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# **Community & Military Affairs Subcommittee**

**Tuesday, March 8, 2011  
8:00 AM - 10:00 AM  
Webster Hall (212 Knott)**

**Dean Cannon  
Speaker**

**Ritch Workman  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Community & Military Affairs Subcommittee

**Start Date and Time:** Tuesday, March 08, 2011 08:00 am  
**End Date and Time:** Tuesday, March 08, 2011 10:00 am  
**Location:** Webster Hall (212 Knott)  
**Duration:** 2.00 hrs

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

HB 95 State Parks by Bembry  
HB 529 Lee County Sheriff's Office by Caldwell  
HB 555 Indian River Mosquito Control District, Indian River County by Mayfield  
HB 639 Affordable Housing by Aubuchon  
HB 699 Southeast Volusia Hospital District, Volusia County by Taylor  
HB 4145 Formation of Local Governments by Porter

#### Workshop on the following:

Growth Management Reform Concepts

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Monday, March 7, 2011.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, March 7, 2011.

**NOTICE FINALIZED on 03/04/2011 16:13 by Manning.Karen**



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 95 State Parks  
SPONSOR(S): Bemby  
TIED BILLS: None IDEN./SIM. BILLS: SB 236

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Cunningham	Blalock
2) Community & Military Affairs Subcommittee		Tait <i>mt</i>	Hoagland <i>mt</i>
3) State Affairs Committee			

SUMMARY ANALYSIS

The Division of Recreation and Parks (division) within the Department of Environmental Protection oversees Florida's 160 state parks. Currently, active duty members and honorably discharged veterans of the United States Armed Forces (armed forces), National Guard, or reserve components receive a twenty-five percent discount on annual entrance passes to Florida's state parks. Veterans with service-connected disabilities receive free for life family annual entrance passes. Surviving spouses of deceased members of the armed forces, National Guard, or reserve components who have fallen in combat also receive free for life family annual entrance passes. Eligibility for these discounts is verified by the presentation of written documentation to the division.

The bill provides for parents of deceased members of the armed forces, National Guard, or reserve components who have fallen in combat to receive free lifetime annual entrance passes to Florida's state parks. Eligibility for these passes is verified by the presentation of written documentation to the division.

The bill will result in an indeterminate reduction in state park revenue. However, the division believes that the publicity and goodwill earned by this bill may lead to increased visitation to the parks, which may offset the loss of revenues.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

The Division of Recreation and Parks (division) within the Department of Environmental Protection (department) oversees Florida's 160 state parks. The division has statutory authority to charge reasonable fees for the use or operation of facilities and concessions in the state parks.<sup>1</sup> The monies collected from these fees are deposited into the State Park Trust Fund. The trust fund monies are to be used for the administration, improvement and maintenance of the state parks, as well as any acquisition of lands for state park purposes.

The division offers two types of annual passes: the individual annual entrance pass for \$60 and the family annual entrance pass for \$120. The family annual entrance pass allows up to eight people in a group admittance to most state parks.<sup>2</sup> According to the department, annual entrance pass sales accounted for \$1,758,157.95 in revenues during Fiscal Year 2009-10.<sup>3</sup>

Active duty members and honorably discharged veterans of the United States Armed Forces (armed forces), National Guard, or reserve components receive a twenty-five percent discount on annual entrance passes to Florida's state parks. Veterans with service-connected disabilities receive free for life family annual entrance passes. Surviving spouses of members of the armed forces, National Guard, or reserve components who have fallen in combat also receive free for life annual entrance passes.

The division offers active-duty Florida National Guard members, their spouses and minor children a fifty percent discount on the daily admission fee. In addition, the division offers a fifty percent discount on the daily admission fees for Florida residents participating in the Food Stamp program and a fifty percent discount on the base camping fees for Florida residents who are 65 years and older or are 100% disabled.

The division prescribes what constitutes satisfactory written documentation to prove eligibility for discounts.<sup>4</sup>

Satisfactory written documentation to prove eligibility for the 25% discount on Annual Entrance Passes for active duty and honorably discharged veterans of the armed forces, National Guard, or reserve units includes:

- Current military identification card showing the bearer as active duty, reserve, or retired member of a branch of the US Armed Forces, or
- Personal identification (i.e.: driver license, etc.) and
- Most recent DD Form 214, Certificate of Release or Discharge from Active Duty, showing the named individual's Character of Service as Honorable, or
- Other current official documentation from the Department of Defense, Department of Homeland Security, Department of Veterans Affairs or an appropriate branch of one of those agencies, naming the bearer as active duty, reserve, veteran, or retired member of the US Armed Forces.

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<sup>1</sup> Section 258.014(1), F.S.

<sup>2</sup> The two exceptions are Homosassa Springs and Weeki Wachee Springs, which limit admittance to two people per family annual entrance pass.

<sup>3</sup> Information on file with the House Community and Military Affairs Subcommittee.

<sup>4</sup> <http://www.floridastateparks.org/thingstoknow/annualpass.cfm>, last accessed March 1, 2011.

Satisfactory written documentation to prove eligibility the Free for Life Family Annual Entrance Passes for honorably discharged U.S. veterans who have service-connected disabilities includes:

- Personal identification (i.e.: driver license) and
- Most recent DD Form 214, Certificate of Release or Discharge from Active Duty, showing the named individual's Character of Service as Honorable, or
- Other current official documentation from the Department of Defense, or one of those agencies, naming the bearer as veteran or retired military, and
- Current official documentation from the Department of Defense, Department of Homeland Security, Department of Veterans Affairs or an appropriate branch of one of the those agencies, naming the bearer as having sustained a service-related disability.

Satisfactory documentation to prove eligibility for Free for Life Family Annual Entrance Passes for surviving spouses of deceased members of the armed forces, National Guard, or reserve units who have fallen in combat includes:

- Personal identification (i.e.: driver license) and
- The final DD Form 214, Certificate of Release or Discharge from Active Duty, showing the date of death as the same date as the date of separation, and
- Marriage certificate or license, or death certificate showing the bearer as the spouse of the military member who has fallen in combat.

### **Effect of Proposed Changes**

The bill provides for parents of deceased members of the armed forces, National Guard, and reserve components who have fallen in combat to receive free lifetime annual entrance passes.

Required documentation to prove eligibility will include:

- Personal identification (i.e.: driver license) and
- Proof of parenthood, showing the bearer as the parent of the military member who has fallen in combat, and
- The final DD Form 214, Certificate of Release or Discharge from Active Duty, showing the date of death as the same date as the date of separation, or
- The DD Form 1300, Report of Casualty.

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

**Section 1:** Amends s. 258.0145, F.S., to include parents of veterans who fell in combat.

**Section 2:** Provides an effective date of July 1, 2011.

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

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

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

This bill appears to have an indeterminate fiscal impact on state government revenues. (See "Fiscal Comments" section below.)

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

None.

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

1. Revenues:  
See "Fiscal Comments" section below.

2. Expenditures:  
None.

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

Parents of deceased members of the armed forces, National Guard, or reserve components who have fallen in combat will benefit from the legislation.

**D. FISCAL COMMENTS:**

The division states that there will be a potential indeterminate reduction in state park revenue. However, according to the division, the publicity and goodwill earned by the state is expected result in increased visitation, which should offset any loss of revenues.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This legislation does not appear to affect county or municipal government.

2. Other:  
None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                   A bill to be entitled  
 2           An act relating to state parks; amending s. 258.0145,  
 3           F.S.; providing for the parents of certain deceased  
 4           veterans to receive lifetime annual entrance passes to  
 5           state parks at no charge; providing an effective date.

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

8  
 9           Section 1. Subsection (3) of section 258.0145, Florida  
 10   Statutes, is amended to read:

11           258.0145 Military state park fee discounts.—The Division  
 12   of Recreation and Parks shall provide the following discounts on  
 13   park fees to persons who present written documentation  
 14   satisfactory to the division which evidences their eligibility  
 15   for the discounts:

16           (3) Surviving spouses and parents of deceased members of  
 17   the United States Armed Forces, National Guard, or reserve  
 18   components thereof who have fallen in combat shall receive  
 19   lifetime family annual entrance passes at no charge.

20           Section 2. This act shall take effect July 1, 2011.



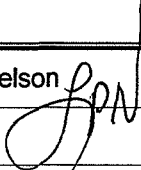
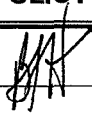


HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 529 Lee County Sheriff's Office

SPONSOR(S): Caldwell

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Nelson 	Hoagland 
2) State Affairs Committee			

SUMMARY ANALYSIS

The Florida Legislature established the civil service system for the Lee County Sheriff's Office by special act in 1974. This act provides for a civil service board, qualifications and standards for employment, and employee benefits.

In 2010, the act was amended to limit retirement health insurance premium subsidies to those employees who commenced employment on or after October 1, 1986, and prior to October 1, 2010. HB 529 deletes the reference to October 1, 1986, because the use of this date inadvertently disqualified individuals from eligibility for the retirement health insurance subsidy.

According to the Economic Impact Statement, the bill will not have a fiscal effect.

The bill has an effective date of upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Florida's Sheriffs/Civil Service

Sixty-six of Florida's 67 counties have elected sheriffs as their chief law-enforcement officers. Miami-Dade County has an appointed chief law-enforcement officer whose title is Director of the Miami-Dade Police Department. Sheriffs serve four-year terms,<sup>1</sup> and have county-wide jurisdiction that includes incorporated as well as unincorporated areas.

Section 14 of Art. III of the State Constitution provides:

By law there shall be created a civil service system for state employees, except those expressly exempted, and there may be created civil service systems and boards for county, district or municipal employees and for such offices thereof as are not elected or appointed by the governor, and there may be authorized such boards as are necessary to prescribe the qualifications, method of selection and tenure of such employees and officers.

The powers of the governing body of a county are set forth in s. 125.01, F.S. This power includes the authority, as provided in paragraph (u) of subsection (1) of s.125.01, F.S., to "[c]reate civil service systems and boards." Section 30.53, F.S., provides, in pertinent part, that "[t]he independence of the sheriffs shall be preserved concerning the...selection of personnel, and the hiring, firing, and setting of salaries of such personnel..."

A number of sheriffs have civil service systems established by the Legislature through special act, including: Alachua,<sup>2</sup> Baker,<sup>3</sup> Bay,<sup>4</sup> Brevard,<sup>5</sup> Broward,<sup>6</sup> Charlotte,<sup>7</sup> Citrus,<sup>8</sup> Clay,<sup>9</sup> Columbia,<sup>10</sup> Escambia,<sup>11</sup> Flagler,<sup>12</sup> Glades,<sup>13</sup> Hernando,<sup>14</sup> Indian River,<sup>15</sup> Lake,<sup>16</sup> Lee,<sup>17</sup> Leon,<sup>18</sup> Levy,<sup>19</sup> Madison,<sup>20</sup>

<sup>1</sup> Section 1(d), Art. VIII of the State Constitution.

<sup>2</sup> Chs. 84-388 and 86-342, L.O.F.

<sup>3</sup> Ch. 2006-318, L.O.F.

<sup>4</sup> Ch. 84-390, L.O.F.

<sup>5</sup> Ch. 83-373, L.O.F.

<sup>6</sup> Ch. 93-370, L.O.F.

<sup>7</sup> Chs. 79-436, 86-349 and 89-508, L.O.F.

<sup>8</sup> Ch. 2001-296, L.O.F.

<sup>9</sup> Chs. 89-522 and 93-397, L.O.F.

<sup>10</sup> Ch. 2004-413, L.O.F.

<sup>11</sup> Ch. 89-492, L.O.F.

<sup>12</sup> Chs. 90-450 and 2000-482, L.O.F.

<sup>13</sup> Ch. 2003-311, L.O.F.

<sup>14</sup> Ch. 2000-414, L.O.F.

<sup>15</sup> Ch. 2002-355, L.O.F.

<sup>16</sup> Chs. 90-386, 93-358 and 2005-349, L.O.F.

<sup>17</sup> Chs. 74-522, 87-446, 87-547, 95-514, 2007-320, 2008-276 and 2010-260, L.O.F.

<sup>18</sup> Ch. 83-456, L.O.F.

<sup>19</sup> Ch. 2007-290, L.O.F.

<sup>20</sup> Ch. 95-470, L.O.F.

Manatee,<sup>21</sup> Marion,<sup>22</sup> Martin,<sup>23</sup> Monroe,<sup>24</sup> Okaloosa,<sup>25</sup> Okeechobee,<sup>26</sup> Orange,<sup>27</sup> Osceola,<sup>28</sup> Palm Beach,<sup>29</sup> Pasco,<sup>30</sup> Pinellas,<sup>31</sup> Polk,<sup>32</sup> St. Lucie,<sup>33</sup> Santa Rosa,<sup>34</sup> Sarasota,<sup>35</sup> Seminole<sup>36</sup> and Walton<sup>37</sup> counties.

### Lee County Sheriff's Office/Retirement Health Insurance Benefits

The Florida Legislature established the civil service system for the Lee County Sheriff's Office pursuant to ch. 74-522, L.O.F. This special act subsequently was amended in 1987, 1995, 2007, 2008 and 2010. The act, as amended, provides for a civil service board, qualifications and standards for employment, and employee benefits.

Section 15 of the act relates to the funding of civil service board and retirement health insurance benefits. That section provides that effective October 1, 1986, the Sheriff will include annually in his or her budget a sufficient sum of money to pay a portion of the cost of the health and hospitalization insurance premiums for employees who retire after accumulating at least 15 or more years of full-time, active service with the office. Employer premiums payable under this provision are limited to major medical and hospitalization insurance, and are not available to any individual commencing employment on or after October 1, 2010.

At 15 years of service, the Sheriff's Office pays up to 75 percent of the portion of the retiree's health and hospitalization insurance premium that exceeds the amount of any health insurance subsidy paid to a retiree. For each full month of employment with the Lee County Sheriff's Office beyond 15 years, the Sheriff's Office pays an additional 0.416 percent per month through 19 years and 11 months of service. The insured retiree may purchase, at his or her own expense, group coverage for a qualified spouse or dependents. Employee premium payments and payments for insurance coverage of dependents are payable by the retiree.

At 20 years of service and beyond, the Lee County Sheriff's Office pays up to 100 percent of the portion of a retiree's health and hospitalization insurance premium that exceeds the first \$100 of any health insurance subsidy received by the retiree and, in addition, pays 50 percent of the health and hospitalization insurance premium for any qualified spouse or dependents of the retiree. Any employee premium payments and the balance of payments for dependents of the retiree are payable by the retiree or qualified dependent. Any increase or decrease to the health insurance subsidy by the state is factored into the provisions of this subsection.<sup>38</sup>

Premiums may be adjusted annually based on actual qualified group costs to the Lee County Sheriff's Office. At such time as a retiree or qualified dependent covered under this section becomes eligible for Medicare health insurance, it is his or her responsibility to enroll in and utilize Medicare benefits to pay primary, secondary or last payments to the extent provided by federal law. The Lee County Sheriff's Office treats an eligible retiree or qualified dependent as enrolled in Medicare parts A and B, regardless

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<sup>21</sup> Ch. 89-472, L.O.F.

<sup>22</sup> Ch. 87-457, L.O.F.

<sup>23</sup> Ch. 93-388, L.O.F.

<sup>24</sup> Chs. 78-567, 89-410, 89-461, 97-345 and 98-507, L.O.F.

<sup>25</sup> Chs. 81-442, 85-472, and 90-492, L.O.F.

<sup>26</sup> Ch. 2006-338, L.O.F.

<sup>27</sup> Ch. 89-507, L.O.F.

<sup>28</sup> Chs. 89-516 and 2000-388, L.O.F.

<sup>29</sup> Chs. 93-367, 96-450, 97-325, 98-517, 99-437 and 2004-404, L.O.F.

<sup>30</sup> Ch. 90-491, L.O.F.

<sup>31</sup> Chs. 89-404, 90-395 and 2008-285, L.O.F.

<sup>32</sup> Chs. 88-443, 98-516 and 2006-320, L.O.F.

<sup>33</sup> Ch. 89-475, L.O.F.

<sup>34</sup> Ch. 2002-385, L.O.F.

<sup>35</sup> Ch. 86-344, L.O.F.

<sup>36</sup> Ch. 77-653, 80-612, 88-451, 89-457 and 97-376, L.O.F.

<sup>37</sup> Ch. 2007-319, L.O.F.

<sup>38</sup> The Lee County Sheriff's Office is a participating member of the Florida Retirement System. Section 112.363, F.S., provides the current retiree health insurance subsidy.

of actual enrollment, and bases its payments as if the retiree or qualified dependent has utilized his or her Medicare benefits.

In 2010, Section 15(6) of the Lee County Sheriff's Office civil service act was amended pursuant to ch. 2010-260, L.O.F., to limit retirement health insurance premium subsidies to those employees who had commenced employment on or after October 1, 1986, and prior to October 1, 2010.

### Effect of Proposed Changes

HB 1249 deletes language in the Lee County Sheriff's Office civil service act that limits the availability of retirement health insurance benefits to employees who commenced employment on or after October 1, 1986. When this language was added to the act, the October 1, 1986, date was used because it represented the point in time when the civil service act first required that funding for the subsidy be included in the Sheriff's budget. While the drafters used the date in an effort to provide a clear "bracket" for payment of these benefits, the language had the unintended consequence of disqualifying a number of employees.

The bill has an effective date of upon becoming law.

### B. SECTION DIRECTORY:

Section 1: Amends Section 15 of ch. 74-522, L.O.F., as amended, relating to payment of retirement health insurance benefits by the Lee County Sheriff's Office.

Section 2: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 13, 2010

WHERE? The *News-Press*, a daily newspaper of general circulation published in Lee County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

## **Drafting Issues**

None.

## **Other Comments**

This bill was jointly proposed by the Lee County Sheriff's Office and the Lee County Sheriff's Office Civil Service Board. According to the attorney for the Lee County Sheriff's Office Civil Service Board, no former employees were impacted by the passage of ch. 2010-260, L.O.F, as the Sheriff honored all subsidy payment obligations.<sup>39</sup>

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

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<sup>39</sup> February 23, 2011, correspondence from Robert C. Shearman.

HOUSE OF REPRESENTATIVES

2011 LOCAL BILL CERTIFICATION FORM

BILL #: 529

SPONSOR(S): Representative Matt Caldwell

RELATING TO: Lee County Sheriff Office Civil Service

[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: Lee County

CONTACT PERSON: Paige Biagi

PHONE NO.: (239) 344-4900 E-Mail: paige.biagi@myfloridahouse.gov

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

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

YES  NO

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

YES  NO

Date hearing held: December 15, 2010

Location: Ft Myers, FL

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

YES  NO

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

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE 12/13/2010

Where? News Press County Lee

Referendum in lieu of publication: YES  NO

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

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

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

YES [ ] NO [✓] NOT APPLICABLE [ ]

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

YES [ ] NO [✓] NOT APPLICABLE [ ]

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

YES [ ] NO [ ]

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

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

1/25/11  
\_\_\_\_\_  
Date

Gary Aubuchan  
\_\_\_\_\_  
Printed Name of Delegation Chair



**HOUSE OF REPRESENTATIVES**  
**2011 ECONOMIC IMPACT STATEMENT**

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House policy requires that economic impact statements for local bills be prepared at the LOCAL LEVEL. This form should be used for such purposes. It is the policy of the House of Representatives that no bill will be considered by a council or a committee without an original Economic Impact Statement. This form must be completed whether or not there is an economic impact. If possible, this form must accompany the bill when filed with the Clerk for introduction. In the alternative, please submit it to the Local Government Council as soon as possible after the bill is filed.

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**BILL #:** 529

**SPONSOR(S):** Representative Matt Caldwell (73)

**RELATING TO:** Lee County

**I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION AND ENFORCEMENT:**

Expenditures: FY11-12 FY12-13

It is not anticipated that the amendments to the Act will result in any additional cost of administration, implementation, and enforcement.

**II. ANTICIPATE SOURCE(S) OF FUNDING:**

Federal: FY11-12 FY12-13

State:

Local: Lee County Sheriff's Office provides 100% of the funding for operation of the Lee County Sheriff's Office Civil Service Board. Additionally, the Lee County Sheriff's Office provides 100% of the funding for the retirement health insurance benefits provided under the Act.

**III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:**

Revenues: None FY11-12 FY12-13

**IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:**

Advantages: It is not anticipated that the amendment to Section 15 (6) will create any significant economic impact for individuals employed by the Lee County Sheriff's Office prior to October 1, 2010.

Disadvantages:

**V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:**

It is not anticipated that the amendments to the Act will have any significant impact upon competition and the open market for employment.

**VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:**

It is not anticipated that the amendments to the Act will create any significant economic impact on individuals employed by the Lee County Sheriff's Office prior to October 1, 2010.

PREPARED BY:  1-25-11  
[Must be signed by Preparer] Date

TITLE: Attorney for Lee County Sheriff's Office Civil Service Board

REPRESENTING: Lee County Sheriff's Office Civil Service Board

PHONE: (239.344.1346)

E-Mail Address: robert.shearman@henlaw.com

**NEWS-PRESS**

Published every morning - Daily and  
Sunday  
Fort Myers, Florida

**Affidavit of Publication**

STATE OF FLORIDA  
COUNTY OF LEE

Before the undersigned authority, personally appeared  
**Kathy Allebach**  
who on oath says that he/she is the  
**Legal Assistant** of the News-Press, a daily  
newspaper, published at Fort Myers, In Lee County,  
Florida; that the attached copy of advertisement, being a  
**Notice of Action**

In the matter of  
**Amendments to Lee County Sheriff's Office Civil  
Service Act**  
In the court was published in said newspaper in the  
issues of  
**December 13, 2010**

Affiant further says that the said the News-Press is a paper of  
general circulation daily in Lee, Charlotte, Collier, Glades and  
Hendry Counties and published at Fort Myers, in said Lee  
County, Florida and that said newspaper has heretofore been  
continuously published in said Collier County; Florida, each  
week, and has been entered as a second class mail matter at the  
post office in Fort Myers in said Lee County, Florida, for a period  
of one year next preceding the first publication of the attached  
copy of the advertisement; and affiant further says that he/she  
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 the said  
newspaper.

Sworn to and subscribed before me this

13th day of December 2010 by

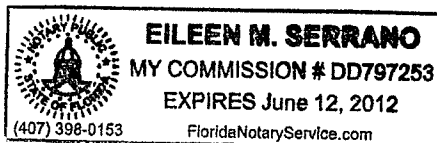
**Kathy Allebach**  
personally known to me or who has produced

as identification, and who did or did not take an  
oath.

Notary Public

Print Name \_\_\_\_\_

My commission Expires:



NOTICE OF LEGISLATION TO WHOM IT MAY CONCERN NOTICE IS HEREBY GIVEN that the undersigned intends to apply to the Legislature of the State of Florida at its regular session held in the year 2011 for the passage of a bill to be entitled Amendments to Lee County Sheriff's Office Civil Service Act 2007-2008 276 2009-2010 269 and 2010-2011 Laws of Florida regarding the Lee County Sheriff's Office Civil Service Board Subsections (5) and (6) address retirement health insurance premium subsidies for Sheriff's Office employees Subsection (5) was amended in 2010 to reflect that Sheriff's Office employees commencing employment on or after October 1, 1986 and prior to October 1, 2010 who have been employed for 15 or more years will qualify for the retirement health insurance premium subsidies and subsection (6) of the Civil Service Act inclusion of the October 1, 1986 date would inadvertently disqualify the long tenured Sheriff's Office employees from receiving this benefit if the law is applied to employees who were employed with the Sheriff's Office prior to October 1, 1986. The requested amendments to this section will eliminate the date of 1986 and allow for the proper qualification of these employees for benefits to which they have been entitled all along. DATED at Fort Myers, Lee County, Florida this 13th day of December 2010. Robert C. Shearman, Attorney for Lee County Sheriff's Office Civil Service Board. Florida Bar No. 614075. Henderson, Franklin, Starnes & Holl, P.A. 1715 Monrovia Street, Fort Myers, FL 33907 (239) 344-1346 Phone Dec 13 No. 1418439.

1                                   A bill to be entitled  
 2           An act relating to the Lee County Sheriff's Office;  
 3           amending chapter 74-522, Laws of Florida, as amended;  
 4           providing that certain retirement health insurance  
 5           benefits shall not be available to specified employees;  
 6           providing an effective date.

7

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

9

10           Section 1. Subsection (6) of section 15 of chapter 74-522,  
 11   Laws of Florida, as amended by chapter 2010-260, Laws of  
 12   Florida, is amended to read:

13           Section 15. Funding of civil service board and retirement  
 14   health insurance benefits.—

15           (6) Benefits payable under subsection (5).—Benefits  
 16   payable under subsection (5) are only available to employees  
 17   commencing employment ~~on or after October 1, 1986,~~ and prior to  
 18   October 1, 2010, who retire from the Florida Retirement System  
 19   and terminate employment after 15 or more years of service with  
 20   the Lee County Sheriff's Office. A member of the Florida  
 21   Retirement System employed prior to October 1, 2009, who has  
 22   been a full-time member of the Lee County Sheriff's Office for  
 23   the 10 years immediately preceding his or her retirement may  
 24   claim up to 5 years of previous service with another Florida  
 25   Retirement System employer subject to verification by the  
 26   Division of Retirement of the Department of Management Services  
 27   to meet the 15-year requirement as provided for in subsection  
 28   (5). Persons hired by the Lee County Sheriff's Office on or

HB 529

2011

29 | after October 1, 2009, are not eligible to claim additional  
30 | years of service from previous Florida Retirement System  
31 | employers to qualify for employer-paid health and  
32 | hospitalization insurance benefits as provided for in subsection  
33 | (5).

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



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 555 Indian River Mosquito Control District, Indian River County

**SPONSOR(S):** Mayfield

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Duncan <i>pdd</i>	Hoagland <i>[Signature]</i>
2) Economic Affairs Committee			

**SUMMARY ANALYSIS**

The Indian River Mosquito Control District (District) was first established in 1925, with the stated purpose of controlling and eradicating mosquitoes and sand flies in designated areas of Indian River County. In 2006, as required by the Uniform Special District Accountability Act, all prior acts of the district were codified and reenacted into a single act by the Legislature pursuant to chapter 2006-344, L.O.F. This bill:

- Deletes obsolete language throughout the District's charter.
- Requires the District's election of its Board to occur pursuant to the election provisions in the Uniform Special District Accountability Act and consistent with the Florida Election Code.
- Permits the District's Board to elect a secretary/treasurer.
- Clarifies that commissioners and employees must be paid according to per diem compensation expense and mileage rates established for officials and employees of the state pursuant to s. 112.061, F.S.
- Requires the expense of the surety bond required for commissioners to be borne by the District.
- Provides that the goods, supplies, equipment, or material purchased for the District may be purchased without advertising or calling for bids as long as the amount of the purchase does not exceed the competitive bid and advertising requirement amounts required by state law under chapter 287, F.S.
- Clarifies the provisions relating to the Board's authority to borrow by removing superfluous language.
- Revises the provisions relating to the Board's authority to borrow and those related to the requirement of the Board to provide insurance for property damage, bodily injury, or death.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2011-12 or 2012-2013.

The bill provides an effective date of July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

The Indian River Mosquito Control District (District) was first established in 1925,<sup>1</sup> with the stated purpose of controlling and eradicating mosquitoes and sand flies in designated areas of Indian River County. In 1947, the original enabling act was repealed, and a new law re-establishing the district and revising its authority was enacted. In 2006,<sup>2</sup> as required by the Uniform Special District Accountability Act,<sup>3</sup> all prior acts of the district were codified and reenacted into a single act.

The governing board (Board) of the District is composed of 3 members, known as commissioners. Included in the Board's authority is the appointment of a chief engineer, a consulting engineer, an attorney and other agents and employees the Board may require. The commissioners are elected in a nonpartisan election for 4-year terms so that one commissioner is elected at one general election by the highest number of votes cast and two commissioners are elected by the first and second highest number of votes cast at the next ensuing general election. As soon as practicable after each general election, the commissioners must meet to organize and elect a chair, vice chair, and secretary.

The Uniform Special District Accountability Act establishes the general requirements and processes for electing the governing boards of independent and dependent special districts.<sup>4</sup> Any independent special district located entirely in a single county may provide for the conduct of district elections by the supervisor of elections for that county. Any independent special district that conducts its elections through the office of the supervisor must make election procedures consistent with the Florida Election Code.<sup>5</sup>

Before assuming office, each commissioner is required to give the District a good and sufficient surety bond in the sum of \$5,000, conditioned for the faithful performance of the duties of his or her office. The bond must be approved by and filed with the Clerk of the Circuit Court of Indian River County.

The commissioners must be paid for each day's service and for each mile actually traveled going to and from the District's office according to per diem compensation expense and mileage rates established from time to time for officials and employees of the state.

Among its powers is the Board's authority to:

- Do any and all things necessary for the control and complete elimination of all species of mosquitoes and sandflies and diseases transmitted by the same in the District.
- Employ engineers, scientists, helpers, and all other servants, agents, and employees necessary to control and eliminate all species of mosquitoes and sandflies in the District.
- Purchase goods, supplies, or material for the District's use without advertising or calling for bids regarding the purchase when the amount to be paid by the District does not exceed \$10,000 or when the goods, supplies, or materials to be purchased may be obtained from only one source or supplier.

The Board is authorized to borrow in any one tax year a sum not to exceed 80 percent of the estimated taxes to be collected on behalf of the District within such year and to evidence such loan made to the District by its tax anticipation note or notes bearing interest at a rate not to exceed 10 percent per annum, and which notes are required to be payable at a time not greater than 1 year from the date of borrowing said funds. The sums borrowed must be repaid out of the next taxes collected by the District to the extent necessary for the repayment, together with interest at a rate not to exceed 6 percent per

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<sup>1</sup> Chapter 11128, L.O.F.

<sup>2</sup> Chapter 2006-344, L.O.F.

<sup>3</sup> Chapter 189, F.S.; and s. 189.429, F.S.

<sup>4</sup> Section 189.405, F.S.

<sup>5</sup> Section 189.405(2)(a), F.S.



annum. No sums are permitted to be borrowed as in any subsequent year unless all moneys borrowed in any preceding year have been entirely paid meaning both principal and interest.

The Board is required to secure and keep insurance covering liability for property damage or bodily injury or death.

### **Effect of Proposed Changes**

The bill amends the powers of the governing board's District to employ, rather than appoint, a director for the Board and other experts and consultants required by the Board and deletes obsolete language throughout the District's charter. The provision authorizing the complete elimination of all species of mosquitoes and sandflies is deleted throughout the District's charter.

The bill modifies the election process for the commissioners of the Board to provide that the nonpartisan election must occur pursuant to the election provisions in the Uniform Special District Accountability Act and consistent with the Florida Election Code. The provision providing that one commissioner is elected at one general election by the highest number of votes cast and two commissioners are elected by the first and second highest number of votes cast at the next ensuing general election is deleted. The bill permits the Board to elect a secretary/treasurer as opposed to a secretary. The bill requires the expense of the surety bond required for commissioners to be borne by the District.

With respect to compensation, the bill clarifies that in addition to commissioners, employees must be paid according to per diem compensation expense and mileage rates established from time to time for officials and employees of the state pursuant to s. 112.061, F.S. The provision requiring pay for each day's service and for each mile actually traveled to and from the District's office is deleted.

The bill includes equipment in the list of items the District is authorized to purchase. The bill provides that these items may be purchased without advertising or calling for bids as long as the amount of the purchase does not exceed the "competitive bid and advertising requirement amounts required by state law under chapter 287, F.S." State law does not provide "competitive bid and advertising amount requirements." State law does, however, establish purchasing category threshold amounts<sup>6</sup> and competitive solicitation processes used for the procurement of commodities and contractual services.<sup>7</sup> It is not clear as to whether the District wants to follow the process provided in state law or increase the current \$10,000 threshold amount provided for in the District's charter.

The bill revises the provisions relating to the Board's authority to borrow and provides that in any one tax year a sum not to exceed 80 percent of the estimated taxes to be collected on behalf of the District within such year and issue negotiable promissory notes and bonds or such instruments to secure the loan to enable the Board to carry out the responsibilities in the District's charter. The provisions stating that no sums are permitted to be borrowed as in any subsequent year unless all moneys borrowed in any preceding year have been entirely paid meaning both principal and interest is retained.

The bill also revises the provisions regarding insurance for property damage, bodily injury, or death. The bill provides that the District, acting through its Board, has the power to purchase and pay for insurance as a legitimate public expenditure without waiving its right to defend any action filed against it on the grounds of sovereign immunity while reserving all rights and defenses available. This makes the provision of insurance by the District an option, rather than a requirement as provided in the current charter.

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

Section 1: Amends ss. 2-5, 7,9,10, and 11 of section 3 of ch. 2006-344, L.O.F., to remove obsolete language and revise provisions related to the operations of the District.

Section 2: Provides an effective date of July 1, 2011.

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<sup>6</sup> Section 287.017, F.S.

<sup>7</sup> Chapter 287, F.S.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 29, 2010

WHERE? Scripps Treasure Coast Newspapers, Indian River Press Journal, Vero Beach, FL

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2011-12 or 2012-2013.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that items, such as goods and supplies may be purchased without advertising or calling for bids as long as the amount of the purchase does not exceed the "competitive bid and advertising requirement amounts required by state law under chapter 287, F.S."

This provision is not clear as state law does not provide "competitive bid and advertising amount requirements." State law does, however, establish purchasing category threshold amounts and competitive solicitation processes used for the procurement of commodities and contractual services. It is not clear as to whether the District wants to follow the process provided in state or law or increase the current \$10,000 threshold amount provided for in the District's charter. Staff suggests an amendment clarifying the District's preference.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 555 (2011)

Amendment No.

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: Community & Military  
2 Affairs Subcommittee  
3 Representative(s) Mayfield offered the following:

**Amendment**

Remove lines 123 and 124 and insert:

be paid therefor by said district does not exceed Category 2 of  
the purchasing category thresholds pursuant to

10

HOUSE OF REPRESENTATIVES
2011 LOCAL BILL CERTIFICATION FORM

BILL #: HB 555
SPONSOR(S): Rep. Debbie Mayfield
RELATING TO: Indian River Mosquito Control District, Indian River County
NAME OF DELEGATION: Indian River County
CONTACT PERSON: Chris Lyon
PHONE NO.: (850) 222-5702 E-Mail: clyon@llw-law.com

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

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

YES [X] NO [ ]

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

YES [X] NO [ ]

Date hearing held: December 3, 2010

Location: Indian River County Commission Chambers

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

YES [X] 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 [X] NO [ ] DATE December 29, 2010

Where? Indian River Press Journ. County Indian River

Referendum in lieu of publication: YES [ ] NO [ ]

Date of Referendum

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

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

YES  NO  NOT APPLICABLE

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

YES  NO  NOT APPLICABLE

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

YES  NO

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

  
Delegation Chair (Original Signature)

2/15/11  
Date

Deborah J. MAYFIELD  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2011 ECONOMIC IMPACT STATEMENT FORM**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.*

**BILL #:** HB 555

**SPONSOR(S):** Rep. Debbie Mayfield

**RELATING TO:** Indian River Mosquito Control District, Indian River County  
 [Indicate Area Affected (City, County or Special District) and Subject]

**I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:**

	<u>FY11-12</u>	<u>FY 12-13</u>
Expenditures:	\$0	\$0

**II. ANTICIPATED SOURCE(S) OF FUNDING:**

	<u>FY 11-12</u>	<u>FY 12-13</u>
Federal:	N/A	N/A
State:	N/A	N/A
Local:	N/A	N/A

**III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:**

	<u>FY 11-12</u>	<u>FY 12-13</u>
Revenues:	N/A	N/A

**IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:**

**Advantages:**

The legislation will reduce the cost of procuring certain goods and services by increasing the threshold necessary for competitive bidding to be consistent with current state law.

**Disadvantages:**

None.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None.

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

A review of general and special laws relating to Indian River County and prior experience representing cities, counties and special taxing districts.

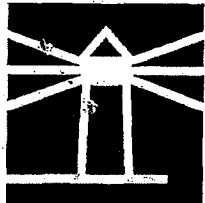
PREPARED BY:  2/15/11  
[Must be signed by Preparer] Date

TITLE: Legislative Counsel

REPRESENTING: Indian River Mosquito Control District

PHONE: 850-222-5702

E-Mail Address: clyon@lw-law.com



SCRIPPS HOWARD

# SCRIPPS TREASURE COAST NEWSPAPERS

Indian River Press Journal

1801 U.S. 1, Vero Beach, FL 32960

## AFFIDAVIT OF PUBLICATION

STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

Before the undersigned authority personally appeared, S. Darlene Broeg, who on oath says that she is Classified Inside Sales Manager of the Indian River Press Journal, a daily newspaper published at Vero Beach in Indian River County, Florida: that the attached copy of advertisement was published in the Indian River Press Journal in the following issues below. Affiant further says that the said Indian River Press Journal is a newspaper published in Vero Beach in said Indian River County, Florida, and that said newspaper has heretofore been continuously published in said Indian River County, Florida, daily and distributed in Indian River County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid or promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper. The Indian River Press Journal has been entered as Periodical Matter at the Post Offices in Vero Beach, Indian River County, Florida and has been for a period of one year next preceding the first publication of the attached copy of advertisement.

<u>Customer</u>	<u>Ad Number</u>	<u>Pub Date</u>	<u>Copyline</u>	<u>PO #</u>
INDIAN RIVER MOSQUITO CONT	2224879	12/29/2010	NOTICE OF INTENT	IRMCD LEGISLATION

**RECEIVED**  
JAN 03 2010  
BY: \_\_\_\_\_

**NEWSPAPER E-Sheet®  
LEGAL NOTICE  
ATTACHED  
\*\*\*\*\*  
DO NOT  
SEPARATE PAGES**

Subscribed and sworn to me before this date:

December 29, 2010

*S. Darlene Broeg*

*Michael Merone*  
\_\_\_\_\_  
Notary Public

ORIGINAL





NOTICE OF INTENT TO SEEK LEGISLATION

Indian River Mosquito Control District, Indian River County, Florida, hereby gives notice pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, Florida Statutes, of its intent to seek legislation before the 2011 Florida Legislature. The legislation will amend the District's special act, Chapter 2006-344, L.O.F. to clarify that the District can hire certain persons; revise the process for election of board members; clarify that the District shall bear the expense of certain surety bonds; require the board to elect a treasurer; revise the District's expense reimbursement policy; revise the powers of the board relating to the control of mosquitoes and sandflies and deletes powers of board to eliminate all mosquitoes and sandflies; revise purchasing requirements to clarify that equipment can be purchased and requires competitive bidding pursuant to Ch. 287, F.S.; revise the District's authority to issue promissory notes and bonds and to purchase insurance; and provide an effective date.

Pub. December 29, 2010

2224879



29 members and shall have all the powers of a body corporate,  
 30 including the power to sue and be sued as a corporation in said  
 31 name in any court; to contract; to adopt and use a common seal  
 32 and alter the same at pleasure; to purchase, hold, lease, and  
 33 convey such real estate and personal property as said board may  
 34 deem proper to carry out the purposes of this act; to employ  
 35 ~~appoint a director chief engineer, a consulting engineer, and an~~  
 36 ~~attorney~~ for said board and such other experts, consultants,  
 37 agents, and employees as said board may require; to borrow money  
 38 and to issue negotiable promissory notes or bonds therefor; and  
 39 to enable it to carry out the provisions of this act. The  
 40 commissioners shall be elected in a nonpartisan election for 4-  
 41 year terms pursuant to section 189.405, Florida Statutes, and  
 42 consistent with the Florida Election Code ~~so that one~~  
 43 ~~commissioner is elected at one general election by the highest~~  
 44 ~~number of votes cast and two commissioners are elected by the~~  
 45 ~~first and second highest number of votes cast at the next~~  
 46 ~~ensuing general election.~~

47 Section 3. Each commissioner under this act, before he or  
 48 she assumes office, shall be required to give to Indian River  
 49 Mosquito Control District a good and sufficient surety bond in  
 50 the sum of \$5,000, conditioned for the faithful performance of  
 51 the duties of his or her office, said bond to be approved by and  
 52 filed with the Clerk of the Circuit Court of Indian River County  
 53 and the expense of said bond to be borne by the Indian River  
 54 Mosquito Control District. Said bond shall also be recorded in  
 55 the minutes of said Board of Commissioners of said Indian River  
 56 Mosquito Control District. The failure of any person so elected

57 as commissioner of Indian River Mosquito Control District within  
 58 30 days after his or her election to give bond shall create a  
 59 vacancy as to such commissioner, and such vacancy shall be  
 60 filled by the Governor appointing a person duly qualified to  
 61 hold such office, which manner of filling such office shall  
 62 obtain in the case of resignation, death, or removal from said  
 63 district of any commissioner during his or her term of office.  
 64 No person shall be qualified to hold office as a commissioner  
 65 under this act unless such person shall be a duly qualified  
 66 elector of said district.

67 Section 4. As soon as practicable after each general  
 68 election, the commissioners of Indian River Mosquito Control  
 69 District, after their qualification as such, shall meet and  
 70 organize by the election, from among their number, of a chair, a  
 71 vice chair, and a secretary/treasurer ~~secretary~~. Two members of  
 72 the board shall constitute a quorum. The vote of two members  
 73 shall be necessary to transact business. The chair and vice  
 74 chair shall vote at all meetings of the board.

75 Section 5. The commissioners and employees under this act  
 76 shall be paid ~~for each day's service and for each mile actually~~  
 77 ~~traveled in going to and from the office of the Board of~~  
 78 ~~Commissioners of Indian River Mosquito Control District~~  
 79 according to per diem compensation expense and mileage rates  
 80 established from time to time for officials and employees of the  
 81 state pursuant to section 112.061, Florida Statutes. The per  
 82 diem herein provided for shall apply to services rendered for  
 83 inspection of work performed for the district or other services  
 84 under this act. Additionally, commissioners shall be compensated

85 for regular duties, as provided by general law or special act,  
 86 at the rate of \$400 per month or such greater amount as may be  
 87 permitted by general law or special act.

88 Section 7. Said board is hereby authorized and empowered  
 89 to do any and all things necessary for the control ~~and complete~~  
 90 ~~elimination of all species~~ of mosquitoes and sandflies and  
 91 diseases transmitted by the same in said district and, for this  
 92 purpose, is hereby authorized and empowered to construct and  
 93 thereafter to maintain canals, ditches, drains, and dikes; to  
 94 fill in all depressions, lakes, and ponds or marshes that are  
 95 the breeding places of mosquitoes and sandflies, insofar as said  
 96 work does not interfere with the water supply of any city or  
 97 community; and to employ engineers, scientists, helpers, and all  
 98 other contractors ~~servants~~, agents, and employees as may be  
 99 necessary for the purpose of controlling ~~and eliminating all~~  
 100 ~~species of~~ mosquitoes and sandflies in said district. Said board  
 101 is hereby authorized and empowered to spray or otherwise  
 102 disburse, or cause to be sprayed or otherwise disbursed,  
 103 chemicals, substances, and materials of every nature upon and  
 104 over the area of said district as shall be deemed necessary or  
 105 desirable for the purpose of controlling ~~and eliminating all~~  
 106 ~~species of~~ mosquitoes and sandflies in said district and, for  
 107 such purposes, may contract for and purchase such chemicals,  
 108 substances, and materials and may contract for the spraying or  
 109 disbursing thereof over the area of said district or may employ  
 110 such agents, entities ~~servants~~, and employees for such purpose  
 111 as the commissioners of said district may deem necessary or  
 112 advisable; to do any and all things that may be necessary from

113 the standpoint of public health and comfort to control ~~or~~  
 114 ~~eliminate~~ mosquitoes and sandflies or their larvae in said  
 115 district; and to promulgate such rules and regulations not  
 116 inconsistent with the provisions of this act and with any of the  
 117 laws of said state which, in their judgment, may be necessary  
 118 for the proper carrying into effect and enforcement of this act.

119 Section 9. Said board is hereby authorized and empowered  
 120 to purchase goods, supplies, equipment, or material for the use  
 121 of said district without the necessity of advertising any notice  
 122 or calling for bids regarding said purchase when the amount to  
 123 be paid therefor by said district does not exceed the  
 124 competitive bid and advertising requirement amounts pursuant to  
 125 chapter 287, Florida Statutes \$10,000 or when the goods,  
 126 ~~supplies, or materials to be purchased are obtainable from only~~  
 127 ~~one source or supplier.~~

128 Section 10. Said board is hereby authorized and empowered  
 129 to levy upon all the real and personal taxable property in said  
 130 district a special tax not exceeding 10 mills on the dollar for  
 131 the year 1947 and for each and every year thereafter, to be used  
 132 solely in carrying out the purposes of this act. Said levy shall  
 133 be made not later than the 15th of July of each year by  
 134 resolution of said board, or a majority thereof, duly entered at  
 135 large upon its minutes. A certified copy of such resolution  
 136 executed in the name of said board by its chair and  
 137 secretary/treasurer ~~secretary~~ and under its corporate seals  
 138 shall be delivered or transmitted to the Board of County  
 139 Commissioners of Indian River County, and a copy shall be  
 140 transmitted by mail to the Chief Financial Officer not later

141 than August 1 of each year. It shall be the duty of the Board of  
 142 County Commissioners of Indian River County to order the  
 143 property appraiser of said county to assess and the collector of  
 144 said county to collect the amount of said tax so assessed by the  
 145 Board of Commissioners of said district upon all the taxable  
 146 property, real or personal, in said district at the rate of  
 147 taxation adopted by said board for said year, but not exceeding  
 148 10 mills on the dollar and as specified in said resolution, and  
 149 said levy shall be included in the warrant to the tax collector  
 150 and the property appraiser which is attached to the assessment  
 151 roll of taxes for said county each year. The property appraiser  
 152 shall make such assessment and the tax collector shall collect  
 153 such taxes so levied in the manner as other taxes are assessed  
 154 and collected and shall pay the same when collected, within the  
 155 time and in the manner prescribed by law for the payment of  
 156 other taxes, to the secretary/treasurer ~~secretary~~ of said Board  
 157 of Commissioners. It shall be the duty of said Chief Financial  
 158 Officer to assess and levy on all the railroad lines and  
 159 railroad property, telegraph lines and telegraph property, and  
 160 telephone lines and telephone property the amount of every such  
 161 levy herewith provided in this section, and as in the case of  
 162 other state and county taxes, and said taxes so levied by the  
 163 Chief Financial Officer shall be collected as provided for other  
 164 similar taxes, and the proceeds thereof shall be remitted to the  
 165 secretary/treasurer ~~secretary~~ of said board in the same manner  
 166 as such remittances are made in the collection of other taxes.  
 167 If any such taxes so assessed are not paid, the said property  
 168 shall be sold by said tax collector and certificates issued and

169 tax deeds issued in the same manner and under the same laws  
 170 relating to the sales, issuance of certificates, and deeds with  
 171 reference to all other state and county taxes. The Board of  
 172 Commissioners of the Indian River Mosquito Control District is  
 173 herewith authorized to borrow in any one tax year a sum not to  
 174 exceed 80 percent of the estimated taxes to be collected on  
 175 behalf of said district within such year and issue negotiable  
 176 promissory notes and bonds or such necessary instruments to  
 177 secure said loan to enable the board to carry out the provisions  
 178 of this act to evidence such loan made to said district by its  
 179 ~~tax anticipation note or notes bearing interest at a rate not to~~  
 180 ~~exceed 10 percent per annum, and which notes shall be payable at~~  
 181 ~~a time not greater than 1 year from the date of the borrowing of~~  
 182 ~~such moneys; the sums so borrowed shall be repaid out of the~~  
 183 ~~next taxes collected by said district to the extent necessary~~  
 184 ~~for the repayment thereof, together with such interest at a rate~~  
 185 ~~not to exceed 6 percent per annum; and no sums shall be borrowed~~  
 186 as herewith provided in any subsequent year unless all moneys so  
 187 borrowed in any preceding year shall have been entirely paid as  
 188 to both principal and interest.

189 Section 11. In addition to all other powers granted to the  
 190 district by law, the Indian River Mosquito Control District,  
 191 acting by and through its duly qualified board of commissioners,  
 192 shall have the power to purchase and pay for insurance as a  
 193 legitimate public expenditure without waiving its right to  
 194 defend any action filed against it on the grounds of sovereign  
 195 immunity while reserving all rights and defenses available ~~Said~~  
 196 ~~board is hereby required to secure and keep in force in~~



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197 ~~companies duly authorized to do business in Florida insurance~~  
 198 ~~covering liability for property damage or bodily injury or death~~  
 199 ~~resulting therefrom to all persons and property by reason of the~~  
 200 ~~ownership, maintenance, operation, or use of any vehicle,~~  
 201 ~~dragline, dredge, tractor, and related equipment being used for~~  
 202 ~~and in the interest of the purpose of said board in amounts not~~  
 203 ~~less than \$50,000 for bodily injury or death resulting therefrom~~  
 204 ~~to any one person, and not less than \$100,000 for bodily injury~~  
 205 ~~or death resulting therefrom for any one accident, and not less~~  
 206 ~~than \$25,000 for damage to property.~~

207 Section 2. This act shall take effect July 1, 2011.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 639 Affordable Housing  
**SPONSOR(S):** Aubuchon and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 912

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Duncan <i>add</i>	Hoagland <i>[Signature]</i>
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

**SUMMARY ANALYSIS**

The Florida Housing Finance Corporation (FHFC) is the state entity primarily responsible for encouraging the investment of private capital in residential housing and stimulating the construction and rehabilitation of affordable housing in Florida. This bill revises statutes which govern the implementation of affordable housing programs, practices and procedures administered by the FHFC. The bill:

- Removes the statutory limitations on the amount of documentary stamp revenue that goes into the State Housing Trust Fund and the Local Government Housing Trust Fund. In 2010, the Office of Demographic & Economic Research’s (EDR) consensus estimate found there would be no impact to cash in the current fiscal year. However, based on a four-year outlook there would be an annualized negative impact to recurring general revenue of \$21.4 million and an annualized positive recurring impact to the state housing trust funds in the same amount.
- Repeals section 8 of chapter 2009-131, L.O.F., retroactively. This eliminates a conflicting version of s. 201.15, F.S., relating to the service charge on taxes collected, which passed concurrently with a different version during the 2009 legislative session, consistent with statutory revision’s placement in the statute.
- Revises the state housing strategy to provide targeted assistance for persons with special needs and requires the periodic reviews and reports to include an analysis of persons with special needs.
- Creates two additional definitions to enact the newly established state housing strategies. Those new definitions are aimed to serve populations defined as suffering from a “disabling condition” and those defined as a “person with special needs.”
- Removes domicile of the developer and general contractor as criteria to be considered by the FHFC in its scoring and competitive evaluation of applications for funding under the SAIL program and replaces it with developers and general contractors who demonstrate the highest rate of Florida job creation in the development and construction of affordable housing.
- Requires local government comprehensive plans to include affordable housing for seniors as a part of the plan’s housing element.
- Authorizes the FHFC to receive federal funding for which no corresponding program has been previously created by statute and to establish selection criteria for such funds by request for proposals or other competitive solicitation.
- Provides that funds from the State Housing Trust Fund or the Local Government Housing Trust Fund that are appropriated for use in the State Apartment Incentive Loan Program, Florida Homeownership Assistance Program, Community Workforce Housing Innovation Pilot Program, or the State Housing Initiatives Partnership Program may not be used to finance or otherwise assist new construction until July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **The State Housing Initiatives Partnership (SHIP) Program and the Distribution of Documentary Stamp Taxes**

##### Overview

The Florida Housing Finance Corporation (FHFC)<sup>1</sup> is the state entity primarily responsible for encouraging the investment of private capital in residential housing and stimulating the construction and rehabilitation of affordable housing in Florida.<sup>2</sup> Originally, federal funds were the only resources that funded housing programs administered by the Florida Housing Finance Corporation (FHFC). To leverage these federal funds, during the late 1980s the Legislature appropriated funding for state programs.<sup>3</sup> With the enactment of the William E. Sadowski Act<sup>4</sup> which created the State Housing Initiatives Partnership (SHIP) Program,<sup>5</sup> the FHFC's programs are funded in part with revenues generated by the documentary stamp tax, which are often combined with federal funding. The FHFC administers a number of multifamily and single family housing programs that help local governments assist Floridians in obtaining safe, decent affordable housing.

The SHIP Program was created for the purpose of providing funds to local governments as an incentive for the creation of partnerships to produce and preserve affordable housing, further the housing element of the local comprehensive plan specific to affordable housing, and increase housing-related employment.<sup>6</sup> Portions of the documentary stamp tax are transferred into the Local Government Housing Trust Fund and distributed to counties and eligible municipalities<sup>7</sup> participating in the SHIP Program.<sup>8</sup> Counties and eligible municipalities must meet a number of requirements in order to receive funding.<sup>9</sup>

##### Current Law

The documentary stamp tax is imposed on documents that transfer interest in Florida real property<sup>10</sup> and current law provides for the distribution of documentary stamp taxes.<sup>11</sup> Documents subject to the tax include deeds; bonds; notes and written obligations to pay money; and mortgages, liens, and other evidences of indebtedness.<sup>12</sup> The taxes are primarily used to fund varied land and water conservation, preservation, and maintenance, as well as certain transportation programs.<sup>13</sup>

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<sup>1</sup> The Florida Housing Finance Corporation (FHFC) was created as a public corporation within the Department of Community Affairs (DCA). However, the FHFC is a separate budget entity and is not subject to the control, supervision, or direction of DCA. Section 420.504, F.S.

<sup>2</sup> Section 420.502(7), F.S.

<sup>3</sup> Florida Housing Finance Corporation, *Sadowski Act Overview*, available at [http://www.floridahousing.org/FH-ImageWebDocs/AboutUS/SadowskiAct\\_Outline.pdf](http://www.floridahousing.org/FH-ImageWebDocs/AboutUS/SadowskiAct_Outline.pdf).

<sup>4</sup> Sections 1-35, ch. 92-317, L.O.F.

<sup>5</sup> Section 32, ch. 92-317, L.O.F.

<sup>6</sup> Section 420.9072, F.S.

<sup>7</sup> "Eligible municipality" means a municipality that is eligible for federal Community Development Block Grant entitlement moneys as an entitlement community identified in 24 C.F.R. s. 570, subpart D, Entitlement Grants, or a nonentitlement municipality that is receiving local housing distribution funds under an interlocal agreement that provides for possession and administrative control of funds to be transferred to the nonentitlement municipality. An eligible municipality that defers its participation in the community development block grants does not affect its eligibility for participation in the State Housing Initiatives Partnership Program. Section 420.9071(9), F.S.

<sup>8</sup> Sections 420.9071(17), F.S. and 420.9073, F.S.

<sup>9</sup> Section 420.9072(2)(a), F.S.

<sup>10</sup> Chapter 201, F.S.

<sup>11</sup> Section 201.15, F.S.

<sup>12</sup> Florida Department of Revenue, *Documentary Stamp Tax*, Nov. 2009, available at <http://dor.myflorida.com/dor/forms/2009/gt800014.pdf>.

<sup>13</sup> Section 201.15, F.S.

After the distribution specified by law,<sup>14</sup> the lesser of 7.53 percent of remaining documentary stamp taxes or \$107 million in each fiscal year must be paid into the State Treasury to the credit of the State Housing Trust Fund. Half of that amount must be paid to the credit of the Local Government Housing Trust Fund and the remaining half must be paid to the credit of the State Housing Trust Fund.<sup>15</sup>

After the distribution specified by law,<sup>16</sup> the lesser of 8.66 percent of remaining documentary stamp taxes or \$136 million in each fiscal year must be paid into the State Treasury to the credit of the State Housing Trust Fund. Of that amount, 87.5 percent must be paid to the credit of the Local Government Housing Trust Fund and the remaining 12.5 percent must be paid to the credit of the State Housing Trust Fund.<sup>17</sup> In total, the distributions to the State and Local Government Housing Trust Funds are limited to a percentage of the collected documentary stamp taxes or \$243 million, whichever is less.

### Effect of the Proposed Changes

The bill removes the statutory limitations on the amount of documentary stamp revenue that goes into the State Housing Trust Fund and the Local Government Housing Trust Fund. The bill accomplishes this by:

- Deleting the language providing that the money to be distributed to the State Treasury to the credit of the State Housing Trust Fund for certain purposes will be the lesser of 7.53 percent or \$107 million<sup>18</sup> and replacing it with “seven and fifty-three hundredths” percent.
- Deleting the language providing that the money to be distributed to the State Treasury to the credit of the State Housing Trust Fund for certain purposes will be the lesser of 8.66 percent or \$136 million<sup>19</sup> and replacing it with “eight and sixty-six hundredths” percent.

The caps on the above trust fund distributions are eliminated, so that 7.53 percent of net documentary stamp tax collections are split 50 percent to the State Housing Trust Fund and 50 percent to the Local Government Housing Trust Fund, and 8.66% of the net collections are split 12.5 percent to the State Housing Trust Fund and 87.5 percent to the Local Government Housing Trust Fund.

The FHFC asserts that removal of the statutory limitations on the amount of documentary stamp revenue that goes into the trust funds would increase the amount of funds that could be allocated to FHFC for its various affordable housing programs.

In 2010, the Office of Demographic & Economic Research’s (EDR’s) consensus estimate found that there would be no impact to cash in the current fiscal year. However, based on a four-year outlook there would be an annualized negative impact to recurring general revenue of \$21.4 million and an annualized positive recurring impact to the housing trust funds in the same amount.<sup>20</sup>

## **Repeal of s. 8, ch. 2009-131, Laws of Florida; Taxes Collected Subject to Service Charge**

### Current Situation

All taxes collected under this chapter are subject to the service charge<sup>21</sup> imposed by law.<sup>22</sup> In addition, prior to distribution under this section, the Department of Revenue deducts the amounts necessary to pay the costs of the collection and enforcement of the tax levied.<sup>23</sup> Section 8 of chapter 2009-131, L.O.F., amended s. 201.15, F.S., by adding language that provided for all costs of collection and enforcement of the tax and the service charge to be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before July 1, 2009.

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<sup>14</sup> Section 201.15(1)-(8), F.S.

<sup>15</sup> Section 201.15(9), F.S.

<sup>16</sup> Section 201.15(1)-(9), F.S.

<sup>17</sup> Section 201.15(10), F.S.

<sup>18</sup> Section 201.15(9), F.S.

<sup>19</sup> Section 201.15(10), F.S.

<sup>20</sup> Florida House of Representatives Staff Analysis, CS/CS/CS/HB 665 – Affordable Housing (2010 Session), April 7, 2010.

<sup>21</sup> Section 201.20(1), F.S.

<sup>22</sup> Section 201.15, F.S.

<sup>23</sup> *Id.*

This chapter of law also created subsection 201.15(16), F.S., which provides that, if amounts necessary to pay debt service or any other amounts payable with respect to Preservation 2000 bonds, Florida Forever bonds, or Everglades Restoration bonds authorized before July 1, 2009, exceed the amounts distributable pursuant to subsection 201.15(1), F.S., all moneys, distributable pursuant to this section, are available for such obligations and transferred in the amounts necessary to pay such obligations when due. Those amounts distributable pursuant to subsection 201.15(2), (3), (4), and (5), and paragraphs (9)(a) and (10)(a), F.S., are not available to pay such obligations to the extent that such moneys are necessary to pay debt service on bonds secured by revenues pursuant to those provisions.

#### Effect of the Proposed Changes

The bill repeals section 8 of chapter 2009-131, L.O.F., retroactively to June 30, 2009, which predates its effective date of July 1, 2009. The purpose of this retroactive repeal is to eliminate a conflicting version of s. 201.15, F.S., that was included in SB 2430 (Relating to Taxation of Documents) from 2009. This version provides certain distribution guidelines for tax collections after subtracting costs and the service charge, and refers to bonds authorized before July 1, 2009. SB 2430 was signed into law by the Governor on June 10, 2009, and became ch. 2009-131, L.O.F.

The version that statutory revision included in the body of s. 201.15, F.S., provides different distribution guidelines for tax collections after subtracting costs and the service charge. This version of s. 201.15, F.S., was included in SB 1750 (Relating to Disposition of Tax Revenues) from 2009, and refers to bonds authorized before January 1, 2010. SB 1750 was signed into law by the Governor on May 27, 2009, and became ch. 2009-68, L.O.F.

### **Powers of the Florida Housing Finance Corporation (FHFC)**

#### Current Law

Florida law grants the FHFC with specific powers necessary or convenient to carry out and effectuate the purposes for providing affordable housing.<sup>24</sup> Among the powers granted by the Legislature is the power to receive federal funding in connection with programs administered by the FHFC directly from the Federal Government.<sup>25</sup>

#### Effect of Proposed Changes

The bill authorizes the FHFC to administer programs receiving federal funding for which no corresponding program has been previously created by statute and establish selection criteria for such funds by request for proposals or other competitive solicitation. This expands the ability of the FHFC to expend federal housing relief funds in an expedient and efficient manner.

The State Apartment Incentive Loan (SAIL) Program annually provides low interest loans on a competitive basis to affordable housing developers. The bill removes domicile of the developer and general contractor as criteria to be considered by the FHFC in its scoring and competitive evaluation of applications for funding under the SAIL Program to prevent conflict with federal rules. The bill replaces the domicile preference with developers and general contractors who demonstrate the highest rate of Florida job creation in the development and construction of affordable housing.

### **State Housing Strategy**

#### Current Law

The state's housing strategy is intended to carry the state towards the goal of assuring that by the year 2010 each Floridian would have decent and affordable housing. The strategy must involve state, regional, and local governments working in partnership with communities and the private sector and must involve financial as well as regulatory commitment to accomplish the goal.<sup>26</sup> The strategy includes

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<sup>24</sup> Sections 159.608 and 420.507, F.S.,

<sup>25</sup> Section 420.507(33), F.S.

<sup>26</sup> Section 420.0003, F.S.

specific policies relating housing need; public-private partnerships; preservation of housing stock; public housing; and housing production or rehabilitation programs.<sup>27</sup>

The Shimberg Center for Affordable Housing at the University of Florida, in consultation with DCA and the FHFC, is directed to review and evaluate existing housing rehabilitation, production, and finance programs to determine their consistency with relevant policies of the state's housing strategy and identify the needs of specific populations, including, but not limited to, elderly and handicapped persons, and must recommend statutory modifications where appropriate.<sup>28</sup>

Currently, the set-aside or prioritization requirements for affordable housing are for commercial fishing workers, farm-workers, elderly, and homeless. Current law does not specifically address affordable housing for persons with disabilities, youth aging out of foster care, disabled veterans and survivors of domestic violence who are groups at great risk of becoming homeless.

### Effect of the Proposed Changes

The bill revises the state housing strategy to provide targeted assistance for persons with special needs, includes an analysis of persons with special needs in the strategy's periodic review and report, and provides for the distribution of housing funds for multifamily rental housing to be administered to address the housing needs of persons most in need of housing. Specifically, the bill:

- Includes persons with special needs as a tenant group for specified purposes of the State Apartment Incentive Loan (SAIL) Program.
- Extends low interest mortgage loans for the SAIL Program to sponsors of projects who set aside units for persons with special needs.
- Establishes a maximum threshold of ten percent of the SAIL funds available at that time to be used for persons with special needs.

The bill creates two new definitions to enact the newly established state housing strategies:

- "Disabling Condition" means a diagnosable substance abuse disorder, serious mental illness, development disability, or chronic physical illness or disability, or the co-occurrence of two or more of these conditions, and a determination that the condition is:
  - Expected to be of long-continued and indefinite duration; and
  - Not expected to impair the ability of the person with special needs to live independently with appropriate supports.
- "Person with special needs" means an adult person requiring independent living services in order to maintain housing or to develop independent living skills. This individual must also have a disabling condition; be a young adult existing foster care; a survivor of domestic violence; or a person receiving benefits under Social Security Disability Insurance (SSDI) program, Supplemental Social Security (SSI) program, or veterans' disability benefit.

The bill also amends the provisions of law related to the housing element of the local government comprehensive planning process and provides that local comprehensive plans may include affordable housing for persons 60 years of age and older as a part of their housing element.

### **New Construction and the Preservation of Existing Affordable Multifamily Rental Housing**

#### Job Creation

The FHFC generally provides debt and equity financing to developers who leverage these resources with private and other public sector funding to develop new rental apartments or rehabilitate existing affordable units. Both rehabilitation and new construction provide sources of direct and indirect

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<sup>27</sup> Section 420.003(3), F.S.

<sup>28</sup> Section 420.003(4), F.S.

economic benefit and jobs. Currently, there are a variety of economic conditions that impact the ability of construction jobs to be a useful economic generator in Florida.<sup>29</sup>

With the proliferation of unsold single family homes that are now available for rent, housing rents have been pushed down in many markets, leading to an oversupply of affordable rental housing and high vacancy rates in those rental markets with slow or no population growth (or new household formations). However, in some markets, vacancy rates are low and there is a continued demand for new rental housing.<sup>30</sup>

The FHFC has determined that each new construction development, on average, creates more jobs than each preservation development: 347 jobs per new construction property, versus 215 jobs per preservation property. However, when equal allocations to new construction and preservation are made, as proposed in the FHFC's proposed 2011 rules,<sup>31</sup> more total jobs are created overall by the preservation transactions. This is because preservation developments require fewer Low Income Housing Tax Credits to complete, because the cost of preservation development is generally lower than new construction. This means that the state's Low Income Housing Tax Credit allocation goes further for these developments and more developments can be financed with an equal amount of Low Income Housing Tax Credits – an estimated 22 preservation developments versus 12 new construction developments, therefore creating more jobs overall: preservation – 4,737 jobs, versus new construction – 4,164 jobs.<sup>32</sup>

In 2010, the FHFC carried out closings on 94 affordable multifamily rental developments (9,735 units)– 72 new construction developments with 7,264 units and 22 preservation developments with 2,471 units. These 94 rental developments generated a total development cost of \$1.69 billion. This translates into approximately \$3.86 billion in total economic activity and over 30,906 jobs.<sup>33</sup>

#### The Need for Preservation and New Construction

According to the FHFC, there is a need for affordable new construction as well as preservation of existing affordable multifamily rental housing. While there is a need for new construction in some of Florida's markets, in many counties or areas of counties in Florida (over half), existing affordable rental communities in the FHFC's portfolio are experiencing low occupancy rates (in many cases, properties with only 85-89 percent of units occupied, with some even lower) because of "saturation." Because so much single family housing stock is currently on the market for sale, many owners have chosen to rent out their homes rather than try to find buyers in this market. These additional rental units are competing with market rate and affordable apartments, leading apartment owners to respond with lower rents and special offers. With an excess of rental housing available in many places, vacancies in the FHFC's portfolio are higher than usual.<sup>34</sup>

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<sup>29</sup> Florida Housing Finance Corporation, *Financing Affordable Rental Development*, March 2011, p. 1, available at <http://www.floridahousing.org/FH-ImageWebDocs/UniversalApps/2011/ImportantAnnouncements>.

<sup>30</sup> *Id.*

<sup>31</sup> The Florida Housing Finance Corporation (FHFC) has proposed rules (Rule 67-48, F.A.C. and Rule 67-21, F.A.C.) to establish the procedures by which the FHFC must administer the application process, determine loan amounts, make and service mortgage loans for new construction or rehabilitation of affordable rental units under the State Apartment Incentive Loan Program (s. 420.5087, F.S.); the HOME Investment Partnerships Program (s. 420.5089, F.S.); and administer the application process, determine Housing Credit amounts and implement the provisions of the Housing Credit Program (Section 42 of the Internal Revenue Code and s. 420.5099, F.S.), and the Multifamily Mortgage Revenue Bond Program (Section 142 of the Internal revenue Code and s. 420.509, F.S.). Florida Housing Finance Corporation, 2011 Universal Application, [http://apps.floridahousing.org/StandAlone/FHFC\\_ECM/ContentPage.aspx?PAGE=0238](http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0238).

<sup>32</sup> The Florida Housing Finance Corporation prepared evaluated the economic and job impacts of the FHFC's proposed Low Income Housing Tax Credit cycle with the University of Florida's Shimbeg Center for Housing Studies. IMPLAN Version 3, an econometric model along with 2009 Florida state data, was used to estimate impacts from financing both new construction and preservation developments. Florida Housing Finance Corporation, *Financing Affordable Rental Development*, March 2011, p. 1, available at <http://www.floridahousing.org/FH-ImageWebDocs/UniversalApps/2011/ImportantAnnouncements>.

<sup>33</sup> Florida Housing Finance Corporation, *2010 Annual Report*, Letter from the Chairman and Executive Director, p.4, available at [http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/AnnualReports/FHFC\\_2010AR.pdf](http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/AnnualReports/FHFC_2010AR.pdf).

<sup>34</sup> Florida Housing Finance Corporation, *Financing Affordable Rental Development*, March 2011, p. 6, available at <http://www.floridahousing.org/FH-ImageWebDocs/UniversalApps/2011/ImportantAnnouncements>.



The FHFC states that its objective is to carefully target any new rental construction to those areas of the state where there is a defined need for such housing. The goal is to help avoid cannibalizing existing state financed rental developments and particularly that portion of developments in the Florida Affordable Housing Guarantee Program<sup>35</sup> portfolio. Negative pressure on the affordable rental transactions financed by Florida's Guarantee Fund may lead to a statutory call on State Housing Trust Fund resources to provide additional support to the Guarantee Fund. These resources have been utilized in recent years by the Legislature and Governor to help balance Florida's budget.<sup>36</sup>

With respect to preservation, there are over 400 rental properties throughout Florida that were originally financed with funding from the U.S. Housing and Urban Development and the U.S. Department of Agriculture's Rural Development programs and are now over twenty years old. Over 300 of these properties have substantial amounts of federal rental assistance as part of their overall financing package.<sup>37</sup> The proposed preservation resources will assist the state with two objectives.<sup>38</sup>

- To recapitalize and rehabilitate older properties which are falling into disrepair because of age.
- To enable the preservation of the federal rental assistance that enables these rental properties to serve our lowest income Floridians. The federal rental assistance provides support directly to these properties in exchange for serving elders, persons with disabilities and others with extremely low incomes who cannot afford to pay rents at levels that will support daily operational expenses at a property. Preservation allows the federal rental assistance to remain on the property. Without this federal rental assistance, which, currently, is rarely provided to new construction developments, it would be difficult to house these same families in newly constructed rental developments financed through today's typical Low Income Housing Tax Credit financing structures.

## **Temporary Limitation of New Construction**

### Effect of the Proposed Changes

The bill places a temporary limitation on new construction and creates the following legislative finding:

*"Due to the current economic conditions in the housing market there is a critical need to rehabilitate or sell excess inventory of unsold homes, including foreclosed homes and newly constructed homes, as well as a critical need for the rehabilitation and preservation of older, affordable apartments. The Legislature further finds that there is a critical need to create housing-related jobs and that these conditions require the targeting of state and local housing trust fund moneys to assist in the sale or rehabilitation of existing homes and the preservation and rehabilitation of older rental apartments."*

The bill provides that notwithstanding current law,<sup>39</sup> funds from the State Housing Trust Fund or the Local Government Housing Trust Fund that are appropriated for use in the SAIL Program, Florida Homeownership Assistance Program (FHAP), Community Workforce Housing Innovation Pilot (CWHIP) Program, or the State Housing Initiatives Partnership (SHIP) Program may not be used to:

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<sup>35</sup> The Florida Affordable Housing Guarantee Program issued guarantees on mortgages of bond-financed affordable rental housing between 1993 and 2005. This action was intended to create a security mechanism that allowed issuers of mortgage revenue bonds to sell affordable housing bonds in the primary and secondary markets. Most of the transactions in this portfolio are 50 percent guaranteed by the U.S. Department of Housing and Urban Development Risk Sharing program. However, due to the current market conditions, the FHFC has suspended the issuance of additional guarantees. Florida Housing Finance Corporation, *2010 Annual Report*, p.6, available at [http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/AnnualReports/FHFC\\_2010AR.pdf](http://www.floridahousing.org/FH-ImageWebDocs/Newsroom/Publications/AnnualReports/FHFC_2010AR.pdf). See also s. 420.5092, F.S.

<sup>36</sup> Florida Housing Finance Corporation, *Financing Affordable Rental Development*, March 2011, p. 6, available at <http://www.floridahousing.org/FH-ImageWebDocs/UniversalApps/2011/ImportantAnnouncements>.

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

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

<sup>39</sup> ss. 420.507(22)(a) and (23)(a), 420.5087(6)(l), 420.5088, 420.5095, and 420.9075(1)(b) and (5)(b), F.S.

- Finance or otherwise assist the construction or purchase of housing sold to eligible individuals, unless the housing unit being sold had an initial certificate of occupancy prior to December 31, 2010; or
- Finance or otherwise assist in the construction or purchase of rental housing, unless the development being financed or assisted received its initial certificate of occupancy prior to December 31, 1996.

The bill expressly states that nothing in this section restricts the use of such funds to assist with the purchase of newly constructed homes that were completed prior to December 31, 2010, or the acquisition and rehabilitation of apartments that received their initial certificate of occupancy prior to December 31, 1996. It also provides that the use of such funds is subject to the restrictions of the program under which the funding is made available.

This section and the limitations imparted by it expire July 1, 2012.

## **FHFC Board of Directors**

### Current Law

The FHFC is governed by a nine-member board of directors appointed by the Governor and subject to Senate confirmation as follows:<sup>40</sup>

- A residential home builder.
- A commercial builder.
- A banker or mortgage banker.
- A building labor representative.
- An advocate for low-income persons.
- A former local government elected official.
- Two Florida citizens who are not principally employed in one of the above-listed industries.
- The Secretary of the Florida Department of Community Affairs (ex officio and voting).

### Effect of Proposed Changes

The bill permits the Secretary of the Florida Department of Community Affairs to designate a senior-level agency employee to serve as the DCA's ex officio board member.

## **Agency Inspectors General**

### Current Law

Florida law provides for the establishment of an Office of the Inspector General (OIG) in each state agency to promote accountability, integrity, and efficiency in government.<sup>41</sup> Each Inspector General (IG) is appointed, supervised, and removed by their respective agency head.<sup>42</sup> The major responsibilities of the OIG include investigations, audits, and reviews of state agency programs and activities.<sup>43</sup> Currently, the IG for DCA is directed to perform for the FHFC the functions of the IG and reports to the secretary of DCA.<sup>44</sup>

The minimum qualifications for an agency IG are as follows:<sup>45</sup>

- A bachelor's degree from an accredited college or university with a major in accounting, or with a major in business which includes five courses in accounting, and 5 years of experience as an internal auditor or independent postauditor, electronic data processing auditor, accountant, or any combination thereof; or

<sup>40</sup> Section 420.504(3), F.S.

<sup>41</sup> Section 20.055(2), F.S.

<sup>42</sup> Section 20.055(3), F.S.

<sup>43</sup> Section 20.055(2), F.S.

<sup>44</sup> Section 420.0006, F.S.

<sup>45</sup> Section 20.055(5), F.S.

- A master's degree in accounting, business administration, or public administration from an accredited college or university and 4 years of experience as required above; or
- A certified public accountant license<sup>46</sup> or a certified internal audit certificate issued by the Institute of Internal Auditors or earned by examination, and 4 years of experience as required above.

Investigations by the IG are designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government.<sup>47</sup> Accordingly, the following duties are performed by OIG:<sup>48</sup>

- Receive complaints and coordinate all activities of the agency as required by the Whistle-blower's Act.<sup>49</sup>
- Receive and consider the complaints which do not meet the criteria for an investigation under the Whistle-blower's Act and conduct, supervise, or coordinate such inquiries, investigations, or reviews as the IG deems appropriate.
- Report expeditiously to the Department of Law Enforcement or other law enforcement agencies, as appropriate, whenever the IG has reasonable grounds to believe there has been a violation of criminal law.
- Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the IG or the IG's office. This shall include freedom from any interference with investigations and timely access to records and other sources of information.
- Submit in a timely fashion final reports on investigations conducted by the IG to the agency head, except for whistle-blower's investigations, which shall be conducted and reported pursuant to s. 112.3189, F.S.

Audits are independent appraisals designed to examine and evaluate agency programs and activities. An inherent objective when performing audits is to review and evaluate internal controls necessary to ensure fiscal accountability. Audits must be conducted in accordance with the current Standards for the Professional Practice of Internal Auditing and subsequent Internal Auditing Standards or Statements on Internal Auditing Standards published by the Institute of Internal Auditors, Inc., or, where appropriate, in accordance with generally accepted governmental auditing standards.<sup>50</sup> Final reports are submitted to the agency head and the Auditor General, whose office is directed to give official recognition to their findings and recommendations as part of its post-audit responsibilities.<sup>51</sup>

Each IG is required to prepare an annual report summarizing the annual activities of the OIG. The report is due September 30, following the preceding fiscal year.<sup>52</sup>

### Effect of Proposed Changes

The bill establishes an IG position for the FHFC and provides for the appointment and removal of the IG by the director with the advice and consent of the FHFC's board of directors (Board). The FHFC's IG will perform the duties of an agency inspector general as provided in IG will be required to meet the minimal qualifications established by law<sup>53</sup> and the Board is authorized to establish additional qualifications to meet the unique needs of the FHFC.

The bill amends the provisions of state law relating to the agency inspectors general to add the Florida Housing Finance Corporation to the definition of "State Agency" and the Board of Directors of the Florida Housing Finance Corporation to the definition of "Agency Head" thereby conferring the duties and responsibilities described above on the newly FHFC IG position.

<sup>46</sup> Chapter 473, F.S.

<sup>47</sup> Section 20.055(6), F.S.

<sup>48</sup> Section 20.055(6), F.S.

<sup>49</sup> Sections 112.3187-112.31895, F.S.

<sup>50</sup> Section 20.055(5), F.S.

<sup>51</sup> Section 20.055(5)(f) and (g), F.S.

<sup>52</sup> Section 20.055(7), F.S.

<sup>53</sup> Section 20.055(4), F.S.

The bill adjusts the reporting deadline for the FHFC IG's annual report to reflect the reporting period (calendar year) of the FHFC. The bill also removes the requirement for DCA's IG to serve as the FHFC's IG and removes an obsolete cross-reference.

## **Local Housing Finance Authorities**

### **Current Law**

State law prescribes the guidelines for local government investment policies for public funds in excess of the amounts needed to meet current expenses.<sup>54</sup> The law requires investment policies to be structured to place the highest priority on the safety of principal and liquidity of funds. It emphasizes that the optimization of investment returns is secondary to the requirements for safety and liquidity. Each unit of local government is required to adopt policies that are commensurate with the nature and size of the public funds within its custody.<sup>55</sup>

### **Effect of the Proposed Changes**

The bill authorizes local housing finance authorities (HFAs) to invest and reinvest surplus funds in accordance with the state's local government investment policies<sup>56</sup> and provides that in addition to the investments expressly authorized by law,<sup>57</sup> local HFAs are empowered to invest surplus funds in interest-bearing time deposits or savings accounts that are fully insured by the Federal Deposit Insurance Corporation (FDIC) regardless of whether the bank or financial institution in which the deposit or investment is made is a "qualified public depository."<sup>58</sup>

State restrictions, pertaining to "qualified public depositories" do not apply to some investments, including "public deposits which are fully secured under federal regulations."<sup>59</sup> The bill includes explicit intent language to structure this empowerment as supplementary authority and to avoid interpretation as a limitation upon any powers of a local HFA. Legal counsel for some local housing finance authorities have opined that this waiver includes investments that are fully insured by the FDIC. However, proponents of the countervailing view have interpreted the language so that it does not include FDIC insured accounts. An auditor has suggested that a clarification would be beneficial.<sup>60</sup>

## **B. SECTION DIRECTORY:**

- Section 1:** Amends s. 20.055 (1) and (7), F.S., relating to Agency Inspectors General.
- Section 2:** Creates s. 156.608(11), F.S., authorizing local housing finance authorities to invest and reinvest surplus funds.
- Section 3:** Amends s. 163.3177(6), F.S. providing that the housing element of certain local government comprehensive plans may include provisions that address housing for seniors; and providing for disposal of specified property.
- Section 4:** Amends s. 201.15 (9), (10), (13), F.S., removing the statutory limitations on the amount of documentary stamp revenue that is distributed to the State Housing Trust Fund and the Local Government Housing Trust Fund.
- Section 5:** Repeals section 8 of chapter 2009-131, L.O.F., retroactively to June 30, 2009.
- Section 6:** Amends s. 420.003(4), F.S., providing additional policy guidelines under the state housing strategy for the development of programs for housing production, rehabilitation,

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<sup>54</sup> Section 218.415, F.S.

<sup>55</sup> *Id.*

<sup>56</sup> Section 218.415, F.S.

<sup>57</sup> Sections 218.415(16)((a)-(g) and (17)(a)-(d), F.S.

<sup>58</sup> Section 280.02(26), F.S.

<sup>59</sup> Section 280.03(3)(e), F.S.

<sup>60</sup> Florida Association of Local Housing Finance Authorities, email and conversation with House Community & Military Affairs Subcommittee staff on February 28, 2011.

and finance to require persons with special needs to be included in the strategy's periodic review and report.

- Section 7:** Creates s. 420.004(7) and (13), F.S., defining the terms "disabling condition" and "person with special needs."
- Section 8:** Amends s. 420.0006, F.S., relating to the appointment of the Department of Community Affairs' Inspector General to act as the FHFC's Inspector General.
- Section 9:** Amends s. 420.504(3), F.S., relating to the DCA secretary's power to designate a senior-level agency employee to serve as the DCA's ex officio and voting member of the FHFC board.
- Section 10:** Amends s. 420.506, F.S., relating to the appointment and removal of the FHFC's Inspector General.
- Section 11:** Amends s. 420.507(22), F.S., extending low interest mortgage loans for the SAIL Program to sponsors of projects who set aside units for persons with special needs; creates s. 420.507(33), F.S., to establish the authority of the FHFC to administer programs receiving federal funding for which no corresponding program has been previously created by statute; amends s. 420.507(47), deleting criteria for domiciled builder preference language and replacing that criteria with criteria which favors the highest rate of Florida job creation; and amends s. 420.507(46), F.S., to correct cross-references..
- Section 12:** Amends s. 420.5087(3) and (6), F.S., including persons with special needs as a tenant group for specified purposes of the SAIL Program; and modifying the competitive criteria that must be considered when DCA and the FHFC staff are evaluating and ranking applications under the SAIL Program.
- Section 13:** Amends s. 163.31771, F.S., relating to accessory dwelling units, to conform cross-references.
- Section 14:** Amends s. 212.08, F.S., relating to sales and use tax, to conform cross-references.
- Section 15:** Amends s. 215.5586, F.S., relating to the My Safe Florida Home Program, to conform cross-references.
- Section 16:** Amends s. 420.503, F.S., relating to definition, to conform cross-references.
- Section 17:** Provides that funds from various affordable housing trust funds and programs may not be used to finance or otherwise assist new construction until July 1, 2012.
- Section 18:** Provides an effective date of July 1, 2011.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

In 2010, the EDR's consensus estimate found that the removal of the statutory limitations on the amount of documentary stamp tax revenues that go into the State Housing Trust Fund and the Local Government Housing Trust Fund would have no impact to general revenue cash in Fiscal Year 2010-11 and 2011-12. However, based on a four-year outlook there is a negative fiscal impact to general revenue cash of \$600,000 in Fiscal Year 2012-13 and \$21.4 million in Fiscal Year 2013-14. Therefore, EDR's consensus estimate found the bill would have a recurring negative impact to General Revenue of \$21.4 million in Fiscal Year 2013-14.

#### 2. Expenditures:

None.

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

1. Revenues:

None.

2. Expenditures:

None.

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

The bill contains provisions that direct funds from various affordable housing trust funds and programs may not be used to finance or otherwise assist new construction until July 1, 2012. These provisions are aimed at reducing the surplus of available homes on the market.

**D. FISCAL COMMENTS:**

See comments under FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill establishes the authority of the FHFC to administer programs receiving federal funding for which no corresponding program has been previously created by statute and establish selection criteria for such funds by request for proposals or other competitive solicitation.

The bill requires the FHFC to develop rules for determining Florida job creation rate in the development and construction of affordable housing in its scoring and competitive evaluation of applications for the SAIL program.

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

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 639 (2011)

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: Community & Military  
2 Affairs Subcommittee

3 Representative(s) Dorworth offered the following:  
4

5 **Amendment**

6 Remove lines 853-888 and insert:  
7

8 Section 17. Subsections (9) and (10) are added to section  
9 420.5087, Florida Statutes, to read:

10 420.5087 State Apartment Incentive Loan Program.—There is  
11 hereby created the State Apartment Incentive Loan Program for  
12 the purpose of providing first, second, or other subordinated  
13 mortgage loans or loan guarantees to sponsors, including for-  
14 profit, nonprofit, and public entities, to provide housing  
15 affordable to very-low-income persons. -

16 (9) It is the intent of the Legislature that available  
17 State Apartment Incentive Loan funds be used in conjunction with  
18 private activity bond allocation to encourage the new  
19 construction of affordable rental housing on vacant distressed

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 639 (2011)

Amendment No. 1

20 property. Vacant distressed property in Florida is limited to  
21 those properties that have received site plan approvals and site  
22 construction permits after January 1, 2004 and commenced site  
23 construction after January 1, 2004, but were abandoned prior to  
24 2011 and are currently a blight on the local community. Blighted  
25 properties are ones that exhibit signs of deterioration  
26 sufficient to constitute a threat to human health, safety and  
27 public welfare in accordance with local codes and ordinances.  
28 To implement this intent, not less than 90 percent of the moneys  
29 in the State Apartment Incentive Loan Fund in each calendar year  
30 shall be awarded as subordinate loan financing for the new  
31 construction of affordable rental housing developments whose  
32 primary source of financing is an allocation of tax exempt  
33 private activity bonds issued by the corporation or by a local  
34 or regional agency pursuant to Part VI of Chapter 159.  
35 Applicants who closed their bond financing or commenced  
36 construction prior to December 31, 2010, shall not be eligible  
37 to apply for such subordinate loan financing, and applicants who  
38 commenced construction after December 31, 2010, shall be  
39 eligible to apply for such subordinate loan financing provided  
40 the application seeking such subordinate financing was submitted  
41 to the corporation prior to or not more than 18 months after  
42 commencement of construction. Such subordinate loan financing  
43 shall be awarded by the corporation through an application  
44 system for evaluation and ranking of applications under the same  
45 rules as apply to 4 percent Housing Credits with County Housing  
46 Finance Authority Bonds. Prior to the receipt of competitive  
47 applications for the award of such subordinate loan financing,



Amendment No. 1

48 the corporation shall generate and distribute an estimate of the  
49 total amount of State Apartment Incentive Loan Fund moneys  
50 available in the calendar year such subordinate loan financing  
51 will be awarded. A rank ordered list of applications selected  
52 for receipt of subordinate loan financing shall be presented to  
53 the corporation's Board of Directors as soon as practicable  
54 after the corporation calculates the amount of interest due on  
55 outstanding State Apartment Incentive Loans, which amount shall  
56 be included in the moneys available for award under this  
57 subsection.

58 (10) Financial beneficiaries defined as any principal of  
59 the developer or general partner of an applicant, of any  
60 development financed in part by the guarantee fund authorized  
61 under s. 420.5092, that has been foreclosed or is in foreclosure  
62 or is participating in the guarantee fund in accordance with s.  
63 420.5092(3), may not be financial beneficiaries for any  
64 applicant or developer of any program funded in part with State  
65 Housing Trust Funds after the effective date hereof.

66 Section 18. (1) The Legislature finds that due to the  
67 current economic conditions in the housing market there is a  
68 critical need to rehabilitate or sell excess inventory of unsold  
69 homes, including foreclosed homes and new constructed homes.  
70 The Legislature further finds that there is a critical need to  
71 create housing-related jobs and that these conditions require  
72 the targeting of portions of the state or local housing trust  
73 fund moneys to assist in the sale or rehabilitation of existing  
74 homes.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 639 (2011)

Amendment No. 1

75 (2) Notwithstanding ss. 420.507(22)(a) and (23)(a),  
76 420.5088, 420.5095, and 420.9075(1)(b) and (5)(b), Florida  
77 Statutes, funds from the State Housing Trust Fund or the Local  
78 Government Housing Trust Fund that are appropriated for use in  
79 the Florida Homeownership Assistance Program, Community  
80 Workforce Housing Innovation Pilot Program, or the State Housing  
81 Initiatives Partnership Program may not be used to finance or  
82 otherwise assist the construction or purchase of housing sold to  
83 eligible individuals, unless the housing unit being sold had an  
84 initial certificate or occupancy prior to December 31, 2010.

85  
86 Nothing in this section restricts the use of such funds to  
87 assist with the purchase of newly constructed homes that were  
88 completed prior to December 31, 2010. The use of such funds is  
89 subject to the restrictions of the program under which the  
90 funding is made available.

91 (3) This section expires July 1, 2012.

92

93 Renumber subsequent section.

94



1                                   A bill to be entitled  
2           An act relating to affordable housing; amending s. 20.055,  
3           F.S.; revising the definition of "state agency" to include  
4           the Florida Housing Finance Corporation; revising the  
5           definition of "agency head" to include the board of  
6           directors of the corporation; requiring the inspector  
7           general to prepare an annual report; amending s. 159.608,  
8           F.S.; providing a housing finance authority with an  
9           additional purpose for which it may exercise its power to  
10          borrow; amending s. 163.3177, F.S.; revising provisions  
11          relating to the elements of local comprehensive plans to  
12          authorize the inclusion of an element for affordable  
13          housing for certain seniors; providing for the disposition  
14          of real property by a local government for the development  
15          of affordable housing; amending s. 201.15, F.S.; revising  
16          the allocation of certain proceeds distributed from the  
17          excise tax on documents that are paid into the State  
18          Treasury to the credit of the State Housing Trust Fund;  
19          providing for retroactive repeal of s. 8, ch. 2009-131,  
20          Laws of Florida, to eliminate a conflicting version of s.  
21          201.15, F.S.; amending s. 420.0003, F.S.; including the  
22          needs of persons with special needs in the state housing  
23          strategy's periodic review and report; amending s.  
24          420.0004, F.S.; defining the terms "disabling condition"  
25          and "person with special needs"; conforming cross-  
26          references; amending s. 420.0006, F.S.; removing an  
27          obsolete reference; deleting provisions requiring the  
28          inspector general of the Department of Community Affairs

29 to perform functions for the corporation to conform to  
 30 changes made by the act; amending s. 420.504, F.S.;  
 31 authorizing the Secretary of Community Affairs to  
 32 designate a senior-level agency employee to serve on the  
 33 board of directors of the Florida Housing Finance  
 34 Corporation; amending s. 420.506, F.S.; providing for the  
 35 appointment of an inspector general of the Florida Housing  
 36 Finance Corporation; providing appointing authority  
 37 thereof; providing duties and responsibilities of the  
 38 inspector general; amending s. 420.507, F.S.; requiring  
 39 certain rates of interest to be made available to sponsors  
 40 of projects for persons with special needs; providing  
 41 additional powers of the corporation relating to receipt  
 42 of federal funds; revising powers of the corporation  
 43 relating to criteria establishing a preference for  
 44 eligible developers and general contractors; conforming a  
 45 cross-reference; amending s. 420.5087, F.S.; limiting the  
 46 reservation of funds within each notice of fund  
 47 availability to the persons with special needs tenant  
 48 group; including persons with special needs as a tenant  
 49 group for specified purposes of the State Apartment  
 50 Incentive Loan Program; revising and providing criteria to  
 51 be used by a specified review committee for the  
 52 competitive ranking of applications for such program;  
 53 conforming a cross-reference; amending ss. 163.31771,  
 54 212.08, 215.5586, and 420.503, F.S.; conforming cross-  
 55 references; providing legislative intent; prohibiting  
 56 funds from the State Housing Trust Fund or the Local

57 Government Housing Trust Fund that are appropriated for  
58 specified programs from being used for certain purposes;  
59 providing for future repeal; providing an effective date.  
60

61 Be It Enacted by the Legislature of the State of Florida:  
62

63 Section 1. Paragraphs (a) and (b) of subsection (1) and  
64 subsection (7) of section 20.055, Florida Statutes, are amended  
65 to read:

66 20.055 Agency inspectors general.—

67 (1) For the purposes of this section:

68 (a) "State agency" means each department created pursuant  
69 to this chapter, and also includes the Executive Office of the  
70 Governor, the Department of Military Affairs, the Fish and  
71 Wildlife Conservation Commission, the Office of Insurance  
72 Regulation of the Financial Services Commission, the Office of  
73 Financial Regulation of the Financial Services Commission, the  
74 Public Service Commission, the Board of Governors of the State  
75 University System, the Florida Housing Finance Corporation, and  
76 the state courts system.

77 (b) "Agency head" means the Governor, a Cabinet officer, a  
78 secretary as defined in s. 20.03(5), or an executive director as  
79 defined in s. 20.03(6). It also includes the chair of the Public  
80 Service Commission, the Director of the Office of Insurance  
81 Regulation of the Financial Services Commission, the Director of  
82 the Office of Financial Regulation of the Financial Services  
83 Commission, the board of directors of the Florida Housing  
84 Finance Corporation, and the Chief Justice of the State Supreme

85 Court.

86 (7) (a) Except as provided in paragraph (b), each inspector  
 87 general shall, not later than September 30 of each year, prepare  
 88 an annual report summarizing the activities of the office during  
 89 the immediately preceding state fiscal year.

90 (b) The inspector general of the Florida Housing Finance  
 91 Corporation shall, not later than 90 days after the end of each  
 92 fiscal year, prepare an annual report summarizing the activities  
 93 of the office of inspector general during the immediately  
 94 preceding fiscal year.

95 (c) The final reports prepared pursuant to paragraphs (a)  
 96 and (b) report shall be furnished to the heads of the respective  
 97 agencies ~~agency head~~. Such report shall include, but need not be  
 98 limited to:

99 1. (a) A description of activities relating to the  
 100 development, assessment, and validation of performance measures.

101 2. (b) A description of significant abuses and deficiencies  
 102 relating to the administration of programs and operations of the  
 103 agency disclosed by investigations, audits, reviews, or other  
 104 activities during the reporting period.

105 3. (c) A description of the recommendations for corrective  
 106 action made by the inspector general during the reporting period  
 107 with respect to significant problems, abuses, or deficiencies  
 108 identified.

109 4. (d) The identification of each significant  
 110 recommendation described in previous annual reports on which  
 111 corrective action has not been completed.

112 5. (e) A summary of each audit and investigation completed

113 during the reporting period.

114 Section 2. Subsection (11) is added to section 159.608,  
 115 Florida Statutes, to read:

116 159.608 Powers of housing finance authorities.—A housing  
 117 finance authority shall constitute a public body corporate and  
 118 politic, exercising the public and essential governmental  
 119 functions set forth in this act, and shall exercise its power to  
 120 borrow only for the purpose as provided herein:

121 (11) To invest and reinvest surplus funds of the housing  
 122 finance authority in accordance with s. 218.415. However, in  
 123 addition to the investments expressly authorized in ss.  
 124 218.415(16)(a)-(g) and (17)(a)-(d), a housing finance authority  
 125 may invest surplus funds in interest-bearing time deposits or  
 126 savings accounts that are fully insured by the Federal Deposit  
 127 Insurance Corporation regardless of whether the bank or  
 128 financial institution in which the deposit or investment is made  
 129 is a qualified public depository as defined in s. 280.02. This  
 130 subsection is supplementary to and may not be construed as  
 131 limiting any powers of a housing finance authority or providing  
 132 or implying a limiting construction of any other statutory  
 133 provision.

134 Section 3. Paragraph (f) of subsection (6) of section  
 135 163.3177, Florida Statutes, is amended to read:

136 163.3177 Required and optional elements of comprehensive  
 137 plan; studies and surveys.—

138 (6) In addition to the requirements of subsections (1)-(5)  
 139 and (12), the comprehensive plan shall include the following  
 140 elements:



141 (f)1. A housing element consisting of standards, plans,  
 142 and principles to be followed in:

143 a. The provision of housing for all current and  
 144 anticipated future residents of the jurisdiction.

145 b. The elimination of substandard dwelling conditions.

146 c. The structural and aesthetic improvement of existing  
 147 housing.

148 d. The provision of adequate sites for future housing,  
 149 including affordable workforce housing as defined in s.  
 150 380.0651(3)(j), housing for low-income, very low-income, and  
 151 moderate-income families, mobile homes, and group home  
 152 facilities and foster care facilities, with supporting  
 153 infrastructure and public facilities. The element may include  
 154 provisions that specifically address affordable housing for  
 155 persons 60 years of age or older. Real property that is conveyed  
 156 to a local government for affordable housing under this sub-  
 157 subparagraph shall be disposed of by the local government  
 158 pursuant to s. 125.379 or s. 166.0451.

159 e. Provision for relocation housing and identification of  
 160 historically significant and other housing for purposes of  
 161 conservation, rehabilitation, or replacement.

162 f. The formulation of housing implementation programs.

163 g. The creation or preservation of affordable housing to  
 164 minimize the need for additional local services and avoid the  
 165 concentration of affordable housing units only in specific areas  
 166 of the jurisdiction.

167 h. Energy efficiency in the design and construction of new  
 168 housing.

169           i. Use of renewable energy resources.

170           j. Each county in which the gap between the buying power  
 171 of a family of four and the median county home sale price  
 172 exceeds \$170,000, as determined by the Florida Housing Finance  
 173 Corporation, and which is not designated as an area of critical  
 174 state concern shall adopt a plan for ensuring affordable  
 175 workforce housing. At a minimum, the plan shall identify  
 176 adequate sites for such housing. For purposes of this sub-  
 177 subparagraph, the term "workforce housing" means housing that is  
 178 affordable to natural persons or families whose total household  
 179 income does not exceed 140 percent of the area median income,  
 180 adjusted for household size.

181           k. As a precondition to receiving any state affordable  
 182 housing funding or allocation for any project or program within  
 183 the jurisdiction of a county that is subject to sub-subparagraph  
 184 j., a county must, by July 1 of each year, provide certification  
 185 that the county has complied with the requirements of sub-  
 186 subparagraph j.

187

188 The goals, objectives, and policies of the housing element must  
 189 be based on the data and analysis prepared on housing needs,  
 190 including the affordable housing needs assessment. State and  
 191 federal housing plans prepared on behalf of the local government  
 192 must be consistent with the goals, objectives, and policies of  
 193 the housing element. Local governments are encouraged to use job  
 194 training, job creation, and economic solutions to address a  
 195 portion of their affordable housing concerns.

196           2. To assist local governments in housing data collection

197 and analysis and assure uniform and consistent information  
 198 regarding the state's housing needs, the state land planning  
 199 agency shall conduct an affordable housing needs assessment for  
 200 all local jurisdictions on a schedule that coordinates the  
 201 implementation of the needs assessment with the evaluation and  
 202 appraisal reports required by s. 163.3191. Each local government  
 203 shall utilize the data and analysis from the needs assessment as  
 204 one basis for the housing element of its local comprehensive  
 205 plan. The agency shall allow a local government the option to  
 206 perform its own needs assessment, if it uses the methodology  
 207 established by the agency by rule.

208 Section 4. Subsections (9), (10), and (13) of section  
 209 201.15, Florida Statutes, are amended to read:

210 201.15 Distribution of taxes collected.—All taxes  
 211 collected under this chapter are subject to the service charge  
 212 imposed in s. 215.20(1). Prior to distribution under this  
 213 section, the Department of Revenue shall deduct amounts  
 214 necessary to pay the costs of the collection and enforcement of  
 215 the tax levied by this chapter. Such costs and the service  
 216 charge may not be levied against any portion of taxes pledged to  
 217 debt service on bonds to the extent that the costs and service  
 218 charge are required to pay any amounts relating to the bonds.  
 219 After distributions are made pursuant to subsection (1), all of  
 220 the costs of the collection and enforcement of the tax levied by  
 221 this chapter and the service charge shall be available and  
 222 transferred to the extent necessary to pay debt service and any  
 223 other amounts payable with respect to bonds authorized before  
 224 January 1, 2010, secured by revenues distributed pursuant to

225 subsection (1). All taxes remaining after deduction of costs and  
 226 the service charge shall be distributed as follows:

227 (9) Seven and fifty-three hundredths ~~The lesser of 7.53~~  
 228 percent of the remaining taxes ~~or \$107 million~~ in each fiscal  
 229 year shall be paid into the State Treasury to the credit of the  
 230 State Housing Trust Fund and used as follows:

231 (a) Half of that amount shall be used for the purposes for  
 232 which the State Housing Trust Fund was created and exists by  
 233 law.

234 (b) Half of that amount shall be paid into the State  
 235 Treasury to the credit of the Local Government Housing Trust  
 236 Fund and used for the purposes for which the Local Government  
 237 Housing Trust Fund was created and exists by law.

238 (10) Eight and sixty-six hundredths ~~The lesser of 8.66~~  
 239 percent of the remaining taxes ~~or \$136 million~~ in each fiscal  
 240 year shall be paid into the State Treasury to the credit of the  
 241 State Housing Trust Fund and used as follows:

242 (a) Twelve and one-half percent of that amount shall be  
 243 deposited into the State Housing Trust Fund and be expended by  
 244 the Department of Community Affairs and by the Florida Housing  
 245 Finance Corporation for the purposes for which the State Housing  
 246 Trust Fund was created and exists by law.

247 (b) Eighty-seven and one-half percent of that amount shall  
 248 be distributed to the Local Government Housing Trust Fund and  
 249 used for the purposes for which the Local Government Housing  
 250 Trust Fund was created and exists by law. Funds from this  
 251 category may also be used to provide for state and local  
 252 services to assist the homeless.

253 (13) In each fiscal year that the remaining taxes exceed  
 254 collections in the prior fiscal year, the stated maximum dollar  
 255 amounts provided in subsections (2), (4), (6), and (7), ~~(9)~~, and  
 256 ~~(10)~~ shall each be increased by an amount equal to 10 percent of  
 257 the increase in the remaining taxes collected under this chapter  
 258 multiplied by the applicable percentage provided in those  
 259 subsections.

260 Section 5. Section 8 of chapter 2009-131, Laws of Florida,  
 261 is repealed, retroactive to June 30, 2009.

262 Section 6. Paragraph (c) of subsection (4) of section  
 263 420.0003, Florida Statutes, is amended to read:

264 420.0003 State housing strategy.—

265 (4) IMPLEMENTATION.—The Department of Community Affairs  
 266 and the Florida Housing Finance Corporation in carrying out the  
 267 strategy articulated herein shall have the following duties:

268 (c) The Shimberg Center for Affordable Housing, in  
 269 consultation with the Department of Community Affairs and the  
 270 Florida Housing Finance Corporation, shall review and evaluate  
 271 existing housing rehabilitation, production, and finance  
 272 programs to determine their consistency with relevant policies  
 273 in this section and identify the needs of specific populations,  
 274 including, but not limited to, elderly persons, ~~and~~ handicapped  
 275 persons, and persons with special needs, and shall recommend  
 276 statutory modifications where appropriate. The Shimberg Center  
 277 for Affordable Housing, in consultation with the Department of  
 278 Community Affairs and the corporation, shall also evaluate the  
 279 degree of coordination between state housing programs, and  
 280 between state, federal, and local housing activities, and shall

281 recommend improved program linkages. The recommendations  
 282 required above and a report of any programmatic modifications  
 283 made as a result of these policies shall be included in the  
 284 housing report required by s. 420.6075, beginning December 31,  
 285 1991, and every 5 years thereafter.

286 Section 7. Section 420.0004, Florida Statutes, is amended  
 287 to read:

288 420.0004 Definitions.—As used in this part, unless the  
 289 context otherwise indicates:

290 (1) "Adjusted for family size" means adjusted in a manner  
 291 which results in an income eligibility level which is lower for  
 292 households with fewer than four people, or higher for households  
 293 with more than four people, than the base income eligibility  
 294 determined as provided in subsection (9) ~~(8)~~, subsection (11)  
 295 ~~(10)~~, subsection (12) ~~(11)~~, or subsection (17) ~~(15)~~, based upon  
 296 a formula as established by the United States Department of  
 297 Housing and Urban Development.

298 (2) "Adjusted gross income" means all wages, assets,  
 299 regular cash or noncash contributions or gifts from persons  
 300 outside the household, and such other resources and benefits as  
 301 may be determined to be income by the United States Department  
 302 of Housing and Urban Development, adjusted for family size, less  
 303 deductions allowable under s. 62 of the Internal Revenue Code.

304 (3) "Affordable" means that monthly rents or monthly  
 305 mortgage payments including taxes, insurance, and utilities do  
 306 not exceed 30 percent of that amount which represents the  
 307 percentage of the median adjusted gross annual income for the

308 households as indicated in subsection (9) ~~(8)~~, subsection (11)  
 309 ~~(10)~~, subsection (12) ~~(11)~~, or subsection (17) ~~(15)~~.

310 (4) "Corporation" means the Florida Housing Finance  
 311 Corporation.

312 (5) "Community-based organization" or "nonprofit  
 313 organization" means a private corporation organized under  
 314 chapter 617 to assist in the provision of housing and related  
 315 services on a not-for-profit basis and which is acceptable to  
 316 federal and state agencies and financial institutions as a  
 317 sponsor of low-income housing.

318 (6) "Department" means the Department of Community  
 319 Affairs.

320 (7) "Disabling condition" means a diagnosable substance  
 321 abuse disorder, serious mental illness, developmental  
 322 disability, or chronic physical illness or disability, or the  
 323 co-occurrence of two or more of these conditions, and a  
 324 determination that the condition is:

325 (a) Expected to be of long-continued and indefinite  
 326 duration; and

327 (b) Not expected to impair the ability of the person with  
 328 special needs to live independently with appropriate supports.

329 ~~(8)~~ ~~(7)~~ "Elderly" describes persons 62 years of age or  
 330 older.

331 ~~(9)~~ ~~(8)~~ "Extremely-low-income persons" means one or more  
 332 natural persons or a family whose total annual household income  
 333 does not exceed 30 percent of the median annual adjusted gross  
 334 income for households within the state. The Florida Housing  
 335 Finance Corporation may adjust this amount annually by rule to

336 provide that in lower income counties, extremely low income may  
 337 exceed 30 percent of area median income and that in higher  
 338 income counties, extremely low income may be less than 30  
 339 percent of area median income.

340 (10)~~(9)~~ "Local public body" means any county,  
 341 municipality, or other political subdivision, or any housing  
 342 authority as provided by chapter 421, which is eligible to  
 343 sponsor or develop housing for farmworkers and very-low-income  
 344 and low-income persons within its jurisdiction.

345 (11)~~(10)~~ "Low-income persons" means one or more natural  
 346 persons or a family, the total annual adjusted gross household  
 347 income of which does not exceed 80 percent of the median annual  
 348 adjusted gross income for households within the state, or 80  
 349 percent of the median annual adjusted gross income for  
 350 households within the metropolitan statistical area (MSA) or, if  
 351 not within an MSA, within the county in which the person or  
 352 family resides, whichever is greater.

353 (12)~~(11)~~ "Moderate-income persons" means one or more  
 354 natural persons or a family, the total annual adjusted gross  
 355 household income of which is less than 120 percent of the median  
 356 annual adjusted gross income for households within the state, or  
 357 120 percent of the median annual adjusted gross income for  
 358 households within the metropolitan statistical area (MSA) or, if  
 359 not within an MSA, within the county in which the person or  
 360 family resides, whichever is greater.

361 (13) "Person with special needs" means an adult person  
 362 requiring independent living services in order to maintain  
 363 housing or develop independent living skills and who has a



364 disabling condition; a young adult formerly in foster care who  
 365 is eligible for services under s. 409.1451(5); a survivor of  
 366 domestic violence as defined in s. 741.28; or a person receiving  
 367 benefits under the Social Security Disability Insurance (SSDI)  
 368 program or the Supplemental Security Income (SSI) program or  
 369 from veterans' disability benefits.

370 (14)-(12) "Student" means any person not living with his or  
 371 her parent or guardian who is eligible to be claimed by his or  
 372 her parent or guardian as a dependent under the federal income  
 373 tax code and who is enrolled on at least a half-time basis in a  
 374 secondary school, career center, community college, college, or  
 375 university.

376 (15)-(13) "Substandard" means:

377 (a) Any unit lacking complete plumbing or sanitary  
 378 facilities for the exclusive use of the occupants;

379 (b) A unit which is in violation of one or more major  
 380 sections of an applicable housing code and where such violation  
 381 poses a serious threat to the health of the occupant; or

382 (c) A unit that has been declared unfit for human  
 383 habitation but that could be rehabilitated for less than 50  
 384 percent of the property value.

385 (16)-(14) "Substantial rehabilitation" means repair or  
 386 restoration of a dwelling unit where the value of such repair or  
 387 restoration exceeds 40 percent of the value of the dwelling.

388 (17)-(15) "Very-low-income persons" means one or more  
 389 natural persons or a family, not including students, the total  
 390 annual adjusted gross household income of which does not exceed  
 391 50 percent of the median annual adjusted gross income for

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392 households within the state, or 50 percent of the median annual  
 393 adjusted gross income for households within the metropolitan  
 394 statistical area (MSA) or, if not within an MSA, within the  
 395 county in which the person or family resides, whichever is  
 396 greater.

397 Section 8. Section 420.0006, Florida Statutes, is amended  
 398 to read:

399 420.0006 Authority to contract with corporation; contract  
 400 requirements; nonperformance.—The secretary of the department  
 401 shall contract, notwithstanding the provisions of part I of  
 402 chapter 287, with the Florida Housing Finance Corporation on a  
 403 multiyear basis to stimulate, provide, and foster affordable  
 404 housing in the state. The contract must incorporate the  
 405 performance measures required by s. 420.511 and must be  
 406 consistent with the provisions of the corporation's strategic  
 407 plan prepared in accordance with s. 420.511 ~~and compatible with~~  
 408 ~~s. 216.0166~~. The contract must provide that, in the event the  
 409 corporation fails to comply with any of the performance measures  
 410 required by s. 420.511, the secretary shall notify the Governor  
 411 and shall refer the nonperformance to the department's inspector  
 412 general for review and determination as to whether such failure  
 413 is due to forces beyond the corporation's control or whether  
 414 such failure is due to inadequate management of the  
 415 corporation's resources. Advances shall continue to be made  
 416 pursuant to s. 420.0005 during the pendency of the review by the  
 417 department's inspector general. If such failure is due to  
 418 outside forces, it shall not be deemed a violation of the  
 419 contract. If such failure is due to inadequate management, the

420 department's inspector general shall provide recommendations  
 421 regarding solutions. The Governor is authorized to resolve any  
 422 differences of opinion with respect to performance under the  
 423 contract and may request that advances continue in the event of  
 424 a failure under the contract due to inadequate management. The  
 425 Chief Financial Officer shall approve the request absent a  
 426 finding by the Chief Financial Officer that continuing such  
 427 advances would adversely impact the state; however, in any event  
 428 the Chief Financial Officer shall provide advances sufficient to  
 429 meet the debt service requirements of the corporation and  
 430 sufficient to fund contracts committing funds from the State  
 431 Housing Trust Fund so long as such contracts are in accordance  
 432 with the laws of this state. ~~The department inspector general~~  
 433 ~~shall perform for the corporation the functions set forth in s.~~  
 434 ~~20.055 and report to the secretary of the department. The~~  
 435 ~~corporation shall be deemed an agency for the purposes of s.~~  
 436 ~~20.055.~~

437 Section 9. Subsection (3) of section 420.504, Florida  
 438 Statutes, is amended to read:

439 420.504 Public corporation; creation, membership, terms,  
 440 expenses.—

441 (3) The corporation is a separate budget entity and is not  
 442 subject to control, supervision, or direction by the Department  
 443 of Community Affairs in any manner, including, but not limited  
 444 to, personnel, purchasing, transactions involving real or  
 445 personal property, and budgetary matters. The corporation shall  
 446 consist of a board of directors composed of the Secretary of  
 447 Community Affairs as an ex officio and voting member, or a

448 senior-level agency employee designated by the secretary, and  
 449 eight members appointed by the Governor subject to confirmation  
 450 by the Senate from the following:

451 (a) One citizen actively engaged in the residential home  
 452 building industry.

453 (b) One citizen actively engaged in the banking or  
 454 mortgage banking industry.

455 (c) One citizen who is a representative of those areas of  
 456 labor engaged in home building.

457 (d) One citizen with experience in housing development who  
 458 is an advocate for low-income persons.

459 (e) One citizen actively engaged in the commercial  
 460 building industry.

461 (f) One citizen who is a former local government elected  
 462 official.

463 (g) Two citizens of the state who are not principally  
 464 employed as members or representatives of any of the groups  
 465 specified in paragraphs (a)-(f).

466 Section 10. Section 420.506, Florida Statutes, is amended  
 467 to read:

468 420.506 Executive director; agents and employees;  
 469 inspector general.—

470 (1) The appointment and removal of an executive director  
 471 shall be by the Secretary of Community Affairs, with the advice  
 472 and consent of the corporation's board of directors. The  
 473 executive director shall employ legal and technical experts and  
 474 such other agents and employees, permanent and temporary, as the  
 475 corporation may require, and shall communicate with and provide

476 information to the Legislature with respect to the corporation's  
 477 activities. The board is authorized, notwithstanding the  
 478 provisions of s. 216.262, to develop and implement rules  
 479 regarding the employment of employees of the corporation and  
 480 service providers, including legal counsel. The board of  
 481 directors of the corporation is entitled to establish travel  
 482 procedures and guidelines for employees of the corporation. The  
 483 executive director's office and the corporation's files and  
 484 records must be located in Leon County.

485 (2) The appointment and removal of an inspector general  
 486 shall be by the executive director, with the advice and consent  
 487 of the corporation's board of directors. The corporation's  
 488 inspector general shall perform for the corporation the  
 489 functions set forth in s. 20.055. The inspector general shall  
 490 administratively report to the executive director. The inspector  
 491 general shall meet the minimum qualifications as set forth s.  
 492 20.055(4). The corporation may establish additional  
 493 qualifications deemed necessary by the board of directors to  
 494 meet the unique needs of the corporation. The inspector general  
 495 shall be responsible for coordinating the responsibilities set  
 496 forth in s. 420.0006.

497 Section 11. Paragraph (a) of subsection (22) and  
 498 subsections (33), (46), and (47) of section 420.507, Florida  
 499 Statutes, are amended to read:

500 420.507 Powers of the corporation.—The corporation shall  
 501 have all the powers necessary or convenient to carry out and  
 502 effectuate the purposes and provisions of this part, including

503 the following powers which are in addition to all other powers  
 504 granted by other provisions of this part:

505 (22) To develop and administer the State Apartment  
 506 Incentive Loan Program. In developing and administering that  
 507 program, the corporation may:

508 (a) Make first, second, and other subordinated mortgage  
 509 loans including variable or fixed rate loans subject to  
 510 contingent interest for all State Apartment Incentive Loans  
 511 provided in this chapter based upon available cash flow of the  
 512 projects. The corporation shall make loans exceeding 25 percent  
 513 of project cost only to nonprofit organizations and public  
 514 bodies that are able to secure grants, donations of land, or  
 515 contributions from other sources and to projects meeting the  
 516 criteria of subparagraph 1. Mortgage loans shall be made  
 517 available at the following rates of interest:

518 1. Zero to 3 percent interest for sponsors of projects  
 519 that set aside at least 80 percent of their total units for  
 520 residents qualifying as farmworkers, commercial fishing workers,  
 521 ~~or~~ the homeless as defined in s. 420.621, or persons with  
 522 special needs as defined in s. 420.0004(13) over the life of the  
 523 loan.

524 2. Zero to 3 percent interest based on the pro rata share  
 525 of units set aside for homeless residents or persons with  
 526 special needs if the total of such units is less than 80 percent  
 527 of the units in the borrower's project.

528 3. One to 9 percent interest for sponsors of projects  
 529 targeted at populations other than farmworkers, commercial  
 530 fishing workers, ~~or~~ the homeless, or persons with special needs.

531 (33) To receive federal funding in connection with the  
 532 corporation's programs directly from the Federal Government and  
 533 to receive federal funds for which no corresponding program has  
 534 been created in statute and establish selection criteria for  
 535 such funds by request for proposals or other competitive  
 536 solicitation.

537 (46) To require, as a condition of financing a multifamily  
 538 rental project, that an agreement be recorded in the official  
 539 records of the county where the real property is located, which  
 540 requires that the project be used for housing defined as  
 541 affordable in s. 420.0004(3) by persons defined in s.  
 542 420.0004(9)~~(8)~~, ~~(11)~~~~(10)~~, ~~(12)~~~~(11)~~, and ~~(17)~~~~(15)~~. Such an  
 543 agreement is a state land use regulation that limits the highest  
 544 and best use of the property within the meaning of s.  
 545 193.011(2).

546 (47) To provide by rule, in connection with any  
 547 corporation competitive program, criteria establishing, where  
 548 all other competitive elements are equal, a preference for  
 549 developers and general contractors who demonstrate the highest  
 550 rate of Florida job creation in the development and construction  
 551 of affordable housing domiciled in this state and for developers  
 552 and general contractors, regardless of domicile, who have  
 553 substantial experience in developing or building affordable  
 554 housing through the corporation's programs.

555 ~~(a) In evaluating whether a developer or general~~  
 556 ~~contractor is domiciled in this state, the corporation shall~~  
 557 ~~consider whether the developer's or general contractor's~~  
 558 ~~principal office is located in this state and whether a majority~~

559 | ~~of the developer's or general contractor's principals and~~  
 560 | ~~financial beneficiaries reside in Florida.~~

561 |       ~~(b) In evaluating whether a developer or general~~  
 562 | ~~contractor has substantial experience, the corporation shall~~  
 563 | ~~consider whether the developer or general contractor has~~  
 564 | ~~completed at least five developments using funds either provided~~  
 565 | ~~by or administered by the corporation.~~

566 |       Section 12. Subsection (3) and paragraph (c) of subsection  
 567 | (6) of section 420.5087, Florida Statutes, are amended to read:

568 |       420.5087 State Apartment Incentive Loan Program.—There is  
 569 | hereby created the State Apartment Incentive Loan Program for  
 570 | the purpose of providing first, second, or other subordinated  
 571 | mortgage loans or loan guarantees to sponsors, including for-  
 572 | profit, nonprofit, and public entities, to provide housing  
 573 | affordable to very-low-income persons.

574 |       (3) During the first 6 months of loan or loan guarantee  
 575 | availability, program funds shall be reserved for use by  
 576 | sponsors who provide the housing set-aside required in  
 577 | subsection (2) for the tenant groups designated in this  
 578 | subsection. The reservation of funds to each of these groups  
 579 | shall be determined using the most recent statewide very-low-  
 580 | income rental housing market study available at the time of  
 581 | publication of each notice of fund availability required by  
 582 | paragraph (6) (b). The reservation of funds within each notice of  
 583 | fund availability to the tenant groups in paragraphs (a), (b),  
 584 | and (e) ~~(d)~~ may not be less than 10 percent of the funds  
 585 | available at that time. Any increase in funding required to  
 586 | reach the 10-percent minimum must be taken from the tenant group



587 that has the largest reservation. The reservation of funds  
 588 within each notice of fund availability to the tenant group in  
 589 paragraph (c) may not be less than 5 percent of the funds  
 590 available at that time. The reservation of funds within each  
 591 notice of fund availability to the tenant group in paragraph (d)  
 592 may not be more than 10 percent of the funds available at that  
 593 time. The tenant groups are:  
 594 (a) Commercial fishing workers and farmworkers;  
 595 (b) Families;  
 596 (c) Persons who are homeless;  
 597 (d) Persons with special needs; and  
 598 (e)-(d) Elderly persons. Ten percent of the amount reserved  
 599 for the elderly shall be reserved to provide loans to sponsors  
 600 of housing for the elderly for the purpose of making building  
 601 preservation, health, or sanitation repairs or improvements  
 602 which are required by federal, state, or local regulation or  
 603 code, or lifesafety or security-related repairs or improvements  
 604 to such housing. Such a loan may not exceed \$750,000 per housing  
 605 community for the elderly. In order to receive the loan, the  
 606 sponsor of the housing community must make a commitment to match  
 607 at least 5 percent of the loan amount to pay the cost of such  
 608 repair or improvement. The corporation shall establish the rate  
 609 of interest on the loan, which may not exceed 3 percent, and the  
 610 term of the loan, which may not exceed 15 years; however, if the  
 611 lien of the corporation's encumbrance is subordinate to the lien  
 612 of another mortgagee, then the term may be made coterminous with  
 613 the longest term of the superior lien. The term of the loan  
 614 shall be based on a credit analysis of the applicant. The

615 corporation may forgive indebtedness for a share of the loan  
 616 attributable to the units in a project reserved for extremely-  
 617 low-income elderly by nonprofit organizations, as defined in s.  
 618 420.0004(5), where the project has provided affordable housing  
 619 to the elderly for 15 years or more. The corporation shall  
 620 establish, by rule, the procedure and criteria for receiving,  
 621 evaluating, and competitively ranking all applications for loans  
 622 under this paragraph. A loan application must include evidence  
 623 of the first mortgagee's having reviewed and approved the  
 624 sponsor's intent to apply for a loan. A nonprofit organization  
 625 or sponsor may not use the proceeds of the loan to pay for  
 626 administrative costs, routine maintenance, or new construction.

627 (6) On all state apartment incentive loans, except loans  
 628 made to housing communities for the elderly to provide for  
 629 lifesafety, building preservation, health, sanitation, or  
 630 security-related repairs or improvements, the following  
 631 provisions shall apply:

632 (c) The corporation shall provide by rule for the  
 633 establishment of a review committee composed of the department  
 634 and corporation staff and shall establish by rule a scoring  
 635 system for evaluation and competitive ranking of applications  
 636 submitted in this program, including, but not limited to, the  
 637 following criteria:

638 1. Tenant income and demographic targeting objectives of  
 639 the corporation.

640 2. Targeting objectives of the corporation which will  
 641 ensure an equitable distribution of loans between rural and  
 642 urban areas.

643 3. Sponsor's agreement to reserve the units for persons or  
 644 families who have incomes below 50 percent of the state or local  
 645 median income, whichever is higher, for a time period to exceed  
 646 the minimum required by federal law or the provisions of this  
 647 part.

648 4. Sponsor's agreement to reserve more than:

649 a. Twenty percent of the units in the project for persons  
 650 or families who have incomes that do not exceed 50 percent of  
 651 the state or local median income, whichever is higher; or

652 b. Forty percent of the units in the project for persons  
 653 or families who have incomes that do not exceed 60 percent of  
 654 the state or local median income, whichever is higher, without  
 655 requiring a greater amount of the loans as provided in this  
 656 section.

657 5. Provision for tenant counseling.

658 6. Sponsor's agreement to accept rental assistance  
 659 certificates or vouchers as payment for rent.

660 7. Projects requiring the least amount of a state  
 661 apartment incentive loan compared to overall project cost except  
 662 that the share of the loan attributable to units serving  
 663 extremely-low-income persons shall be excluded from this  
 664 requirement.

665 8. Local government contributions and local government  
 666 comprehensive planning and activities that promote affordable  
 667 housing.

668 9. Project feasibility.

669 10. Economic viability of the project.

670 11. Commitment of first mortgage financing.

671 12. Sponsor's prior experience, ~~including whether the~~  
 672 ~~developer and general contractor have substantial experience, as~~  
 673 ~~provided in s. 420.507(47).~~

674 13. Sponsor's ability to proceed with construction.

675 14. Projects that directly implement or assist welfare-to-  
 676 work transitioning.

677 15. Projects that reserve units for extremely-low-income  
 678 persons.

679 16. Projects that include green building principles,  
 680 storm-resistant construction, or other elements that reduce  
 681 long-term costs relating to maintenance, utilities, or  
 682 insurance.

683 17. Job-creation rate ~~Domicile~~ of the developer and  
 684 general contractor, as provided in s. 420.507(47).

685 Section 13. Paragraphs (d), (e), (f), and (g) of  
 686 subsection (2) of section 163.31771, Florida Statutes, are  
 687 amended to read:

688 163.31771 Accessory dwelling units.-

689 (2) As used in this section, the term:

690 (d) "Low-income persons" has the same meaning as in s.  
 691 420.0004 (11) ~~(10)~~.

692 (e) "Moderate-income persons" has the same meaning as in  
 693 s. 420.0004 (12) ~~(11)~~.

694 (f) "Very-low-income persons" has the same meaning as in  
 695 s. 420.0004 (17) ~~(15)~~.

696 (g) "Extremely-low-income persons" has the same meaning as  
 697 in s. 420.0004 (9) ~~(8)~~.

698 Section 14. Paragraph (o) of subsection (5) of section  
 699 212.08, Florida Statutes, is amended to read:

700 212.08 Sales, rental, use, consumption, distribution, and  
 701 storage tax; specified exemptions.—The sale at retail, the  
 702 rental, the use, the consumption, the distribution, and the  
 703 storage to be used or consumed in this state of the following  
 704 are hereby specifically exempt from the tax imposed by this  
 705 chapter.

706 (5) EXEMPTIONS; ACCOUNT OF USE.—

707 (o) Building materials in redevelopment projects.—

708 1. As used in this paragraph, the term:

709 a. "Building materials" means tangible personal property  
 710 that becomes a component part of a housing project or a mixed-  
 711 use project.

712 b. "Housing project" means the conversion of an existing  
 713 manufacturing or industrial building to housing units in an  
 714 urban high-crime area, enterprise zone, empowerment zone, Front  
 715 Porch Community, designated brownfield area, or urban infill  
 716 area and in which the developer agrees to set aside at least 20  
 717 percent of the housing units in the project for low-income and  
 718 moderate-income persons or the construction in a designated  
 719 brownfield area of affordable housing for persons described in  
 720 s. 420.0004 (9)~~(8)~~, (11)~~(10)~~, (12)~~(11)~~, or (17)~~(15)~~ or in s.  
 721 159.603(7).

722 c. "Mixed-use project" means the conversion of an existing  
 723 manufacturing or industrial building to mixed-use units that  
 724 include artists' studios, art and entertainment services, or  
 725 other compatible uses. A mixed-use project must be located in an

726 urban high-crime area, enterprise zone, empowerment zone, Front  
 727 Porch Community, designated brownfield area, or urban infill  
 728 area, and the developer must agree to set aside at least 20  
 729 percent of the square footage of the project for low-income and  
 730 moderate-income housing.

731 d. "Substantially completed" has the same meaning as  
 732 provided in s. 192.042(1).

733 2. Building materials used in the construction of a  
 734 housing project or mixed-use project are exempt from the tax  
 735 imposed by this chapter upon an affirmative showing to the  
 736 satisfaction of the department that the requirements of this  
 737 paragraph have been met. This exemption inures to the owner  
 738 through a refund of previously paid taxes. To receive this  
 739 refund, the owner must file an application under oath with the  
 740 department which includes:

741 a. The name and address of the owner.

742 b. The address and assessment roll parcel number of the  
 743 project for which a refund is sought.

744 c. A copy of the building permit issued for the project.

745 d. A certification by the local building code inspector  
 746 that the project is substantially completed.

747 e. A sworn statement, under penalty of perjury, from the  
 748 general contractor licensed in this state with whom the owner  
 749 contracted to construct the project, which statement lists the  
 750 building materials used in the construction of the project and  
 751 the actual cost thereof, and the amount of sales tax paid on  
 752 these materials. If a general contractor was not used, the owner  
 753 shall provide this information in a sworn statement, under

754 penalty of perjury. Copies of invoices evidencing payment of  
 755 sales tax must be attached to the sworn statement.

756 3. An application for a refund under this paragraph must  
 757 be submitted to the department within 6 months after the date  
 758 the project is deemed to be substantially completed by the local  
 759 building code inspector. Within 30 working days after receipt of  
 760 the application, the department shall determine if it meets the  
 761 requirements of this paragraph. A refund approved pursuant to  
 762 this paragraph shall be made within 30 days after formal  
 763 approval of the application by the department.

764 4. The department shall establish by rule an application  
 765 form and criteria for establishing eligibility for exemption  
 766 under this paragraph.

767 5. The exemption shall apply to purchases of materials on  
 768 or after July 1, 2000.

769 Section 15. Paragraphs (a) and (g) of subsection (2) of  
 770 section 215.5586, Florida Statutes, are amended to read:

771 215.5586 My Safe Florida Home Program.—There is  
 772 established within the Department of Financial Services the My  
 773 Safe Florida Home Program. The department shall provide fiscal  
 774 accountability, contract management, and strategic leadership  
 775 for the program, consistent with this section. This section does  
 776 not create an entitlement for property owners or obligate the  
 777 state in any way to fund the inspection or retrofitting of  
 778 residential property in this state. Implementation of this  
 779 program is subject to annual legislative appropriations. It is  
 780 the intent of the Legislature that the My Safe Florida Home  
 781 Program provide trained and certified inspectors to perform

782 inspections for owners of site-built, single-family, residential  
 783 properties and grants to eligible applicants as funding allows.  
 784 The program shall develop and implement a comprehensive and  
 785 coordinated approach for hurricane damage mitigation that may  
 786 include the following:

787 (2) MITIGATION GRANTS.—Financial grants shall be used to  
 788 encourage single-family, site-built, owner-occupied, residential  
 789 property owners to retrofit their properties to make them less  
 790 vulnerable to hurricane damage.

791 (a) For a homeowner to be eligible for a grant, the  
 792 following criteria must be met:

793 1. The homeowner must have been granted a homestead  
 794 exemption on the home under chapter 196.

795 2. The home must be a dwelling with an insured value of  
 796 \$300,000 or less. Homeowners who are low-income persons, as  
 797 defined in s. 420.0004(11)(~~10~~), are exempt from this  
 798 requirement.

799 3. The home must have undergone an acceptable hurricane  
 800 mitigation inspection after May 1, 2007.

801 4. The home must be located in the "wind-borne debris  
 802 region" as that term is defined in s. 1609.2, International  
 803 Building Code (2006), or as subsequently amended.

804 5. The building permit application for initial  
 805 construction of the home must have been made before March 1,  
 806 2002.

807

808 An application for a grant must contain a signed or  
 809 electronically verified statement made under penalty of perjury



810 that the applicant has submitted only a single application and  
 811 must have attached documents demonstrating the applicant meets  
 812 the requirements of this paragraph.

813 (g) Low-income homeowners, as defined in s.  
 814 420.0004(11)~~(10)~~, who otherwise meet the requirements of  
 815 paragraphs (a), (c), (e), and (f) are eligible for a grant of up  
 816 to \$5,000 and are not required to provide a matching amount to  
 817 receive the grant. Additionally, for low-income homeowners,  
 818 grant funding may be used for repair to existing structures  
 819 leading to any of the mitigation improvements provided in  
 820 paragraph (e), limited to 20 percent of the grant value. The  
 821 program may accept a certification directly from a low-income  
 822 homeowner that the homeowner meets the requirements of s.  
 823 420.0004(11)~~(10)~~ if the homeowner provides such certification in  
 824 a signed or electronically verified statement made under penalty  
 825 of perjury.

826 Section 16. Subsection (19) of section 420.503, Florida  
 827 Statutes, is amended to read:

828 420.503 Definitions.—As used in this part, the term:  
 829 (19) "Housing for the elderly" means, for purposes of s.  
 830 420.5087(3)(e)~~(d)~~, any nonprofit housing community that is  
 831 financed by a mortgage loan made or insured by the United States  
 832 Department of Housing and Urban Development under s. 202, s. 202  
 833 with a s. 8 subsidy, s. 221(d)(3) or (4), or s. 236 of the  
 834 National Housing Act, as amended, and that is subject to income  
 835 limitations established by the United States Department of  
 836 Housing and Urban Development, or any program funded by the  
 837 Rural Development Agency of the United States Department of

838 Agriculture and subject to income limitations established by the  
 839 United States Department of Agriculture. A project which  
 840 qualifies for an exemption under the Fair Housing Act as housing  
 841 for older persons as defined by s. 760.29(4) shall qualify as  
 842 housing for the elderly for purposes of s. 420.5087(3) (e) ~~(d)~~ and  
 843 for purposes of any loans made pursuant to s. 420.508. In  
 844 addition, if the corporation adopts a qualified allocation plan  
 845 pursuant to s. 42(m)(1)(B) of the Internal Revenue Code or any  
 846 other rules that prioritize projects targeting the elderly for  
 847 purposes of allocating tax credits pursuant to s. 420.5099 or  
 848 for purposes of the HOME program under s. 420.5089, a project  
 849 which qualifies for an exemption under the Fair Housing Act as  
 850 housing for older persons as defined by s. 760.29(4) shall  
 851 qualify as a project targeted for the elderly, if the project  
 852 satisfies the other requirements set forth in this part.

853       Section 17. (1) The Legislature finds that due to the  
 854 current economic conditions in the housing market there is a  
 855 critical need to rehabilitate or sell excess inventory of unsold  
 856 homes, including foreclosed homes and newly constructed homes,  
 857 as well as a critical need for the rehabilitation and  
 858 preservation of older, affordable apartments. The Legislature  
 859 further finds that there is a critical need to create housing-  
 860 related jobs and that these conditions require the targeting of  
 861 state and local housing trust fund moneys to assist in the sale  
 862 or rehabilitation of existing homes and the preservation and  
 863 rehabilitation of older rental apartments.

864       (2) Notwithstanding ss. 420.507(22)(a) and (23)(a),  
 865 420.5087(6)(1), 420.5088, 420.5095, and 420.9075(1)(b) and

866 (5) (b), Florida Statutes, funds from the State Housing Trust  
 867 Fund or the Local Government Housing Trust Fund that are  
 868 appropriated for use in the State Apartment Incentive Loan  
 869 Program, Florida Homeownership Assistance Program, Community  
 870 Workforce Housing Innovation Pilot Program, or the State Housing  
 871 Initiatives Partnership Program may not be used to:

872 (a) Finance or otherwise assist the construction or  
 873 purchase of housing sold to eligible individuals, unless the  
 874 housing unit being sold had an initial certificate of occupancy  
 875 prior to December 31, 2010; or

876 (b) Finance or otherwise assist in the construction or  
 877 purchase of rental housing, unless the development being  
 878 financed or assisted received its initial certificate of  
 879 occupancy prior to December 31, 1996.

880  
 881 Nothing in this section restricts the use of such funds to  
 882 assist with the purchase of newly constructed homes that were  
 883 completed prior to December 31, 2010, or the acquisition and  
 884 rehabilitation of apartments that received their initial  
 885 certificate of occupancy prior to December 31, 1996. The use of  
 886 such funds is subject to the restrictions of the program under  
 887 which the funding is made available.

888 (3) This section expires July 1, 2012.

889 Section 18. This act shall take effect July 1, 2011.



HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 699 Southeast Volusia Hospital District, Volusia County

SPONSOR(S): Taylor and others

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Duncan <i>pdd</i>	Hoagland <i>[Signature]</i>
2) Economic Affairs Committee			

SUMMARY ANALYSIS

The Southeast Volusia Hospital District, an independent special district, was created in 1947 and was subsequently amended by special acts. In 2003, the Legislature codified all prior special acts relating to the Southeast Volusia Hospital District (District) into a single act and repealed all prior special acts relating to the District's charter.

Each hospital and clinic established in the District must be for the use and benefit of the indigent sick. These residents must be admitted to said hospital and clinic and are entitled to medical care and treatment without charge, subject to the rules and regulations prescribed by the District's governing body (Board). The Board is authorized to collect from patients who are financially able to pay.

The Board must consist of seven commissioners, all of whom must be qualified electors and freeholders residing in the District. Two commissioners must be residents of New Smyrna Beach, two commissioners must be residents of the City of Edgewater, one commissioner must be a resident of Oak Hill, and two commissioners must be residents of the unincorporated area of the District. Commissioners are required to have business, professional, or personal experience useful for service as a commissioner.

This bill provides that two of the seven commissioners of the District's Board must be residents of the unincorporated area of the district or residents of the City of Port Orange.

The bill is effective upon becoming a law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation:**

The Southeast Volusia Hospital District, an independent special district, was created in 1947<sup>1</sup> and was subsequently amended by special acts. In 2003,<sup>2</sup> the Legislature codified all prior special acts relating to the Southeast Volusia Hospital District (District) into a single act and repealed all prior special acts relating to the District's charter.

Each hospital and clinic established in the District must be for the use and benefit of the indigent sick. These residents must be admitted to said hospital and clinic and are entitled to medical care and treatment without charge, subject to the rules and regulations prescribed by the District's governing body (Board). However, the Board is authorized to collect from patients who are financially able to pay. The District is authorized to levy up to 4 mills ad valorem tax on taxable District property.

The Board must consist of seven commissioners, all of whom must be qualified electors and freeholders residing in the District. Two commissioners must be residents of New Smyrna Beach, two commissioners must be residents of the City of Edgewater, one commissioner must be a resident of Oak Hill, and two commissioners must be residents of the unincorporated area of the District. Commissioners are required to have business, professional, or personal experience useful for service as a commissioner. Residents of the City of Port Orange are not eligible to serve on the Board.

The taxable property of residents of the unincorporated area of the District is assessed by the District and residents of this area are represented on the District's Board. Some of the parcels originally located in the unincorporated area of the District have been annexed into the City of Port Orange and the taxable property of the citizens residing on those parcels continues to be assessed by the District. However, residents of the City of Port Orange are not eligible to serve on the District's Board. The lack of Board representation for the residents of the City of Port Orange was discovered in 2009.<sup>3</sup>

##### **Effect of Proposed Changes:**

This bill provides that two of the seven commissioners of the Southeast Volusia Hospital District must be residents of the unincorporated area of the district *or* residents of the City of Port Orange.

#### B. SECTION DIRECTORY:

Section 1: Amends subsection (1) of section 2 of section 3 of ch. 2003-310, L.O.F., to modify the composition of the Southeast Volusia Hospital District's Board.

Section 2: Provides that the act must take effect upon becoming a law.

### II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 10, 2010

WHERE? The News-Journal, Daytona Beach, FL

<sup>1</sup> Chapter 24961, L.O.F.

<sup>2</sup> Chapter 2003-310, L.O.F.

<sup>3</sup> Documentation provided by the Volusia County Delegation via email February 25, 2011.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.

HOUSE OF REPRESENTATIVES

2011 LOCAL BILL CERTIFICATION FORM

BILL #: HB 699  
 SPONSOR(S): Representative Dwayne L. Taylor  
 RELATING TO: Southeast Volusia Hospital District  
[Indicate Area Affected (City, County, or Special District) and Subject]  
 NAME OF DELEGATION: Volusia County  
 CONTACT PERSON: Shanee Green  
 PHONE NO.: (391) 239-6702 or (386) 498-0590 E-Mail: shanee.green@myfloridahouse.gov

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

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

YES  NO

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

YES  NO

Date hearing held: 12/13/2010

Location: Deland City Hall Commission Chambers

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

YES  NO

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

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE 11/10/2010

Where? Orlando Sentinel County Volusia

Referendum in lieu of publication: YES  NO

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



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

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

YES  NO  NOT APPLICABLE

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

YES  NO  NOT APPLICABLE

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

YES  NO

Note: House policy also requires that an Economic Impact Statement for local bills be prepared at the local level and submitted to the Military & Local Affairs Policy Committee.

  
Delegation Chair (Original Signature)

12 | 13 | 10  
Date

John Thrasher  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2011 ECONOMIC IMPACT STATEMENT FORM**

House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.

**BILL #:** House Bill 699

**SPONSOR(S):** Representative Dwayne Taylor

**RELATING TO:** Southeast Volusia Hospital District Governing Body Expansion to Include City of Port Orange Residents  
 [Indicate Area Affected (City, County or Special District) and Subject]

**I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:**

	<u>FY11-12</u>	<u>FY 12-13</u>
Expenditures:	None	None

**II. ANTICIPATED SOURCE(S) OF FUNDING:**

	<u>FY11-12</u>	<u>FY 12-13</u>
Federal:	N/A	N/A
State:	N/A	N/A
Local:	N/A	N/A

**III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:**

	<u>FY11-12</u>	<u>FY 12-13</u>
Revenues:	None	None

**IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:**

Advantages: None Anticipated

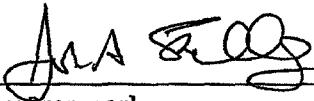
Disadvantages: None Anticipated

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None Anticipated

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

N/A

PREPARED BY: Mr. John Shelly/  2/15/11  
[Must be signed by Preparer] Date

TITLE: Finance Director

REPRESENTING: City of Port Orange

PHONE: (386) 506-5700

E-MAIL ADDRESS: jshelley@port-orange.org

**The News-Journal**

Published Daily and Sunday  
Daytona Beach, Volusia County, Florida

**State of Florida,  
County of Volusia:**

Before the undersigned authority personally appeared

Kelley Meehan

who, on oath says that she is  
LEGAL COORDINATOR  
of The News-Journal, a daily and Sunday newspaper,  
published at Daytona Beach in Volusia County, Florida,  
the attached copy of advertisement, being a

**NOTICE OF INTENT**

In the matter of L904119  
in the Court  
was published in said newspaper in the issues  
NOVEMBER 10, 2010

Affiant further says that The News-Journal is a newspaper published at Daytona Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida, each day and Sunday and has been entered as second-class mail matter at the post office in Daytona Beach, in said Volusia 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 the said newspaper.

*Kelley Meehan*

Sworn to and subscribed before me

this 10<sup>TH</sup> day of NOVEMBER  
A.D. 2010

*Rachael L. Smith*

**NOTICE OF INTENT TO SEEK LEGISLATION TO WHOM IT MAY CONCERN:**  
Notice is hereby given of the City of Port Orange's intent to apply before the 2011 legislature for passage of an act relating to the Southeast Volusia Hospital District, Volusia County, amending chapter 2003-310, Laws of Florida, expanding the representation scope of the Southeast Volusia Hospital District governing body.  
The proposed legislation is available in the City Clerk's Office, City Hall, Port Orange, Florida, and may be inspected by the public.  
City Clerk's Office  
City of Port Orange  
L904119, November 10, 2010



1                                   A bill to be entitled  
 2           An act relating to the Southeast Volusia Hospital  
 3           District, Volusia County; amending chapter 2003-310, Laws  
 4           of Florida; expanding the representation of the Southeast  
 5           Volusia Hospital District governing body; providing an  
 6           effective date.

7

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

9

10           Section 1. Subsection (1) of section 2 of section 3 of  
 11           chapter 2003-310, Laws of Florida, is amended to read:

12           Section 2. (1) The governing body of the Southeast  
 13           Volusia Hospital District shall consist of seven commissioners,  
 14           all of whom shall be qualified electors and freeholders residing  
 15           in the district. Two commissioners shall be residents of New  
 16           Smyrna Beach, two commissioners shall be residents of the City  
 17           of Edgewater, one commissioner shall be a resident of Oak Hill,  
 18           and two commissioners shall be residents of the unincorporated  
 19           area of the ~~hospital~~ district or residents of the City of Port  
 20           Orange. Commissioners shall have business, professional, or  
 21           personal experience useful for service as a commissioner.

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

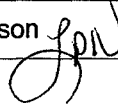
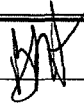


HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4145 Formation of Local Governments

SPONSOR(S): Porter

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Nelson 	Hoagland 
2) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 4145 removes obsolete language referencing the Department of Community Affairs from the "Formation of Municipalities Act." This law currently is limited to procedures for municipal incorporation which do not involve the Department.

There is no fiscal impact associated with this repeal.

The bill has an effective date of July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

Chapter 165, F.S., the "Formation of Local Governments Act" was created pursuant to ch. 74-192, L.O.F. The purpose of this legislation was to provide general law standards, direction and procedures for the formation and dissolution of municipalities and special districts in the state. The Department of Community Affairs was charged with:

- conducting studies of county, municipal and special district formation and boundary reorganization problems throughout the state;
- conducting studies relating to the need for, and the feasibility of, formation and service delivery adjustments that would strengthen the capability of local governments to provide and maintain essential public services in a fiscally equitable manner;
- determining whether the conditions prescribed by law had been met prior to consideration of any special law to incorporate, merge or dissolve a municipality;
- submitting a written report to the governor and legislature each year summarizing the studies conducted, their findings and recommendations, and any findings in respect to federal-state-county-municipal-special district relationships or problems;
- developing a census of local government relating to each county, municipality and special district in the state;
- conducting a continuing study of various governmental activities being conducted and services being provided by local governments in the state.

The act additionally provided language that empowered the Department of Community Affairs to request assistance in administering the act from all state, county, special district or municipal agencies, departments, bureaus or boards, and required the cooperation of these entities. It also provided a definition for the department.

The provisions relating to the general powers and duties of the Department in the "Formation of Local Governments Act" were repealed by ch. 84-192, L.O.F., except for the section allowing the Department to request assistance in the administration of the chapter.

The Legislature subsequently enacted the "Uniform Special District Accountability Act of 1989," ch. 189, F.S., to provide general provisions for the definition, creation and operation of special districts. This legislation, ch. 89-169, L.O.F., changed the title for ch. 165, F.S., to the "Formation of Municipalities Act," and simultaneously removed provisions for special districts from this law. The chapter currently is limited to procedures for municipal incorporation which do not involve the Department of Community Affairs.

At present, pursuant to ch. 189, F.S., the Department of Community Affairs performs extensive duties relating to special districts, such as compiling the official list of special districts, publishing a "Florida Special District Handbook," administering the Special District Information Program, promulgating rules to implement the provisions of the chapter, and promoting special district accountability by monitoring financial report filings.

##### **Effect of Proposed Changes**

HB 4145 removes obsolete language from ch. 165, F.S., "The Formation of Municipalities Act," which references the Department of Community Affairs.

The bill has an effective date of July 1, 2011.



**B. SECTION DIRECTORY:**

Section 1: Repeals subsection (6) of s. 165.031, F.S., providing a definition for the Department of Community Affairs.

Section 2: Repeals s. 165.093, F.S., relating to agency cooperation with the Department of Community Affairs.

Section 3: Provides an effective date.

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

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

1. Revenues:

None.

2. Expenditures:

None.

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

1. Revenues:

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. The bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

HB 4145

2011

1                                   A bill to be entitled  
 2           An act relating to the formation of local governments;  
 3           repealing s. 165.031(6), F.S., to delete the definition of  
 4           the term "department" applicable to ch. 165, F.S.,  
 5           relating to the formation of local governments, which is  
 6           the Department of Community Affairs; repealing s. 165.093,  
 7           F.S., to delete a provision specifying authority of the  
 8           Department of Community Affairs and authority and  
 9           responsibility of state and local agencies to cooperate in  
 10          the administration of ch. 165, F.S.; providing an  
 11          effective date.

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

- 14  
 15           Section 1. Subsection (6) of section 165.031, Florida  
 16           Statutes, is repealed.  
 17           Section 2. Section 165.093, Florida Statutes, is repealed.  
 18           Section 3. This act shall take effect July 1, 2011.

**Growth  
Management  
Reform Concepts**

## Growth Management Reform

### Big Picture/Goals

- Modernize the statutes to recognize the progress made by the state and local governments since 1985.
- Focus the state's role and review on protecting important state resources and facilities.
- Avoid state-mandated approaches that through strict application produce outcomes contrary to legislative intent (e.g. transportation concurrency).
- Provide more flexibility to local governments for effective and creative planning solutions and move away from a one-size fits all, state-mandated approach to planning by allowing local governments to make independent planning decisions without state interference.

### Major Changes

- Format/Content of Comprehensive Plans
  - Need
  - 9J-5
  - Optional items
  - Large sector planning/rural land stewardship
- Process
  - Adoption process
  - Agency review
  - Challenges
  - Evaluation and appraisals
- Concurrency
  - Water, sewer, etc.
  - Recreation
  - Transportation
  - School
- Capital Improvements Element
  - Financial feasibility
  - Annual updates to the schedule
  - Priority listing of needed facilities, funded or unfunded

## **Format/Content of Comprehensive Plans**

### **Need**

- Emphasis is on plans that provide a balance of land uses, provide economic development strategies, and move away from outdated development patterns.
- The amount of land designated for future land uses should allow the operation of real estate markets to provide adequate choices for permanent and seasonal residents and business and may not be limited solely by the projected population.

### **9J-5**

- Repeal 9J-5.
- Incorporate key provisions into the statutes.
  - Content of elements:
    - Data and analysis
    - Goals, objectives, and policies → principles, guidelines, standards and strategies
    - Map requirements
    - Urban sprawl definition and criteria
    - Details from 9J-5 to provide minimum criteria for each of the elements

### **Optional Items**

- Clearly identify that local governments may adopt optional elements and are encouraged to plan for key issues such as urban infill and redevelopment, economic development, etc., but remove the list of potential optional elements or other planning provisions that dictate a process or format for optional planning.
  - Include items from the optional elements relating to transportation that are required for local governments that meet certain criteria (size and MPO related).

### **Large Sector Planning/Rural Land Stewardship Area**

- Maintain these two options, with modifications.

## PROCESS

### Overview:

- **3 Processes for Adopting Comprehensive Plans and Plan Amendments:**
  - **Expedited State Review Process** (amended Alternative Review Process language in s. 163.32465)
    - Statewide process for adopting plan amendments
  - **State Coordinated Review Process** [amended Alternative Review Process (s. 163.32465) language + a coordinated objections, recommendations, and comments (ORC) report (s. 163.3184)]
    - New plans for new municipalities
    - Plan amendments that:
      - Affect an area of critical state concern
      - Sector plans
      - Propose a rural land stewardship area (RLSA)
      - Update based on an evaluation and appraisal report (EAR)
  - **Small-Scale Amendment Process** (s. 163.3187 amended)
    - Retain process with slight modifications.
    - Remove density requirements.
  - **Local government comprehensive planning certification program**- s. 163.3246 repealed
- Allow local governments to seek technical assistance/expertise from the state land planning agency.
- Remove twice-a-year limit for adoption of plan amendments.
- Restrict state agency comments to important state resources and facilities that will be adversely impacted by the adopted plan amendment, except under certain circumstances.
- Remove state land planning agency's Notice of Intent.
- **Challenges**
  - Definition of "affected person" from s. 163.3184 remains the same.
  - Definition of "in compliance" from s. 163.3184 remains the same, except that reference to 9J-5 is removed.
  - Requirements for state land planning agency challenge modified.
  - Burdens of proof modified.
  - Balancing language incorporated.

**Expedited State Review Process**

- Statewide process used for the adoption of most plan amendments.
- Local government holds first public hearing→ sends transmitted plan amendment to the reviewing agencies<sup>1</sup> (from current law).

**COMMENTS:**

- State agencies may only comment on specified subjects within their jurisdiction as they relate to important state resources and facilities that will be adversely impacted by the adopted amendment.
  - State land planning agency may only comment on important state resources and facilities, outside the jurisdiction of other commenting state agencies, which will be adversely impacted by the adopted amendment.
  - RPCs, counties, and municipality comments are limited same as current law.
- 
- Reviewing agencies submit their comments directly to the local government.
  - Comments regarding important state resources and facilities that would be adversely impacted, if not resolved, may result in a challenge by the state land planning agency.
  - Local government holds second public hearing on whether to adopt the transmitted amendment. If second public hearing is not held within 180 days the amendment is deemed withdrawn.
  - Amendments become effective 35 days after the state land planning agency receives the adopted amendment unless challenged.

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<sup>1</sup> "Reviewing agencies" means the state land planning agency; the appropriate regional planning council and water management district; the Department of Environmental Protection; the Department of State; the Department of Transportation; in the case of municipal plans and plan amendments, to the appropriate county; the Fish and Wildlife Conservation Commission; the Department of Agriculture and Consumer Services; and in cases of amendments to the optional public school facilities element, the Department of Education.



**State Coordinated Review Process**

- Required for adopting new comprehensive plans for new municipalities.
- Required for adopting amendments that:
  - Affect an area of critical state concern;
  - Propose a rural land stewardship area;
  - Propose a sector plan;
  - Update a comprehensive plan based on an evaluation and appraisal report.
- Provides a more comprehensive review by the state land planning agency.
- Comments from reviewing agencies are sent to the state land planning agency which issues an objections, recommendations, and comments report (ORC) to the local government.

**COMMENTS:** Requirements for comments from the reviewing agencies and local governments are the same as under the expedited review process, except the state land planning agency is able to comment broadly on whether the plan or amendment is in compliance.

- State land planning agency issues an ORC to the local government.
- If second public hearing is not held within 180 days of receiving comments from the reviewing agencies → the amendment is deemed withdrawn (60 and 120 day time limit for second public hearing removed).
- State land planning agency no longer issues a Notice of Intent to find or not find in compliance.

## Challenges

### **Affected Person**

- Any affected person may challenge by filing a petition with DOAH within 30 days.
- State land planning agency may not intervene in any affected person challenge.

### **State Land Planning Agency**

- Challenges to Amendments Adopted Under *Expedited Process*:
  - State land planning agency can only challenge a plan amendment based on reviewing agency comments if it makes a determination that an important state resource or facility will be adversely impacted.
  - Balancing language added for determining an “adverse impact.”
- Challenges to Plans or Amendments Adopted Under *State Coordinated Process*:
  - State land planning agency may challenge new plans and amendments that affect an area of critical state concern, propose a rural land stewardship area, or propose a sector plan based on objections raised in the ORC regarding:
    - Whether the plan or plan amendment is in compliance or
    - Based on the state land planning agency’s determination that the plan or plan amendment will adversely impact an important state resource or facility.
  - State land planning agency may only challenge an amendment that updates a plan based on an evaluation and appraisal report (EAR) based on:
    - Objections raised in the ORC regarding the state land planning agency’s determination that an important state resource or facility will be adversely impacted by the adopted amendment.
- If the state land planning agency makes a determination that an important state resource or facility will be adversely impacted by the adopted amendment, a local government is able to contest the agency’s determination of an “important state resource or facility.”
- Balancing language added for determining “in compliance.”

### **DOAH and Administration Commission (same as current law with minor changes)**

- Administrative Law Judge issues recommended order “in compliance” → to state land planning agency.
  - State land planning agency finds “in compliance” → agency issues final order.
  - State land planning agency finds “not in compliance” → goes to Administration Commission for final agency action.
- ALJ issues recommended order “not in compliance” → goes to Administration Commission for final agency action.
- Administration Commission has 45 days to issue a final order, unless parties agree to a longer time.
- Administration Commission specifies remedial actions and sanctions.

**Standard of Review**

- Challenges filed by an affected person:
  - The local plan or plan amendment shall be determined to be in compliance if the local government's determination of in compliance is fairly debatable (same as traditional process today when DCA issues NOI to find "in compliance").
- Challenges filed by the state land planning agency:
  - The local government's determination that the comprehensive plan or plan amendment is in compliance is presumed to be correct, and the local government's determination shall be sustained unless it is shown by a preponderance of the evidence that the comprehensive plan or plan amendment is not in compliance (same as alternative review process today).
- In challenges that require a determination by the state land planning agency that an important state resource or facility will be adversely impacted by the adopted amendment:
  - If the local government contests the agency's determination of an "important state resource or facility," the state land planning agency shall have the burden of proving by clear and convincing evidence its determination of an "important state resource or facility."

**Miscellaneous**

- New compliance agreement section that is not dependent on a notice of intent.
- Options for mediation and expeditious resolution of the proceeding remain.

**Small –Scale Amendment Review Process**

- Still limited to 10 acreage max per amendment and 120 acres max per year.
- Density requirements removed.
- Small-scale plan amendment shall be determined to be in compliance if the local government's determination of in compliance is fairly debatable (changed from current standard of review where local government's determination is sustained unless it is shown by a preponderance of the evidence that the amendment is "not in compliance").

## Concurrency

- Required statewide:
  - Sanitary sewer, solid waste, drainage and potable water.
- Optional – any other public facilities and services within a local jurisdiction.
  - Intent is to not require anything new of local governments that continue applying concurrency as they do today.
  - Provide flexibility so that local governments can best meet the needs of their community.
  - General provisions:
    - Requires amendment to the local comprehensive plan to remove an existing concurrency requirement.
    - Any optional concurrency application must be reflected in the comprehensive plan.

### Transportation Concurrency

- Statutory requirements if transportation concurrency is applied at the local level. Including, in general terms, the following:
  - Comprehensive plan must include principles, guidelines, standards and strategies, including adopted levels of service to guide its application;
  - Professionally accepted studies to determine appropriate level of service linked to schedule of facilities necessary to meet demands;
  - Professionally accepted techniques to measure project impacts on level of service;
  - Encouraged to develop policy guidelines and techniques to address potential negative impacts on future development – urban infill, special part-time demands, de minimis, redevelopment, job creation (all permitted exceptions in current law);
  - Encouraged to develop tools and techniques to improve application of concurrency – long term strategies for development patterns that support multimodal solutions, area wide level of service, exceptions and discounts of impacts on locally desired development, secondary priority to vehicle mobility, multimodal level of service, reduction in impact fees for development in certain areas (all permitted tools under current law);
  - Coordination between local governments and between local government and Department of Transportation;
  - Provides for flexibility in application (modified 163.3180(11)) and gives guidance for when development pays that one to one credits for transportation impact fees are provided.
- Removing specific provisions that direct specific application of solutions. However, all things listed below are still viable options for the local government. Deleting, specific details of the following:
  - All TCEA provisions (5),
  - De minimis provisions (6),

- Areawide LOS (7),
- Urban redevelopment impacts (8),
- Long-term concurrency management systems (9),
- OTTED approved job creation projects outside of TCEAs (10),
- Proportionate share and proportionate fair share (12) and (16) [modified subsection 11 to address the issue in general],
- Multimodal transportation districts (15), and
- Affordable workforce housing (17).

### **School Concurrency**

- Statutory requirements if school concurrency is applied at the local level.
  - Comprehensive plan must include principles, guidelines, standards and strategies, including adopted levels of service to guide its application.
  - Addresses issues relating to coordination between local governments and school boards.
    - Retains the interlocal agreement requirements of s. 163.3180, F.S., if concurrency is applied.
  - Provides legislative preference for district-wide application.
  - Provides guidance/requirements if applied on service areas that are less than district-wide.
  - Includes a provision allowing landowners to proceed when certain factors exist.
- Retains the general interlocal agreement requirements of s. 163.31777, F.S.
- Deletes the specific requirements of the public education facilities element.

## Maintenance and Update of Plans

### Current law

- Current law requires a local government to evaluate its plan every 7 years.
- Requirements include preparation of a detailed Evaluation and Appraisal Report (EAR).
- The report must reflect new data related to population, community characteristics, progress in implementing the plan and other issues.
- The report must also identify changes in state law that have occurred since the last update of the plan.
- The state agencies review the report.
- Within 18 months of the report, the local government is required to adopt EAR-based amendments that update the plan.

### Concept direction for modifying these provisions

- Focus on the update of the plan, rather than the EAR.
- Encourage a public process for evaluating the successes and failures of the plan.
- Focus the state interest on incorporating changes made to the statutes since the last update.
- Minimize costs, particularly to small and slow growing local governments.
- State land planning agency role:
  - Provide technical assistance and
  - Review the updated plan under the coordinated review process (ORC).
- Maintain sanctions in current law relating to failure to submit updated amendments or non-compliance.