoint the remainder of the board members and designate the chair.

The bill establishes qualifications for members of a financial emergency board. Such members must collectively possess the knowledge, skills, and competencies needed to perform their individual responsibilities and accomplish the mission of the board, including, but not limited to, internal quality control, finance, business administration, and public works. The chair must have experience in one of the following positions or areas:

- Inspector General.
- Supervisory experience in an office of inspector general or an investigative public agency similar to an office of inspector general.
- Local, state, or federal law enforcement officer.
- Local, state, or federal court judge.
- Senior-level auditor or comptroller.
- The administration and management of complex audits and investigations.
- Managing programs for prevention, examination, detection, elimination of fraud, waste, abuse, mismanagement, malfeasance, or misconduct in government or other organizations.
- Certified fraud examiner.

The board must have access to records, data, and other information of the local governmental entity or the district school board necessary and given the technical and financial resources necessary to complete their duties. The board must adopt rules necessary for conducting board business. In addition, the board may:

- Hire or retain legal counsel.
- Obtain external advice and assistance if the board or the staff of the entity under review lacks the knowledge, skills, or other competencies needed to perform all or part of the duties necessary to resolve the financial emergency conditions.
- Request and obtain assistance from any federal agency, state agency, or local entity.

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

- Issue and serve subpoenas or subpoenas duces tecum to compel the attendance of witnesses and the production of documents, reports, answers, records, accounts, and data in any format. In the event of noncompliance with a subpoena issued, the chair of the board may petition the circuit court of the county for an order requiring the person to appear and testify and to produce documents.
- Require a person to file a statement in writing, under oath, as to all the facts and circumstances concerning the matter to be audited, examined, or investigated.
- Makes such reviews of records, reports, and assets of the local governmental entity or the district school board as are needed.
- Consult with officials and auditors of the local governmental entity or the district school board and the appropriate state officials regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports of the local governmental entity or the district school board into compliance with state requirements.
- Review the operations, management, efficiency, productivity, and financing of functions and operations of the local governmental entity or the district school board.
- Consult with other governmental entities for the consolidation of all administrative direction and support services, including, but not limited to, services for asset sales, economic and community development, building inspections, parks and recreation, facilities management, engineering and construction, insurance coverage, risk management, planning and zoning, information systems, fleet management, and purchasing.

Each recommendation and report made by the board addressing a local entity must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing Committee, and the local governmental entity under review. Each recommendation and report addressing a district school board must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Legislative Auditing Committee, the district school board under review, the Commissioner of Education, and the State Board of Education.

If a local governmental entity or district school board fails to remedy or take action on recommendations made in any report within 60 days after receipt, the board may assume operational and institutional control of the functions of the local government entity or district school board.

#### B. SECTION DIRECTORY:

- Section 1. Amends s. 218.503, F.S., expanding the entities that have oversight over local government entities, charter schools, charter technical career centers, and district school boards under certain circumstances; revises the financial emergency board.
- Section 2. Amends s. 218.504, F.S., conforming provisions to changes made by the bill.
- Section 3. Provides the bill is effective upon becoming law.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

1. Revenues:  
None.
2. Expenditures:  
See Fiscal Comments.

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

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have an indeterminate fiscal impact on the state. The bill specifies the number of members on a financial emergency board and provides that such boards may hire or retain legal counsel among other duties. As such, there may be increased costs associated with the creation of financial emergency boards depending on the nature of the board and actions of the board.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Power of Appointment

The current statute enables a financial emergency board to research and investigate a number of matters relevant to the financial condition of the affected local governmental entity and to report its findings. The statute does not enable a financial emergency board to take actions that are binding on anyone. With such limitations, a financial emergency board functions more in the nature of a legislative entity<sup>13</sup> similar to the Auditor General<sup>14</sup> or the Administrative Procedures Committee.<sup>15</sup>

The bill expands the authority of a financial emergency board to include the following new powers:

- Adoption of rules. The bill is silent as to whether this would be done under s. 120.54, F.S.
- Subpoena witnesses and compel compliance by petitioning the appropriate circuit court.
- Require the filing of written factual statements under oath.
- If a local governmental entity fails to implement the board's recommendations within 60 days, the board is authorized to "assume operational and institutional control of the local governmental entity's...functions.

These changes to the powers of financial emergency boards render uncertain their status as entities within the legislative branch. The new powers are similar to those traditionally exercised by executive, not legislative, branch entities.<sup>16</sup> These changes may impact the method of appointing members of a financial emergency board provided in the bill.

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<sup>13</sup> See *Commission on Ethics v. Sullivan*, 489 So. 2d 10, 13 (Fla. 1986).

<sup>14</sup> Art. III, s. 2, Fla. Const.; ss. 11.42, 11.45(3), F.S.

<sup>15</sup> House Rule 4.1(1)(a); s. 120.545, F.S.

<sup>16</sup> See *Chiles v. Public Service Commission Nominating Council*, 573 So. 2d 829, 832 (Fla. 1991); *Commission on Ethics*, supra.



The power to appoint officers to exercise executive power is in the Governor.<sup>17</sup> However, although legislative control of appointments to legislative entities does not violate the separation of powers doctrine,<sup>18</sup> provision for legislative appointments to an entity exercising executive power may be improper.

The bill provides for the Speaker of the House and the President of the Senate each to make 2 appointments directly to a financial emergency board. Because the bill expands the powers of emergency boards into areas constituting executive action, such direct appointments may conflict with the separation of powers doctrine.

#### B. RULE-MAKING AUTHORITY:

The financial emergency board must adopt rules necessary to perform its duties.

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

##### Temporary Control of Local Government Powers

At lines 274 – 280, the bill provides a “financial emergency board may assume operational and institutional control of the local governmental entity’s or district school board’s functions.” This provision may not fully take into account the differences in home rule authority between counties, school districts, municipalities, independent special districts, and dependent special districts, which may affect this temporary control of local government powers.

##### Authority of Local Governments

Counties<sup>19</sup> are political subdivisions of the state mandated by the Constitution. Charter counties have all power for local government not inconsistent with general law or special law adopted by a referendum of county voters.<sup>20</sup> Non-charter counties have all powers provided by general or special law.<sup>21</sup> Unless otherwise provided by charter, counties are governed by a board of county commissioners elected to staggered terms of four years.<sup>22</sup> Five other county officers are required by the Constitution.<sup>23</sup>

School districts also are required political subdivisions of the state.<sup>24</sup> The same section requires each district to have a school board of 5 or more members elected to terms of 4 years. School districts generally are operated, controlled, and supervised by the elected school board.<sup>25</sup>

Municipalities are created by special act of the Legislature in 66 counties.<sup>26</sup> The Constitution does not mandate the creation of municipalities but provides municipalities with all power and authority necessary to provide municipal services and operate municipal government.<sup>27</sup>

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,<sup>28</sup> special

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<sup>17</sup> Art. IV, s. 1(a), Fla. Const.

<sup>18</sup> Art. II, s. 3, Fla. Const. *See Chiles, supra.*

<sup>19</sup> Art. VIII, s. 1(a), Fla. Const.

<sup>20</sup> Art. VIII, s. 1(g), Fla. Const. *See also* ch. 125, F.S.

<sup>21</sup> Art. VIII, s. 1(f), Fla. Const.

<sup>22</sup> Art. VIII, s. 1(e), Fla. Const.

<sup>23</sup> The sheriff, tax collector, property appraiser, supervisor of elections, and clerk of the circuit court. Art. VIII, s. 1(d), Fla. Const. This section allows the manner of selecting the officer to be changed by charter or special law and permits abolishing one or all of the constitutional offices provided their respective powers are transferred to another office.

<sup>24</sup> Art. IX, s. 4(a), Fla. Const.

<sup>25</sup> Section 1001.32(2), F.S.

<sup>26</sup> Municipalities in Miami-Dade County are created by the Miami-Dade County Commission. *See* art. VIII, s. 6(e), Fla. Const., incorporating by reference art. VIII, s. 10, Fla. Const. (1885, as amended).

<sup>27</sup> Art. VIII, s. 2, Fla. Const.

act,<sup>29</sup> local ordinance,<sup>30</sup> or by rule of the Governor and Cabinet.<sup>31</sup> A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.<sup>32</sup>

A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of the governing body of a single county or municipality.<sup>33</sup> An "independent special district" is any district that is not a dependent special district.<sup>34</sup>

General law sets out the various powers, and constraints on power, for counties,<sup>35</sup> school districts,<sup>36</sup> municipalities,<sup>37</sup> independent special districts,<sup>38</sup> and dependent special districts.<sup>39</sup> While the bill would create a general law provision for financial emergency boards to assume temporary control of some functions of the local governmental entity, the type of government affected and the constitutional source of other authority may render difficult the exercise of such assumed control. For example, as political subdivisions of the state counties and school districts are not solely controlled by statute. In the event of a temporary assumption of local control of operations either of a county or school district, the statute does not directly remove the authority of the elected county commission or the elected school board as may be provided by the Constitution. For a municipality, the statute may need to expressly empower the financial emergency board to temporarily exercise the authority of the board of commissioners under general law or as provided by the Constitution.

### Suspension by Governor

The bill does not specify whether officials of a local governmental entity who fail to implement the recommendations of a financial emergency board are subject to suspension and removal from office. The Governor may suspend any county officer or district school board member for stated cause and fill the office by appointment for the period of the suspension.<sup>40</sup> A separate statute provides that a member of a district school board who votes to incur indebtedness against district funds in excess of appropriations in the district budget, or takes other action in violation of the statute, has committed malfeasance and misfeasance subjecting that member to removal by the Governor.<sup>41</sup> The Governor also may suspend any elected or appointed municipal officer for cause and, unless there is an

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<sup>28</sup> Section 189.031(3), F.S.

<sup>29</sup> *Id.*

<sup>30</sup> Section 189.02(1), F.S.

<sup>31</sup> Section 190.005(1), F.S. *See, generally,* s. 189.012(6), F.S.

<sup>32</sup> *2017 – 2018 Local Gov't Formation Manual*, p. 60, at

<http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911> (last accessed 3/24/2017).

<sup>33</sup> Section 189.012(2), F.S.

<sup>34</sup> Section 189.012(3), F.S.

<sup>35</sup> Ch. 125, F.S. *See also, e.g.,* ch. 129, F.S. (County Annual Budget), ch. 130, F.S. (County Bonds), ch. 145, F.S. (Compensation of County Officers), ch. 153, F.S. (Water and Sewer Systems), ch. 154, F.S. (Public Health Facilities), ch. 159, F.S. (Bond Financing), ch. 161, F.S. (Beach and Shore Preservation), ch. 162, F.S. (County and Municipal Code Enforcement).

<sup>36</sup> Ch. 1001, Part II, F.S.

<sup>37</sup> Ch. 166, F.S. *See also, e.g.,* ch. 171, F.S. (Local Government Boundaries), ch. 175, F.S. (Firefighter Pensions), ch. 180, F.S. (Municipal Public Works), ch. 185, F.S., (Municipal Police Pensions).

<sup>38</sup> Ch. 189, F.S. Other chapters deal with specific types of independent districts, including ch. 190, F.S. (community development districts), ch. 191, F.S. (fire control districts), and ch. 298, F.S. (water control districts).

<sup>39</sup> Ch. 189, F.S. Although most dependent districts are created and empowered under ch. 189, others may have additional statutory authority. *See e.g.,* ch. 163, Part III, F.S. (community redevelopment agencies).

<sup>40</sup> Art. IV, s. 7(a), Fla. Const. The causes listed in the Constitution are "malfeasance, misfeasance, neglect of duty, drunkenness, incompetence, permanent inability to perform official duties, or commission of a felony." For purposes of this constitutional provision district school board members are county officers. *In re Advisory Opinion to the Governor – Sch. Bd. Member – Suspension Auth.*, 626 So. 2d 684, 687 (Fla. 1993).

<sup>41</sup> Section 1011.10, F.S.

alternative method to replace the official, the Governor may fill the office by temporary appointment.<sup>42</sup>  
Members of special district governing boards also are subject to suspension by the Governor.<sup>43</sup>

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

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<sup>42</sup> Section 112.51(1), (3), F.S. The causes listed by the statute are “malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties.

<sup>43</sup> Section 112.511, F.S.

1                                   A bill to be entitled  
 2           An act relating to local financial emergencies;  
 3           amending s. 218.503, F.S.; expanding the entities that  
 4           have oversight over local governmental entities,  
 5           charter schools, charter technical career centers, and  
 6           district school boards under certain circumstances;  
 7           specifying the number of members to be on a financial  
 8           emergency board; specifying the entities who shall  
 9           appoint members to the board; providing qualifications  
 10          of members and chair of the board; revising the  
 11          information to which the board has access; authorizing  
 12          the board to hire or retain legal counsel; requiring  
 13          the adoption of rules to conduct board business;  
 14          requiring recommendations and reports to be submitted  
 15          to specified entities; authorizing the board to assume  
 16          operational and institutional control of a local  
 17          governmental entity's or district school board's  
 18          functions under certain circumstances; amending s.  
 19          218.504, F.S.; conforming provisions to changes made  
 20          in the act; providing an effective date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:  
 23

24           Section 1. Subsections (1), (2), and (3) of section  
 25   218.503, Florida Statutes, are amended, subsections (4), (5),

26 and (6) are renumbered as subsections (5), (6), and (7),  
 27 respectively, and a new subsection (4) is added to that section,  
 28 to read:

29 218.503 Determination of financial emergency.—

30 (1) Local governmental entities, charter schools, charter  
 31 technical career centers, and district school boards shall be  
 32 subject to review and oversight by the Governor, the Senate, the  
 33 House of Representatives, the Legislative Auditing Committee,  
 34 the charter school sponsor, the charter technical career center  
 35 sponsor, or the Commissioner of Education, as appropriate, when  
 36 any one of the following conditions occurs:

37 (a) Failure within the same fiscal year in which due to  
 38 pay short-term loans or failure to make bond debt service or  
 39 other long-term debt payments when due, as a result of a lack of  
 40 funds.

41 (b) Failure to pay uncontested claims from creditors  
 42 within 90 days after the claim is presented, as a result of a  
 43 lack of funds.

44 (c) Failure to transfer at the appropriate time, due to  
 45 lack of funds:

- 46 1. Taxes withheld on the income of employees; or
- 47 2. Employer and employee contributions for:
  - 48 a. Federal social security; or
  - 49 b. Any pension, retirement, or benefit plan of an
  - 50 employee.

51 (d) Failure for one pay period to pay, due to lack of  
 52 funds:  
 53 1. Wages and salaries owed to employees; or  
 54 2. Retirement benefits owed to former employees.  
 55 (2) A local governmental entity shall notify the Governor,  
 56 the President of the Senate, the Speaker of the House of  
 57 Representatives, and the Legislative Auditing Committee; a  
 58 charter school shall notify the charter school sponsor, the  
 59 Commissioner of Education, and the Legislative Auditing  
 60 Committee; a charter technical career center shall notify the  
 61 charter technical career center sponsor, the Commissioner of  
 62 Education, and the Legislative Auditing Committee; and a  
 63 district school board shall notify the Commissioner of Education  
 64 and the Legislative Auditing Committee, when one or more of the  
 65 conditions specified in subsection (1) have occurred or will  
 66 occur if action is not taken to assist the local governmental  
 67 entity, charter school, charter technical career center, or  
 68 district school board. In addition, any state agency must,  
 69 within 30 days after a determination that one or more of the  
 70 conditions specified in subsection (1) have occurred or will  
 71 occur if action is not taken to assist the local governmental  
 72 entity, charter school, charter technical career center, or  
 73 district school board, notify the Governor, charter school  
 74 sponsor, charter technical career center sponsor, or the  
 75 Commissioner of Education, as appropriate, and the President of

76 | the Senate, the Speaker of the House of Representatives, and the  
 77 | Legislative Auditing Committee.

78 |       (3) Upon notification that one or more of the conditions  
 79 | in subsection (1) have occurred or will occur if action is not  
 80 | taken to assist the local governmental entity or district school  
 81 | board, the Governor or his or her designee, in cooperation with  
 82 | the President of the Senate or his or her designee, the Speaker  
 83 | of the House of Representatives or his or her designee, and the  
 84 | Legislative Auditing Committee, shall contact the local  
 85 | governmental entity or the Commissioner of Education or his or  
 86 | her designee ~~shall contact the district school board~~ to  
 87 | determine what actions have been taken by the local governmental  
 88 | entity or the district school board to resolve or prevent the  
 89 | condition. The information requested must be provided within 45  
 90 | days after the date of the request. If the local governmental  
 91 | entity or the district school board does not comply with the  
 92 | request, the Governor or his or her designee or the Commissioner  
 93 | of Education or his or her designee shall notify the members of  
 94 | the Legislative Auditing Committee who may take action pursuant  
 95 | to s. 11.40. The Governor or the Commissioner of Education, as  
 96 | appropriate, shall determine whether the local governmental  
 97 | entity or the district school board needs state assistance to  
 98 | resolve or prevent the condition into the future. If state  
 99 | assistance is needed, the local governmental entity or district  
 100 | school board is considered to be in a state of financial

101 emergency. The Governor or the Commissioner of Education, as  
 102 appropriate, may ~~has the authority to~~ implement measures as set  
 103 forth in ss. 218.50-218.504 to assist the local governmental  
 104 entity or district school board in resolving the financial  
 105 emergency. Such measures may include, but are not limited to:

106 (a) Requiring approval of the local governmental entity's  
 107 budget by the Governor or approval of the district school  
 108 board's budget by the Commissioner of Education.

109 (b) Authorizing a state loan to a local governmental  
 110 entity and providing for repayment of same.

111 (c) Prohibiting a local governmental entity or district  
 112 school board from issuing bonds, notes, certificates of  
 113 indebtedness, or any other form of debt until such time as it is  
 114 no longer subject to this section.

115 (d) Making such inspections and reviews of records,  
 116 information, reports, and assets of the local governmental  
 117 entity or district school board as are needed. The appropriate  
 118 local officials shall cooperate in such inspections and reviews.

119 (e) Consulting with officials and auditors of the local  
 120 governmental entity or the district school board and the  
 121 appropriate state officials regarding any steps necessary to  
 122 bring the books of account, accounting systems, financial  
 123 procedures, and reports into compliance with state requirements.

124 (f) Providing technical assistance to the local  
 125 governmental entity or the district school board.



126            (g)~~1.~~ Establishing and empowering a financial emergency  
 127 board to oversee the activities of the local governmental entity  
 128 or the district school board as set forth in subsection (4). ~~If~~  
 129 ~~a financial emergency board is established for a local~~  
 130 ~~governmental entity, the Governor shall appoint board members~~  
 131 ~~and select a chair. If a financial emergency board is~~  
 132 ~~established for a district school board, the State Board of~~  
 133 ~~Education shall appoint board members and select a chair. The~~  
 134 ~~financial emergency board shall adopt such rules as are~~  
 135 ~~necessary for conducting board business. The board may:~~  
 136            a. ~~Make such reviews of records, reports, and assets of~~  
 137 ~~the local governmental entity or the district school board as~~  
 138 ~~are needed.~~  
 139            b. ~~Consult with officials and auditors of the local~~  
 140 ~~governmental entity or the district school board and the~~  
 141 ~~appropriate state officials regarding any steps necessary to~~  
 142 ~~bring the books of account, accounting systems, financial~~  
 143 ~~procedures, and reports of the local governmental entity or the~~  
 144 ~~district school board into compliance with state requirements.~~  
 145            c. ~~Review the operations, management, efficiency,~~  
 146 ~~productivity, and financing of functions and operations of the~~  
 147 ~~local governmental entity or the district school board.~~  
 148            d. ~~Consult with other governmental entities for the~~  
 149 ~~consolidation of all administrative direction and support~~  
 150 ~~services, including, but not limited to, services for asset~~

151 ~~sales, economic and community development, building inspections,~~  
 152 ~~parks and recreation, facilities management, engineering and~~  
 153 ~~construction, insurance coverage, risk management, planning and~~  
 154 ~~zoning, information systems, fleet management, and purchasing.~~

155 ~~2. The recommendations and reports made by the financial~~  
 156 ~~emergency board must be submitted to the Governor for local~~  
 157 ~~governmental entities or to the Commissioner of Education and~~  
 158 ~~the State Board of Education for district school boards for~~  
 159 ~~appropriate action.~~

160 (h) Requiring and approving a plan, to be prepared by  
 161 officials of the local governmental entity or the district  
 162 school board in consultation with the appropriate state  
 163 officials, prescribing actions that will cause the local  
 164 governmental entity or district school board to no longer be  
 165 subject to this section. The plan must include, but need not be  
 166 limited to:

167 1. Provision for payment in full of obligations outlined  
 168 in subsection (1), designated as priority items, which are  
 169 currently due or will come due.

170 2. Establishment of priority budgeting or zero-based  
 171 budgeting in order to eliminate items that are not affordable.

172 3. The prohibition of a level of operations which can be  
 173 sustained only with nonrecurring revenues.

174 4. Provisions implementing the consolidation, sourcing, or  
 175 discontinuance of all administrative direction and support

176 services, including, but not limited to, services for asset  
 177 sales, economic and community development, building inspections,  
 178 parks and recreation, facilities management, engineering and  
 179 construction, insurance coverage, risk management, planning and  
 180 zoning, information systems, fleet management, and purchasing.

181 (4) (a) Any financial board established must consist of an  
 182 odd number of members comprised of at least 7 but not more than  
 183 13 members.

184 1. If a financial emergency board is established for a  
 185 local governmental entity, the President of the Senate and the  
 186 Speaker of the House of Representatives shall each appoint two  
 187 of the members to the board. The Governor shall appoint the  
 188 remainder of the board members and shall designate the chair of  
 189 the board.

190 2. If a financial emergency board is established for a  
 191 district school board, the President of the Senate and the  
 192 Speaker of the House of Representatives shall each appoint two  
 193 of the members to the board. The State Board of Education shall  
 194 appoint the remainder of the board members and shall designate  
 195 the chair of the board.

196 (b) Appointees to a financial emergency board should  
 197 collectively possess the knowledge, skills, and competencies  
 198 needed to perform their individual responsibilities and  
 199 accomplish the mission of the financial emergency board,  
 200 including, but not limited to, internal quality control,

201 finance, business administration, and public works. The chair of  
 202 the financial emergency board must have experience in at least  
 203 one of the following positions or areas:

- 204 1. Inspector general.
- 205 2. Supervisory experience in an office of inspector  
 206 general or an investigative public agency similar to an office  
 207 of inspector general.
- 208 3. Local, state, or federal law enforcement officer.
- 209 4. Local, state, or federal court judge.
- 210 5. Senior-level auditor or comptroller.
- 211 6. The administration and management of complex audits and  
 212 investigations.
- 213 7. Managing programs for prevention, examination,  
 214 detection, elimination of fraud, waste, abuse, mismanagement,  
 215 malfeasance, or misconduct in government or other organizations.
- 216 8. Certified fraud examiner.

217 (c) The financial emergency board shall have access to  
 218 records, data, and other information of the local governmental  
 219 entity or the district school board that the board deems  
 220 necessary to carry out its duties and shall be given the  
 221 technical and financial resources necessary to complete those  
 222 duties. The financial emergency board shall adopt such rules as  
 223 are necessary for conducting board business. The board may:

- 224 1. Hire or retain legal counsel.
- 225 2. Obtain external advice and assistance if the financial

226 emergency board or the staff of the entity under review lacks  
 227 the knowledge, skills, or other competencies needed to perform  
 228 all or part of the duties necessary to resolve the financial  
 229 emergency conditions.

230 3. Request and obtain assistance from any federal agency,  
 231 state agency, or local entity.

232 4. Issue and serve subpoenas or subpoenas duces tecum to  
 233 compel the attendance of witnesses and the production of  
 234 documents, reports, answers, records, accounts, and data in any  
 235 format. In the event of noncompliance with a subpoena issued  
 236 pursuant to this subparagraph, the chair of the financial  
 237 emergency board may petition the circuit court of the county for  
 238 an order requiring the subpoenaed person to appear and testify  
 239 and to produce documents.

240 5. Require a person to file a statement in writing, under  
 241 oath, as to all the facts and circumstances concerning the  
 242 matter to be audited, examined, or investigated.

243 6. Make such reviews of records, reports, and assets of  
 244 the local governmental entity or the district school board as  
 245 are needed.

246 7. Consult with officials and auditors of the local  
 247 governmental entity or the district school board and the  
 248 appropriate state officials regarding any steps necessary to  
 249 bring the books of account, accounting systems, financial  
 250 procedures, and reports of the local governmental entity or the

251 district school board into compliance with state requirements.

252 8. Review the operations, management, efficiency,  
 253 productivity, and financing of functions and operations of the  
 254 local governmental entity or the district school board.

255 9. Consult with other governmental entities for the  
 256 consolidation of all administrative direction and support  
 257 services, including, but not limited to, services for asset  
 258 sales, economic and community development, building inspections,  
 259 parks and recreation, facilities management, engineering and  
 260 construction, insurance coverage, risk management, planning and  
 261 zoning, information systems, fleet management, and purchasing.

262 (d)1. Each recommendation and report made by the financial  
 263 emergency board addressing a local entity must be submitted to  
 264 the Governor, the President of the Senate, the Speaker of the  
 265 House of Representatives, the Legislative Auditing Committee,  
 266 and the local governmental entity under review.

267 2. Each recommendation and report made by the financial  
 268 emergency board addressing a district school board must be  
 269 submitted to the Governor, the President of the Senate, the  
 270 Speaker of the House of Representatives, the Legislative  
 271 Auditing Committee, the district school board under review, the  
 272 Commissioner of Education, and the State Board of Education for  
 273 appropriate action.

274 (e) If a local governmental entity or the district school  
 275 board, as appropriate, fails to remedy or take action on

276 recommendations made in any report submitted under paragraph (d)  
 277 within 60 days after receiving the recommendations, the  
 278 financial emergency board may assume operational and  
 279 institutional control of the local governmental entity's or  
 280 district school board's functions.

281 Section 2. Paragraph (b) of subsection (1) and subsection  
 282 (2) of section 218.504, Florida Statutes, is amended to read:

283 218.504 Cessation of state action.—The Governor or the  
 284 Commissioner of Education, as appropriate, has the authority to  
 285 terminate all state actions pursuant to ss. 218.50–218.504.

286 Cessation of state action must not occur until the Governor or  
 287 the Commissioner of Education, as appropriate, has determined  
 288 that:

289 (1) The local governmental entity, charter school, charter  
 290 technical career center, or district school board:

291 (b) Has resolved the conditions outlined in s. 218.503(1)  
 292 or (4) s. ~~218.503(1)~~.

293 (2) None of the conditions outlined in ss. 218.503(1) or  
 294 (4) s. ~~218.503(1)~~ exists.

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



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 Raulerson offered the following:

**Amendment (with title amendment)**

Remove line 186 and insert:

7 Speaker of the House of Representatives shall each nominate five  
 8 individuals as candidates for appointment to the board. The  
 9 Governor shall choose two candidates from each list and appoint  
 10 them as four

Remove lines 191-193 and insert:

12 District school board, the President of the Senate, the Speaker  
 13 of the House of Representatives, and the State Board of  
 14 Education shall each nominate five individuals as candidates for  
 15 appointment to the board. The Governor shall choose two  
 16 candidates from each list and appoint them as six





Amendment No. 1

17 Remove lines 277-280 and insert:  
18 within 60 days after receiving the recommendations, any member  
19 of the governing body of the local governmental entity or the  
20 district school board, as appropriate, who failed to vote  
21 affirmatively to remedy or take action on the recommendations  
22 commits malfeasance and misfeasance in office and shall be  
23 subject to suspension from office by the Governor.  
24

25 -----

26 T I T L E A M E N D M E N T


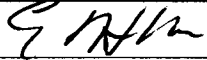
27 Remove lines 8-9 and insert:  
28 emergency board; specifying the manner of appointing members to  
29 the board; providing qualifications

30 Remove lines 15-18 and insert:  
31 to specified entities; declaring those members of the governing  
32 board of a local governmental entity or district school board  
33 failing to vote affirmatively to take certain action commit  
34 malfeasance and misfeasance in office subjecting them to  
35 suspension by the Governor; amending s.



HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 1291 City of Jacksonville, Duval County  
**SPONSOR(S):** Davis  
**TIED BILLS:** IDEN./SIM. BILLS:

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

**SUMMARY ANALYSIS**

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

The bill would create an exception to general law permitting businesses located inside of or contiguous to the A. Philip Randolph Entertainment District that are licensed to sell alcoholic beverages to patrons for consumption on the licensed premises to sell beverages to patrons for consumption off of the licensed premises during a special event. The bill defines the A. Philip Randolph Entertainment District and a special event by references to the City of Jacksonville Ordinance Code.

The bill shall take effect upon becoming a law.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Beverage Law

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

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

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

The sale and consumption of alcoholic beverages generally must occur inside the licensed premises.<sup>3</sup> DBPR may approve a temporary expansion of the licensed premises to include a sidewalk or other outdoor area for special events.<sup>4</sup> The business must pay an application fee of \$100, stipulate the timeframe for the special event, and submit a sketch outlining the expanded premises, and submit written approval from the county or municipality.

##### Effect of Proposed Changes

The bill would create an exception to general law permitting businesses located inside of or contiguous to the A. Philip Randolph Entertainment District that are licensed to sell alcoholic beverages to patrons for consumption on the licensed premises to sell beverages to patrons for consumption off of the licensed premises during a special event. The bill defines the A. Philip Randolph Entertainment District and a special event by references to the City of Jacksonville Ordinance Code.

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

#### B. SECTION DIRECTORY:

Section 1: Creates an exception to general law, allowing businesses in the A. Philip Randolph Entertainment District authorized to sell alcoholic beverages for consumption on the

---

<sup>1</sup> Section 561.20(1), F.S.

<sup>2</sup> Section 565.02, F.S.

<sup>3</sup> See s. 561.01(11), F.S. (defining "licensed premises" and requiring written approval from the county or municipality to include a sidewalk or any other outside area as part of the licensed premise).

<sup>4</sup> Section 561.01(11), F.S.

licensed premises to sell alcoholic beverages for consumption off of the licensed premises during certain events.

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? February 2, 2017

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

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

The definition of the area and the period during which the exemption may apply both incorporate by reference separate ordinances of the City of Jacksonville. This appears to give complete authority to the City to define both the area and the period of exemption. This may violate the doctrine of nondelegation.<sup>5</sup>

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides an exception to "any provision of general law to the contrary."

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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<sup>5</sup> See art. II, s. 3, Fla. Const. (providing for branches of government and stating "no person belonging to one branch shall exercise any powers appertaining to either of the other branches."). See also *Askew v. Cross Key Waterways*, 372 So. 2d 913, 925 (Fla. 1978) ("Under [the doctrine of nondelegation] fundamental and primary policy decisions shall be made by members of the legislature who are elected to perform those tasks, and administration of legislative programs must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.").

# Daily Record

## PROOF OF PUBLICATION

(Published Daily Except Saturday and Sunday)

Jacksonville, Duval County, Florida

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

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

Notice of Intention to Seek Local Legislation

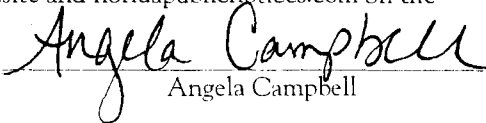
in the matter of A bill to be entitled

in the \_\_\_\_\_ Court, of Duval County, Florida, was published

in said newspaper in the issues of February 2, 2017

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

\*This notice was placed on the newspaper's website and floridapublicnotices.com on the same day the notice appeared in the newspaper.

  
Angela Campbell

Sworn to and subscribed before me this day of February 2, 2017

JANET MOHR  
Notary Public, State of Florida  
My Comm. Expires 12/18/2020  
Commission No. GG55826

  
Notary Signature

Janet Mohr  
Notary Public  
GG55826

seal

Angela Campbell personally known to me

**NOTICE OF INTENTION TO SEEK LOCAL LEGISLATION TO WHOM IT MAY CONCERN:**  
NOTICE IS HEREBY GIVEN of intent that the undersigned will apply to the next Session of the Legislature of the State of Florida for the introduction of a local bill

A bill to be entitled  
An act relating to the City of Jacksonville, Duval County; providing exceptions to general law; providing that a business licensed to sell alcoholic beverages for consumption on premises may sell such beverages for consumption off the premises during certain events when such business is located within or contiguous to a certain district; providing definitions; providing an effective date.  
Feb. 2 00 (17-0863)

HOUSE OF REPRESENTATIVES

2017 - 2018 LOCAL BILL CERTIFICATION FORM

BILL #: J-3 - HB 1291
SPONSOR(S): Representative Tracie Davis
RELATING TO: Duval County- Consumption off the premises of licensed businesses during certain events when such business is located within or contiguous to a certain district
NAME OF DELEGATION: Duval Delegation
CONTACT PERSON: Lenae Voellmecke
PHONE NO.: (904) 630-1680 E-Mail: lvoellmecke@coj.net

- I. House local bill policy requires the following steps must occur before a committee or subcommittee of the House considers a local bill:
(1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level;
(2) The legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and
(3) The bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting.
(4) An Economic Impact Statement for local bills must be prepared at the local level and submitted to the Local, Federal & Veterans Affairs Subcommittee. Under House policy, no local bill will be considered by a committee or subcommittee without an Economic Impact Statement.

(1) Does the delegation certify the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?
YES [checked] NO [ ]

Brief Explanation as to why the purpose of the bill cannot be accomplished at the local level: Only the Legislature can amend state laws regulating the licensure of facilities for the sale and service of alcoholic beverages.

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

YES [checked] NO [ ]

Date hearing held: January 31, 2017

Location: Jacksonville City Hall, 117 West Duval St., Jacksonville, FL 32202

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

YES [checked] NO [ ] UNANIMOUSLY APPROVED [ ]

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

YES [checked] NO [ ]

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or

the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE February 2, 2017

Where? Daily Record County Duval

Referendum in lieu of publication: YES  NO

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

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

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

YES  NO

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

YES  NO

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

YES  NO

Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee.

  
\_\_\_\_\_  
Delegation Chair (Original Signature)

1-31-17  
\_\_\_\_\_  
Date

JAY FAUT  
\_\_\_\_\_  
Printed Name of Delegation Chair



**HOUSE OF REPRESENTATIVES**  
**2017 ECONOMIC IMPACT STATEMENT FORM**

*\*Read all instructions carefully.\**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared by an individual who is qualified to establish fiscal data and impacts and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local, Federal & Veterans Affairs Subcommittee as soon as possible after a bill is filed. Additional pages may be attached as necessary.*

**BILL #:** J-3 - HB 1291  
**SPONSOR(S):** Representative Tracie Davis (District 13)  
**RELATING TO:** City of Jacksonville's A. Philip Randolph Entertainment District  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. REVENUES:**

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

	<u>FY 17-18</u>	<u>FY 18-19</u>
Revenue decrease due to bill:	\$ <u>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>positive</u>	\$ <u>positive</u>

**II. COST:**

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

Expenditures for Implementation, Administration and Enforcement:

	<u>FY 17-18</u>	<u>FY 18-19</u>
	\$ <u>0</u>	\$ <u>0</u>

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

The legislation would amend a statutory definition. The result would be (i) reduced enforcement costs for DABT, and (ii) increased sales tax and licensing revenues from licensed facilities within or contiguous to the City of Jacksonville's A. Philip Randolph Entertainment District.

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

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

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

	<u>FY 17-18</u>	<u>FY 18-19</u>
Local:	\$ <u>N/A</u>	\$ <u>N/A</u>
State:	\$ <u>N/A</u>	\$ <u>N/A</u>
Federal:	\$ <u>N/A</u>	\$ <u>N/A</u>

**IV. ECONOMIC IMPACT:**

**Potential Advantages:**

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

Include specific figures for anticipated job growth.

**1. Advantages to Individuals:**

Individuals within the A. Philip Randolph Entertainment District will benefit from the enhanced entertainment options facilitated by the passage of the legislation.

**2. Advantages to Businesses:**

Licensed facilities within or contiguous to the Entertainment District will have enhanced revenue opportunities. Passage of the legislation will also create a more favorable environment for small business formation within and contiguous to the Entertainment District.

**3. Advantages to Government:**

The reallocation of scarce DABT enforcement resources to other needs; increased sales tax revenue; an enhanced environment for small business formation; the alignment of a state regulatory scheme with the local government public policy preference for the Entertainment District.

**Potential Disadvantages:**

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

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

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

**1. Disadvantages to Individuals:**

None

2. Disadvantages to Businesses:

None

3. Disadvantages to Government:

None

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

The scarce enforcement resources of DABT could be more productively allocated to other enforcement needs.

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

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

Since the legislation would simply amend a statutory definition to clarify that existing practices are permitted with the result that regulatory enforcement resources could be reallocated elsewhere, the estimates are based on common sense assumptions.

**VII. CERTIFICATION BY PREPARER**

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

PREPARED BY:

  
[Must be signed by Preparer]

Print preparer's name:

Wyman R. Duggan

1/31/17

Date

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

Attorney

REPRESENTING:

Intuition Ale Works

PHONE:

904-398-3911

E-MAIL ADDRESS:

wduggan@rtlaw.com

**HOUSE OF REPRESENTATIVES**  
**2017 – 2018 LOCAL BILL AMENDMENT FORM**

*Prior to consideration of a substantive amendment to a local bill, the chair of the legislative delegation must certify, by signing this Amendment Form, that the amendment is approved by a majority of the legislative delegation. House local bill policy does not require a delegation meeting to formally approve an amendment. All substantive committee, subcommittee, and floor amendments must be accompanied by a completed original Amendment Form which has been provided to and reviewed by Local, Federal & Veterans Affairs Subcommittee staff prior to consideration. An Amendment Form is not required for technical amendments.*

**BILL NUMBER:** 1291

**SPONSOR(S):** Representative Davis

**RELATING TO:** A. Philip Randolph Entertainment District  
[Indicate Area Affected (City, County or Special District) and Subject]

**SPONSOR OF AMENDMENT:** \_\_\_\_\_

**AMENDMENT FOR:**  **Committee:** Local, Federal & Veterans Affairs  
(Check One) (Name of Committee or Subcommittee)

**Floor**

**CONTACT PERSON:** Earl Jones

**PHONE NO:** (850) 717-5013 **E-MAIL:** earl.jones@myfloridahouse.gov

**Reviewed by staff of the Local, Federal & Veterans Affairs Subcommittee**  **[X]**  
\*Must Be Checked\*

**I. BRIEF DESCRIPTION OF AMENDMENT:**

(Attach additional page(s) if necessary)

*Clarifies district boundaries and provides list of special events*

**II. REASON/NEED FOR AMENDMENT:**

(Attach additional page(s) if necessary)

*To remove references to municipal ordinances*

**III. NOTICE REQUIREMENTS**

A. Is the amendment consistent with the published notice of intent to seek enactment of the local bill?

YES  NO  NOT APPLICABLE

B. If the amendment is not consistent with the published notice, was a revised notice published in the area affected by the bill at least 30 days prior to the bill being amended?

YES  NO  NOT APPLICABLE

C. If the amendment is not consistent with the published notice, does the amendment require voter approval in order for the bill to become effective?

YES  NO  NOT APPLICABLE

**IV. DOES THE AMENDMENT ALTER THE ECONOMIC IMPACT OF THE BILL?**

YES  NO

**NOTE:** If the amendment alters the economic impact of the bill, a revised Economic Impact Statement describing the impact of the amendment must be submitted to the Local, Federal and Veterans Affairs Subcommittee prior to consideration of the amendment.

**If yes, was the Revised Economic Impact Statement submitted as follows?**

**Committee Amendment:** EIS filed with staff of committee/subcommittee hearing the bill.

**Floor Amendment:** EIS filed with staff of Local, Federal and Veterans Affairs Subcommittee.

YES  NO

**V. HAS THE AMENDMENT AS DESCRIBED ABOVE BEEN APPROVED BY A MAJORITY OF THE DELEGATION?**

YES  NO  UNANIMOUSLY APPROVED

For substantive amendments considered in committee or subcommittee, the properly-executed original of this form must be filed with the committee or subcommittee staff prior to the amendment being heard.

[Note to committee staff: after receiving this form the original must be filed with the House Clerk.]

For substantive floor amendments, the properly-executed original of this form must be filed with the House Clerk prior to the amendment being heard.

  
\_\_\_\_\_  
Delegation Chair (Original Signature)  
  
\_\_\_\_\_  
Print Name of Delegation Chair

March 27, 2017  
\_\_\_\_\_  
Date

1                   A bill to be entitled  
 2           An act relating to the City of Jacksonville, Duval  
 3           County; providing exceptions to general law; providing  
 4           that a business licensed to sell alcoholic beverages  
 5           for consumption on premises may sell such beverages  
 6           for consumption off premises during certain events  
 7           when such business is located within or contiguous to  
 8           a certain district; providing definitions; providing  
 9           an effective date.

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

Section 1. (1) Notwithstanding any provision of general law to the contrary, a business located inside of or contiguous to the A. Philip Randolph Entertainment District which is licensed to sell alcoholic beverages to patrons for consumption on the licensed premises may sell such beverages to patrons for consumption off the licensed premises during a special event.

(2) As used in this act:

(a) "A. Philip Randolph Entertainment District" means the area defined in section 191.201 of the City of Jacksonville Ordinance Code, as amended.

(b) "Special event" means a special event as defined in section 191.202 of the City of Jacksonville Ordinance Code, as amended.

HB 1291

2017

26

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





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 Davis offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

7 Section 1. (1) Notwithstanding s. 561.01(11), Florida  
 8 Statutes, a business located inside of the Stadium District  
 9 which is licensed to sell alcoholic beverages to patrons for  
 10 consumption on the licensed premises may sell such beverages to  
 11 patrons for consumption off the licensed premises but still  
 12 within the Stadium District during a special event. A business  
 13 selling such beverages to patrons for consumption off the  
 14 licensed premises shall pay a \$100 application fee to the  
 15 Department of Business and Professional Regulation in the manner  
 16 required for a temporary expansion of the licensed premises



Amendment No. 1

17 under s. 561.01(11), Florida Statutes, however, the business  
18 shall only be liable for the payment of one application fee per  
19 calendar year.

20 (2) Unless otherwise specified in this act, the  
21 Jacksonville City Council by resolution shall specify no more  
22 than a 3 day period for each special event in subsection (3)(a),  
23 beginning no earlier than 12:00 noon on the first day of the  
24 special event and ending no later than 12:00 midnight on the  
25 third day of the special event.

26 (3) As used in this act:

27 (a) "Special event" means:

28 1. Ticketed events held at the Baseball Grounds of  
29 Jacksonville.

30 2. Ticketed events held at EverBank Field.

31 3. Ticketed events held at the Amphitheater and Covered  
32 Flex Field.

33 4. Ticketed events held at the Jacksonville Veterans  
34 Memorial Arena.

35 5. Ticketed events held at the Jacksonville Fairgrounds.

36 6. New Year's Eve events held within the Stadium District.

37 7. Gate River Run events held within the Stadium District.

38 8. No more than 10 additional events annually declared as  
39 special events by the Jacksonville City Council by resolution.

40 (b) "Stadium District" means the area described as:



Amendment No. 1

41 Beginning at the conjunction of the southerly right-of-way line  
 42 of Gator Bowl Boulevard/Bay Street and the southerly terminus of  
 43 A. Phillip Randolph Boulevard; thence run westerly along the  
 44 southerly right-of-way line of Bay Street to the centerline of  
 45 Hogan's Creek; thence northerly along the centerline of Hogan's  
 46 Creek to the northerly right-of-way line of Jacksonville  
 47 Expressway; thence easterly along the northerly right-of-way  
 48 line of the Jacksonville Expressway to the centerline of Martin  
 49 Luther King Boulevard; thence southerly along the centerline of  
 50 Martin Luther King Boulevard to the centerline of Church Street;  
 51 thence easterly along the centerline of Church Street to the  
 52 centerline of the Hart Bridge ramps; thence southerly along the  
 53 centerline of the Hart Bridge ramps to the centerline of Parker  
 54 Street; thence southerly along the centerline of Parker Street  
 55 and the centerline of Adams Street; thence westerly along the  
 56 centerline of Adams Street and the centerline of Gator Bowl  
 57 Boulevard; thence westerly along the southerly right-of-way line  
 58 of Gator Bowl Boulevard to the point of beginning.

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

60

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62

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

63

Remove everything before the enacting clause and insert:

64

An act relating to the City of Jacksonville, Duval County;

65

providing exceptions to general law; providing that a business



Amendment No. 1

66 licensed to sell alcoholic beverages for consumption on premises  
67 may sell such beverages for consumption off premises during  
68 certain events when such business is located within a certain  
69 district; providing definitions; providing an effective date.