Local Administration, Federal Affairs & Special Districts Subcommittee

January 25, 2024
11:30 AM – 2:30 PM
Morris Hall (17 HOB)

Meeting Packet

Paul Renner
Speaker

Jenna Persons-Mulicka
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Local Administration, Federal Affairs & Special Districts Subcommittee

Start Date and Time: Thursday, January 25, 2024 11:30 am

End Date and Time: Thursday, January 25, 2024 02:30 pm

Location: Morris Hall (17 HOB)

Duration: 3.00 hrs

Consideration of the following bill(s):

HB 273 Pub. Rec./Animal Foster or Adoption by Holcomb
HB 765 Leave of Absence to Officials and Employees by Daley
HB 791 Development Permits and Orders by Overdorf, Esposito
HB 821 Melbourne-Tillman Water Control District, Brevard County by Altman
HB 833 Public Safety Programs by Yarkosky, Jacques
HB 873 Dangerous Dogs by Payne
HB 1075 Soil and Water Conservation Districts by Truenow
HB 1115 Three Rivers Stewardship District, Sarasota County by Buchanan
HB 1117 City of North Port, Sarasota County by Buchanan
HB 1177 Land Development by Duggan
HB 1221 Land Use and Development Regulations by McClain
HB 1365 Unauthorized Public Camping and Public Sleeping by Garrison
HB 1407 Marine Encroachment on Military Operations by Altman
HB 1447 Sheriffs In Consolidated Governments by Duggan
HB 1483 Pinellas County Construction Licensing Board, Pinellas County by Chaney
HB 1487 Pinellas Suncoast Transit Authority, Pinellas County by Chaney
HB 1551 Florida State Guard by Giallombardo
HB 1571 Florida Keys Aqueduct Authority, Monroe County by Mooney

Consideration of the following bill(s) with proposed committee substitute(s):

PCS for HB 505 -- Tax Collectors
PCS for HB 735 -- Government Accountability

To submit an electronic appearance form, and for information about attending or testifying at a committee meeting, please see the "Visiting the House" tab at www.myfloridahouse.gov.

NOTICE FINALIZED on 01/23/2024 4:01PM by Lacher.Tamara

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 273 Pub. Rec./Animal Foster or Adoption
SPONSOR(S): Holcomb
TIED BILLS: **IDEN./SIM. BILLS:** SB 660

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Burgess	Darden
2) Ethics, Elections & Open Government Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The records of public animal shelter or animal control agency, like the records of other public agencies in the state, are open to public to inspect or copy unless those records have been made exempt from disclosure.

The bill provides an exemption from public records requirements for personal identifying information of those who adopt or foster from an animal shelter or animal control agency operated by a local government.
The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and will be repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill does not appear to impact state government and may have an insignificant negative fiscal impact on local governments.

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Public Records

The Florida Constitution sets forth the state's public policy regarding access to government records, guaranteeing every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.[1] The Legislature, however, may provide by general law an exemption[2] from public record requirements provided that the exemption passes by a two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.[3]

Current law also addresses the public policy regarding access to government records, guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.[4] Furthermore, the Open Government Sunset Review Act[5] provides that a public record exemption may be created, revised, or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."[6] An identifiable public purpose is served if the exemption meets one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protect trade or business secrets.[7]

Pursuant to the Open Government Sunset Review Act, a new public record exemption or substantial amendment of an existing public record exemption is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.[8]

Public or Private Animal Agencies Public Records

The records of a public animal shelter, humane organization, or animal control agency operated by a humane society must be made available to the public in the same manner as other public records.[9] These records may include information such as the identifying information of a person who adopts or fosters pets from the facility.

Both public and private animal shelters must maintain certain data for three years and make it available on a monthly basis.[10] This data includes the total number of dogs and cats taken in by the animal

[1] Art. I, s. 24(a), FLA. CONST.
[2] A public record exemption means a provision of general law which provides that a specified record, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., or s. 24, Art. I of the Florida Constitution. *See* s. 119.011(8), F.S.
[3] Art. I, s. 24(c), FLA. CONST.
[4] *See* s. 119.01, F.S.
[5] S. 119.15, F.S.
[6] S. 119.15(6)(b), F.S.
[7] *Id.*
[8] S. 119.15(3), F.S.
[9] S. 823.15(2)(b), F.S.
[10] S. 823.15(2)(a), F.S.

shelter, humane organization, or animal control agency, divided into species, in the following categories:

- Surrendered by owner;
- Stray;
- Impounded;
- Confiscated;
- Transferred from within Florida;
- Transferred into or imported from out of the state; and
- Born in shelter.

Public and private animal shelters, humane organizations, and animal control agencies must also record the disposition of all animals taken in, divided into species, including dispositions by:

- Adoption;
- Reclamation by owner;
- Death in kennel;
- Euthanasia at the owner's request;
- Transfer to another public or private animal shelter, humane organization, or animal control agency operated by a humane society or by a county, municipality, or other incorporated political subdivision;
- Euthanasia;
- Released in field/Trapped, Neutered, Released (TNR);
- Lost in care/missing animals or records; and
- Ending inventory/shelter count at end of the last day of the month.[11]

If a public or private animal shelter, humane organization, or animal control agency operated by a humane society, or by a county, municipality, or other incorporated political subdivision routinely euthanizes dogs based on size or breed alone, the entity must provide a written statement of such policy.[12] Dogs euthanized due to breed, temperament, or size must be recorded and included in the calculation of the total euthanasia percentage.

Effect of Proposed Changes

The bill creates a public record exemption for the personal identifying information of a person who fosters, adopts, or otherwise receives legal custody of an animal from an animal shelter or animal control agency operated by a county, municipality, or other incorporated political subdivision held by the shelter or agency.

The public records exemption created by the bill are subject to the Open Government Sunset Review Act and will automatically repeal on October 2, 2029, unless reviewed and saved from repeal by the Legislature.

The bill provides the constitutionally required public necessity statement,[13] which is to shield those seeking to adopt and foster animals from the potential stalking, harassment, and intimidation from the animals' previous owners. The bill also provides that the need to protect the personal information of those seeking to adopt and foster animals overrides the state's public policy of open government.

B. SECTION DIRECTORY:

Section 1: Amends s. 823.15, F.S., provides an exemption from public records requirements.

Section 2: Provides a public necessity statement.

[11] S. 823.15(2)(a)2., F.S.
[12] S. 823.15(2)(a)3., F.S.
[13] Art. I. s. 24(c), FLA. CONST., requires each public record exemption to "state with specificity the public necessity justifying the exemption."

Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may an insignificant negative fiscal impact on local governments that are custodians of animal shelter and animal control records, as staff responsible for complying with public record requests may require training related to the newly-created public record exemptions. However, any additional costs will likely be absorbed within existing resources.

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 counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Vote Requirement

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption; thus, it includes a public necessity statement. The public necessity statement of public necessity which is to shield those seeking to adopt and foster animals from the potential stalking, harassment and intimidation from the animals' previous owners.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The exemption in the bill does not appear to be broader than necessary to accomplish the purpose of the law.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to public records; amending s. 823.15, F.S.; providing an exemption from public records requirements for records containing certain information pertaining to persons with legal custody of an animal from an animal shelter or animal control agency operated by a local government; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsection (7) is added to section 823.15, Florida Statutes, to read:

823.15 Public or private animal agencies; sterilization required for dogs and cats released; recordkeeping requirements; microchipping; public records exemption.—

(7) Personal identifying information of a person who fosters, adopts, or otherwise receives legal custody of an animal from an animal shelter or animal control agency operated by a county, municipality, or other incorporated political subdivision held by the shelter or agency is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection is subject to the Open Government Sunset Review Act

in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the personal identifying information of a person who fosters, adopts, or otherwise receives legal custody of an animal from an animal shelter or animal control agency operated by a county, municipality, or other incorporated political subdivision held by the shelter or agency be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution. The Legislature finds that, as reflected in s. 823.15(1), Florida Statutes, it is an important public policy of the state to encourage the fostering, adoption, or receipt of animals and to reduce euthanasia rates for animals in animal shelters and animal control agencies. Although such shelters and agencies are motivated to find new homes or placements for animals in their custody, potential fosterers, adopters, and other persons considering receiving legal custody of animals may become discouraged from fostering, adopting, or receiving legal custody of the animals if the prior owners who lost or surrendered legal custody of the animals, or who did not reclaim the animals within the applicable time periods, can obtain their personal identifying information and attempt to regain legal custody of the animals from such persons through stalking, harassment, or intimidation. As such, the release of such

personal identifying information may jeopardize the safety of animal fosterers, adopters, and other persons receiving legal custody of animals and may have a chilling effect on the recruitment of persons to adopt, foster, or otherwise receive legal custody of animals from an animal shelter or animal control agency.

Section 3. This act shall take effect July 1, 2024.

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee

Representative Holcomb offered the following:

Amendment

Remove line 57 and insert:

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

HB 765

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 765 Leave of Absence to Officials and Employees
SPONSOR(S): Daley
TIED BILLS: **IDEN./SIM. BILLS:** SB 818

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Burgess	Darden
2) Appropriations Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The provisions of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) apply to the state. USERRA provides employment protections to servicemembers who have to leave employment to perform military service. USERRA requires compliance of private and public employers, including at the state and local level.

Current law provides a paid leave of absence for state officials and employees, as well as the officials and employees of counties, municipalities, and other political subdivisions of the state, for participation in training or active military service.

A public official or employee who is a servicemember of the National Guard or a reserve component of the United States Armed Forces is eligible to receive full public pay, regardless of any other compensation from the military or other source, for the first 30 days of a leave of absence to perform active military service. Beyond the first 30 days, an employer may supplement military pay to bring the total salary of the employee to the amount earned before the start of active military duty. During the time that a public employee is in active military service, the employer must continue to provide state-issued health insurance and other employee benefits.

The bill revises a requirement that a public employer provide an employee or official who is a servicemember a full paid leave of absence for the first 30 days of active military service. The bill limits application of the paid leave of absence to a servicemember who is activated under federal military service that is 90 consecutive days or more.

The bill may have a positive fiscal impact on state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Uniformed Services Employment and Reemployment Rights Act (USERRA)[1]

The provisions of the federal USERRA apply to the state.[2] USERRA provides employment protections to servicemembers who have to leave employment to perform military service.

USERRA areas of coverage apply to:
- Reemployment rights;
- Freedom from discrimination and retaliation; and
- Continuation of health insurance coverage.[3]

USERRA requires compliance of private and public employers, including at the state and local level.[4]

Public Employment Leave of Absence for Military Duty

Current law provides a paid leave of absence for state officials and employees, as well as the officials and employees of counties, municipalities, and other political subdivisions of the state, for participation in training or active military service.[5] The provisions apply to servicemembers serving as a member of the:
- United States Armed Forces on active or state active duty; [6]
- Florida National Guard; or
- United States Reserve Forces.[7]

A public official or employee who is a servicemember of the National Guard or a reserve component of the United States Armed Forces is eligible to receive full public pay, regardless of any other compensation from the military or other source, for the first 30 days of a leave of absence to perform active military service.[8] Beyond the first 30 days, an employer may supplement military pay to bring the total salary of the employee, including base military pay, to the amount earned before the start of active military duty.[9] During the time that a public employee is in active military service, the employer must continue to provide health insurance and other employee benefits.[10]

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[1] 38 U.S.C. ch. 43.
[2] S. 115.15, F.S.
[3] U.S. Dept. of Labor, *Veterans' Employment and Training Service, Know Your Rights*, https://www.dol.gov/agencies/vets/programs/userra/aboutuserra#:~:text=USERRA%20prohibits%20employment%20discrimination%20against,obligations%2C%20or%20intent%20to%20serve (last visited Jan. 19, 2024).
[4] U.S. Dept. of Labor, *A Guide to the Uniformed Services Employment and Reemployment Rights Act*, https://www.dol.gov/agencies/vets/programs/userra/USERRA-Pocket-Guide#:~:text=USERRA%20applies%20to%20virtually%20all,size%2C%20including%20the%20Federal%20Government (last visited Jan. 20, 2024).
[5] Ss. 115.07, 115.09, and 115.14, F.S.
[6] The "armed forces" include the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard. S. 250.01(4), F.S.
[7] S. 250.01(19), F.S.
[8] Ss. 115.09 and 115.14, F.S. *See also* Op. Att'y Gen. Fla. 98-43 (1998).
[9] Section 115.14, F.S.
[10] *Id.*

A leave of absence due to military training is addressed separately from active military duty.[11] A public official or employee who is a servicemember is entitled to a leave of absence without loss of vacation leave, pay, time, or efficiency rating for each day ordered to military training.[12] However, paid leaves of absence is limited to 240 working hours in any one annual period. For any absence in excess of 240 hours, an employer may grant administrative leave without pay, but may not reduce a servicemember's time or efficiency rating for providing such leave.

Effect of Proposed Changes

The bill revises a requirement that a public employer provide an employee or official who is a servicemember a full paid leave of absence for the first 30 days of active military service. The bill limits application of the paid leave of absence to a servicemember who is activated under federal military service that is 90 consecutive days or more.

B. SECTION DIRECTORY:

Section 1: Amends s. 115.09, F.S., providing certain public officials and employees may receive full pay for a leave of absence relating to active federal military service that lasts a certain length of time.

Section 2: Amends s. 115.14, F.S., providing certain public officials and employees may receive full pay for a leave of absence relating to active federal military service that lasts a certain length of time.

Section 3: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may have a positive impact on state government expenditures to the extent employees currently receiving pay for leaves of absence of less than 90 days.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill may have a positive impact on local government expenditures to the extent employees currently receiving pay for leaves of absence of less than 90 days.

[11] S. 115.07, F.S.
[12] S. 115.07(2), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to leave of absence to officials and employees; amending ss. 115.09 and 115.14, F.S.; providing that certain public officials and employees may receive full pay for a leave of absence relating to active federal military service that lasts a certain length of time; providing an effective date.

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

Section 1. Section 115.09, Florida Statutes, is amended to read:

115.09 Leave to public officials for military service.—All officials of the state, the several counties of the state, and the municipalities or political subdivisions of the state, including district school and community college officers, which officials are also servicemembers in the National Guard or a reserve component of the Armed Forces of the United States, shall be granted leave of absence from their respective offices and duties to perform active military service, the first 30 days of any such leave of absence to be with full pay <u>for active federal military service that is 90 consecutive days or more</u>.

Section 2. Section 115.14, Florida Statutes, is amended to read:

115.14 Employees.—All employees of the state, the several

counties of the state, and the municipalities or political subdivisions of the state shall be granted leave of absence under the terms of this law; upon such leave of absence being granted said employee shall enjoy the same rights and privileges as are hereby granted to officials under this law, insofar as may be, including, without limitation, receiving full pay for the first 30 days for active federal military service that is 90 consecutive days or more. Notwithstanding ~~the provisions of~~ s. 115.09, the employing authority may supplement the military pay of its officials and employees who are reservists called to active military service after the first 30 days in an amount necessary to bring their total salary, inclusive of their base military pay, to the level earned at the time they were called to active military duty. The employing authority shall continue to provide all health insurance and other existing benefits to such officials and employees as required by the Uniformed Services Employment and Reemployment Rights Act, chapter 43 of Title 38 U.S.C.

Section 3. This act shall take effect July 1, 2024.

HB 791

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 791 Development Permits and Orders
SPONSOR(S): Overdorf and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
2) Commerce Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans. Each county and municipality must maintain a comprehensive plan to guide future development.

A development permit is any official action of a local government that has the effect of permitting the development of land including, but not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances. A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit. Counties and municipalities must approve, approve with conditions, or deny applications with a development order within timeframes established by statute.

The bill revises procedures for counties and municipalities to issue development permits and orders by requiring counties and municipalities to:

- Specify in writing the minimum information that must be submitted in certain development applications;
- Confirm receipt of an application within five business days; and
- Issue a refund of application fees if certain deadlines are not met.

The bill provides that timeframes for processing an application for a development permit or order restart if the applicant makes a substantive change and provides a definition of that term. The bill requires any extension of deadlines for processing an application for a development permit or order must be in writing. The bill provides that a county or municipality is not required to issue a refund of application fees if the parties have agreed to an extension of time, the delay in meeting the deadline is caused by the applicant, or if the delay is attributable to a force majeure or other extraordinary circumstance.

The bill does not appear to have a fiscal impact on state government and may have an indeterminate negative fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Comprehensive Planning

The Community Planning Act[1] provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.[2] Each county and municipality must maintain a comprehensive plan to guide future development and growth.[3]

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.[4] A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.[5] Local governments may also include optional elements in their comprehensive plan. The 10 required elements are:

- Capital improvements;
- Future land use plan;
- Transportation;
- General sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge;
- Conservation;
- Recreation and open space;
- Housing;
- Coastal management;
- Intergovernmental coordination; and
- Property rights.[6]

Development Permits and Orders

Under the Community Planning Act, a development permit is any official action of a local government permitting the development of land.[7] Development plans include, but are not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances. A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.[8]

Within 30 days after receiving an application for approval of a development permit or development order, a county or municipality must review the application for completeness and issue a letter indicating that all required information is submitted or specify any areas that are deficient.[9] If the

[1] Ch. 163, part II, F.S.
[2] S. 163.3167(1), F.S.
[3] S. 163.3167(2), F.S.
[4] S. 163.3194(1)(a), F.S
[5] S. 163.3177(6), F.S.
[6] *Id*.
[7] S. 163.3164(16), F.S.
[8] *See* ss. 125.022, 163.3164(15), and 166.033, F.S.
[9] Ss. 125.022(1) and 166.033(1), F.S.

application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information.

Within 120 days after the county or municipality has deemed the application complete, or 180 days for applications that require final action through a quasi-judicial hearing or a public hearing, the county or municipality must approve, approve with conditions, or deny the application for a development permit or development order.[10] Both the applicant and the local government may agree to a reasonable request for an extension of time, particularly in the event of a force majeure or other extraordinary circumstance. An approval, approval with conditions, or denial of the application for a development permit or development order must include written findings supporting the county's decision. These timeframes do not apply in an area of critical state concern.

When reviewing an application for a development permit or development order, not including building permit applications, a county or municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.[11]

If a county or municipality makes a request for additional information from the applicant and the applicant provides the information within 30 days of receiving the request, the county or the municipality must:

- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within 30 days of receiving the information, if the request is the county or municipality's first request.[12]
- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within 10 days of receiving the additional information, if the request is the county or municipality's second request.[13]
- Deem the application complete within 10 days of receiving the additional information or proceed to process the application for approval or denial unless the applicant waived the county or municipality's time limitations in writing, if the request is the county or municipality's third request.[14]

Before a third request for information, the applicant must be offered a meeting to attempt to resolve outstanding issues. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the applicant can request the county or municipality proceed to process the application for approval or denial.[15]

If a development permit or order is denied, the county or municipality is required to give written notice to the applicant and must provide reference to the applicable legal authority for the denial of the permit.[16]

Effect of Proposed Changes

The bill requires counties and municipalities to specify in writing the minimum information that must be submitted in an application for a zoning approval, rezoning approval, subdivision approval, certification, special exception, or variance. A municipality or county must make the minimum information available for inspection and copying at the location where the local government receives applications for development permits and orders, and provide the information to the applicant at a pre-application meeting, or post the information on the local government's website

[10] *Id.*
[11] Ss. 125.022(2)(a) and 166.033(2)(a), F.S.
[12] Ss. 25.022(2)(b) and 166.033(2)(b), F.S.
[13] Ss.125.022(2)(c) and 166.033(2)(c), F.S.
[14] Ss. 125.022(2)(d) and 166.033(2)(d), F.S.
[15] Ss. 125.022(2)(e) and 166.033(2)(e), F.S.
[16] Ss. 125.022(3) and 166.033(3), F.S.

The bill requires counties and municipalities to confirm receipt of the application for a development permit or order within 5 business days of receipt using contact information provided by the applicant. Within 30 days after receiving an application for approval of a development permit or development order, a county or municipality must review the application for completeness and issue a written notice to the applicant indicating that all required information is submitted or specify any areas that are deficient.

The bill specifies that applications that do not require final action through a quasi-judicial hearing or a public hearing, counties and municipalities must be approved, approved with conditions, or denied the application within 120 days.

The bill requires any extensions in time agreed upon by an applicant and a county or municipality to be in writing.

The bill specifies that all timeframes related to issuing development permits and orders restart if an applicant makes a "substantive change" to the application, defined as "an applicant-initiated change of 15 percent or more in the proposed density, intensity, or square footage of a parcel."

The bill provides that a county or municipality must issue a refund to an applicant equal to:

- 10 percent of the application fee. if the county fails to issue written notification of completeness or written specification of areas of deficiency within 30 days after receiving the application.
- 10 percent of the application fee if the county fails to issue written notification of completeness or written specification of areas of deficiency within 30 days after receiving the additional information upon an initial request.
- 20 percent of the application fee if the county fails to issue written notification of completeness or written specification of areas of deficiency within 10 days after receiving the additional information upon a second request.
- 50 percent of the application fee if the county fails to approve, approve with conditions, or deny the application within 30 days after conclusion of the 120-day or 180-day application completion timeline.
- 100 percent of the application fee if the county fails to approve, approve with conditions, or deny an application 31 days or more after conclusion of the 120-day or 180-day application completion timeline.

The bill provides that a municipality or county is not required to issue a refund if the county or municipality agree to an extension of time, the delay is caused by the applicant, or the delay is attributable to a force majeure or other extraordinary circumstance.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.022, F.S., relating to county development permits and orders.

Section 2: Amends s. 166.033, F.S., relating to municipal development permits and orders.

Section 3: Amends s 163.3164, F.S., adding a definition.

Section 4: Provides an effective date of October 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminately negative fiscal impact on local governments to the extent those governments must issue refunds for failure to meet statutory deadlines for development order issuance.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminately positive fiscal impact to the extent applicants who receive refunds from counties and municipalities that fail to meet statutory deadlines for development order issuance.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to development permits and orders; amending ss. 125.022 and 166.033, F.S.; requiring counties and municipalities, respectively, to meet specified requirements regarding the minimum information necessary for certain zoning applications; revising timeframes for processing applications for approvals of development permits or development orders; providing refund parameters in situations where the county or municipality, respectively, fails to meet certain timeframes; providing exceptions; amending s. 163.3164, F.S.; defining the term "substantive change"; providing an effective date.

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

Section 1. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits and orders.—

(1) A county must specify in writing the minimum information that must be submitted in an application for a zoning approval, rezoning approval, subdivision approval, certification, special exception, or variance. A county must make the minimum information available for inspection and copying at the location where the county receives applications

for development permits and orders, provide the information to the applicant at a preapplication meeting, or post the information on the county's website.

(2) Within 5 business days after receiving an application for approval of a development permit or development order, a county shall confirm receipt of the application using contact information provided by the applicant. Within 30 days after receiving an application for approval of a development permit or development order, a county must review the application for completeness and issue a written notification to the applicant ~~letter~~ indicating that all required information is submitted or specify ~~specifying~~ with particularity any areas that are deficient. If the application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information. For applications that do not require final action through a quasi-judicial hearing or a public hearing, the county must approve, approve with conditions, or deny the application for a development permit or development order within 120 days after the county has deemed the application complete.~~, or 180 days~~ For applications that require final action through a quasi-judicial hearing or a public hearing, the county must approve, approve with conditions, or deny the application for a development permit or development order within 180 days after the county has deemed the application complete. Both parties may agree in writing to ~~a~~

~~reasonable request for~~ an extension of time, particularly in the event of a force majeure or other extraordinary circumstance. An approval, approval with conditions, or denial of the application for a development permit or development order must include written findings supporting the county's decision. The timeframes contained in this subsection do not apply in an area of critical state concern, as designated in s. 380.0552. The timeframes contained in this subsection restart if an applicant makes a substantive change, as defined in s. 163.3164, to the application.

(3)~~(2)~~(a) When reviewing an application for a development permit or development order that is certified by a professional listed in s. 403.0877, a county may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.

(b) If a county makes a request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the county must review the application for completeness and issue a letter indicating that all required information has been submitted or specify with particularity any areas that are deficient within 30 days after receiving the additional information.

(c) If a county makes a second request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the

county must review the application for completeness and issue a letter indicating that all required information has been submitted or specify with particularity any areas that are deficient within 10 days after receiving the additional information.

(d) Before a third request for additional information, the applicant must be offered a meeting to attempt to resolve outstanding issues. If a county makes a third request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the county must deem the application complete within 10 days after receiving the additional information or proceed to process the application for approval or denial unless the applicant waived the county's limitation in writing as described in paragraph (a).

(e) Except as provided in subsection (7) ~~(5)~~, if the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the county, at the applicant's request, shall proceed to process the application for approval or denial.

(4) A county must issue a refund to an applicant equal to:

(a) Ten percent of the application fee if the county fails to issue written notification of completeness or written specification of areas of deficiency within 30 days after receiving the application.

(b) Ten percent of the application fee if the county fails to issue a written notification of completeness or written specification of areas of deficiency within 30 days after receiving the additional information pursuant to paragraph (3)(b).

(c) Twenty percent of the application fee if the county fails to issue a written notification of completeness or written specification of areas of deficiency within 10 days after receiving the additional information pursuant to paragraph (3)(c).

(d) Fifty percent of the application fee if the county fails to approve, approves with conditions, or denies the application within 30 days after conclusion of the 120-day or 180-day timeframe specified in subsection (2).

(e) One hundred percent of the application fee if the county fails to approve, approves with conditions, or denies an application 31 days or more after conclusion of the 120-day or 180-day timeframe specified in subsection (2).

A county is not required to issue a refund if the applicant and the county agree to an extension of time, the delay is caused by the applicant, or the delay is attributable to a force majeure or other extraordinary circumstance.

(5) ~~(3)~~ When a county denies an application for a development permit or development order, the county shall give

written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit or order.

(6) ~~(4)~~ As used in this section, the terms "development permit" and "development order" have the same meaning as in s. 163.3164, but do not include building permits.

(7) ~~(5)~~ For any development permit application filed with the county after July 1, 2012, a county may not require as a condition of processing or issuing a development permit or development order that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county action on the local development permit.

(8) ~~(6)~~ Issuance of a development permit or development order by a county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A county shall attach such a disclaimer to the issuance of a development permit and shall include a permit condition that all other applicable state or federal permits be obtained before commencement of the

development.

(9)~~(7)~~ This section does not prohibit a county from providing information to an applicant regarding what other state or federal permits may apply.

Section 2. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits and orders.—

(1) A municipality must specify in writing the minimum information that must be submitted for an application for a zoning approval, rezoning approval, subdivision approval, certification, special exception, or variance. A municipality must make the minimum information available for inspection and copying at the location where the municipality receives applications for development permits and orders, provide the information to the applicant at a preapplication meeting, or post the information on the municipality's website.

(2) Within 5 business days after receiving an application for approval of a development permit or development order, a municipality shall confirm receipt of the application using contact information provided by the applicant. Within 30 days after receiving an application for approval of a development permit or development order, a municipality must review the application for completeness and issue a written notification to the applicant ~~letter~~ indicating that all required information is submitted or specify ~~specifying~~ with particularity any areas

that are deficient. If the application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information. For applications that do not require final action through a quasi-judicial hearing or a public hearing, the municipality must approve, approve with conditions, or deny the application for a development permit or development order within 120 days after the municipality has deemed the application complete.~~, or 180 days~~ For applications that require final action through a quasi-judicial hearing or a public hearing, the municipality must approve, approve with conditions, or deny the application for a development permit or development order within 180 days after the municipality has deemed the application complete. Both parties may agree in writing to ~~a reasonable request for~~ an extension of time, particularly in the event of a force majeure or other extraordinary circumstance. An approval, approval with conditions, or denial of the application for a development permit or development order must include written findings supporting the municipality's decision. The timeframes contained in this subsection do not apply in an area of critical state concern, as designated in s. 380.0552 or chapter 28-36, Florida Administrative Code. The timeframes contained in this subsection restart if an applicant makes a substantive change, as defined in s. 163.3164, to the application.

(3)~~(2)~~(a) When reviewing an application for a development

permit or development order that is certified by a professional listed in s. 403.0877, a municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.

(b) If a municipality makes a request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the municipality must review the application for completeness and issue a letter indicating that all required information has been submitted or specify with particularity any areas that are deficient within 30 days after receiving the additional information.

(c) If a municipality makes a second request for additional information and the applicant submits the required additional information within 30 days after receiving the request, the municipality must review the application for completeness and issue a letter indicating that all required information has been submitted or specify with particularity any areas that are deficient within 10 days after receiving the additional information.

(d) Before a third request for additional information, the applicant must be offered a meeting to attempt to resolve outstanding issues. If a municipality makes a third request for additional information and the applicant submits the required additional information within 30 days after receiving the

request, the municipality must deem the application complete within 10 days after receiving the additional information or proceed to process the application for approval or denial unless the applicant waived the municipality's limitation in writing as described in paragraph (a).

(e) Except as provided in subsection (7) ~~(5)~~, if the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the municipality, at the applicant's request, shall proceed to process the application for approval or denial.

(4) A municipality must issue a refund to an applicant equal to:

(a) Ten percent of the application fee if the municipality fails to issue written notification of completeness or written specification of areas of deficiency within 30 days after receiving the application.

(b) Ten percent of the application fee if the municipality fails to issue written notification of completeness or written specification of areas of deficiency within 30 days after receiving the additional information pursuant to paragraph (3)(b).

(c) Twenty percent of the application fee if the municipality fails to issue written notification of completeness or written specification of areas of deficiency within 10 days after receiving the additional information pursuant to paragraph

(3)(c).

(d) Fifty percent of the application fee if the municipality fails to approve, approves with conditions, or denies the application within 30 days after conclusion of the 120-day or 180-day timeframe specified in subsection (2).

(e) One hundred percent of the application fee if the municipality fails to approve, approves with conditions, or denies an application 31 days or more after conclusion of the 120-day or 180-day timeframe specified in subsection (2).

A municipality is not required to issue a refund if the applicant and the municipality agree to an extension of time, the delay is caused by the applicant, or the delay is attributable to a force majeure or other extraordinary circumstance.

(5) ~~(3)~~ When a municipality denies an application for a development permit or development order, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit or order.

(6) ~~(4)~~ As used in this section, the terms "development permit" and "development order" have the same meaning as in s. 163.3164, but do not include building permits.

(7) ~~(5)~~ For any development permit application filed with

the municipality after July 1, 2012, a municipality may not require as a condition of processing or issuing a development permit or development order that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the municipal action on the local development permit.

(8) ~~(6)~~ Issuance of a development permit or development order by a municipality does not create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A municipality shall attach such a disclaimer to the issuance of development permits and shall include a permit condition that all other applicable state or federal permits be obtained before commencement of the development.

(9) ~~(7)~~ This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 3. Subsections (46) through (52) of section 163.3164, Florida Statutes, are renumbered as subsections (47) through (53), respectively, and a new subsection (46) is added

to that section to read:

163.3164 Community Planning Act; definitions.—As used in this act:

(46) "Substantive change" means an applicant initiated change of 15 percent or more in the proposed density, intensity, or square footage of a parcel.

Section 4. This act shall take effect October 1, 2024.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 821 Melbourne-Tillman Water Control District, Brevard County
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1180

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
2) Water Quality, Supply & Treatment Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.

The Melbourne-Tillman Water Control District (District) was created in 1986 and its charter was recodified in 2001. The District provides a water management system to prevent damage from flooding, erosion, and excessive drainage. The district is funded by non-ad valorem user fees applied to each parcel within the District's boundary based on property size and use. The district's fees must be approved by both a majority of the entire membership of Brevard County Board of County Commissioners and the affirmative vote of each county commissioner whose district lies wholly or partially within the district. The district's charter provides a limitation on both the annual rate at which the fee may increase, as well as maximum fee amount.

The bill increases the maximum stormwater management user fee the District may charge.

The Economic Impact Statement indicates that the bill will not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.[1] Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.[2] A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.[3] Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.[4]

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as "dependent" if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district's governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.[5]

A district is classified as "independent" if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of single municipality.[6]

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.[7]

Water Control Districts

Chapter 298, F.S., governs the creation and operation of water control districts (WCD). A WCD has authority and responsibility to construct, complete, operate, maintain, repair, and replace any and all works and improvements necessary to execute the water control plan adopted by that district.[8] A WCD may build and construct any other works and improvements deemed necessary to preserve and maintain the works in or out of said district. A WCD also may acquire, construct, operate, maintain, use, purchase, sell, lease, convey, or transfer real or personal property, including pumping stations,

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[1] *See Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).
[2] *See* ss. 189.02(1), 189.031(3), and. 190.005(1), F.S. *See generally* s. 189.012(6), F.S.
[3] Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227 (last visited January 14, 2024).
[4] The method of financing a district must be stated in its charter. Ss. 189.02(4)(g), 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. *See, e.g.,* ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). *See also, e.g.,* ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), 388.221 (mosquito control), ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).
[5] S. 189.012(2), F.S.
[6] S. 189.012(3), F.S.
[7] *See, e.g.*, ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).
[8] S. 298.22, F.S.

pumping machinery, motive equipment, electric lines and all appurtenant or auxiliary machines, devices, or equipment.[9] As of January 18, 2024, there were 82 active water control districts.[10]

Prior to July 1, 1980, WCDs were created by the submission of a petition signed by a majority of the landowners in the area of the proposed district to the circuit court that had jurisdiction over the area.[11] Today, WCDs may be created only by special act or by county ordinance.[12]

Most WCDs are governed by a three-member board composed of landowners within the district who are also residents of the county where the district is located.[13] Landowners vote for the governing board of the district on a one-acre/one-vote basis, with the three persons receiving the highest number of votes elected in the initial election.[14] Landowners may vote in person or by a signed proxy statement. The landowners at the initial election determine the length of the term of office for the initial board, selecting one member to serve a one-, two-, or three-year term, respectively. All members subsequently elected serve a three-year term, with one member of the board elected by the landowners each year.[15]

Melbourne-Tillman Water Control District

The Melbourne-Tillman Water Control District (District) is a dependent special district created in 1986.[16] The District charter was recodified in 2001.[17] The District provides a water management system to prevent damage from flooding, erosion, and excessive drainage.[18] The District contains 100 square miles within its boundaries, and owns and maintains over 2,300 acres of canal rights-of-way in 163 miles of canals.

The district is governed by a seven-member board of directors, comprised of three members appointed by the Brevard County Board of County Commissioners, three members appointed by the City of Palm Bay City Council, and one member appointed by the City of West Melbourne City Council.[19]

The District is funded by non-ad valorem user fees applied to each parcel within the District's boundary based on property size and use.[20] The district's charter provided an initial stormwater management fee rate structure per acre or portion thereof for the 1990-91 fiscal year:

- Residential - $10.
- Agricultural - $3.50.
- Commercial - $8.50.[21]

[9] S. 298.22(3), F.S.
[10] Dept. of Commerce, Special District Accountability Program, *Official List of Special Districts*, available at https://specialdistrictreports.floridajobs.org/OfficialList/CustomList (last visited Jan. 18, 2024).
[11] *See* s. 298.01, F.S. (authorizing "water control districts established prior to July 1, 1980, pursuant to the process formerly contained in this section and former ss. 298.02 and 298.03, may continue to operate as outlined in this chapter.") *See also* s. 298.01, F.S. (1980) and ch. 79-5, ss. 1-3, Laws of Fla. Originally, the Board of Drainage Commissioners for the State also had authority to prepare and file a petition to form a drainage district. *See* ch. 6458, s. 1, Laws of Fla. (1913).
[12] S. 289.01, F.S.
[13] S. 298.11(1), F.S.
[14] S. 298.11(2), F.S. Landowners who own less than one acre receive one vote, while landowners who own more than one acre are entitled to additional votes for any fraction of an acre greater than one-half owned in addition to votes equal to the number of whole acres owned.
[15] S. 298.12(1), F.S.
[16] Ch. 86-418, Laws of Fla.
[17] Ch. 2001-336, Laws of Fla. Ch. 2001-336, s. 3, Laws of Fla., amended by chs. 2003-334, 2010-253, and 2019-175, Laws of Fla., contain the charter of the district (hereinafter District Charter)
[18] Melbourne-Tillman Water Control District, *District Overview*, http://www.melbournetillman.org/ (last visited Jan. 18, 2024).
[19] District Charter, s. 4.
[20] *See* Melbourne-Tillman Water Control District, *FY 2023-2024 Budget*, https://melbournetillman.org/wp-content/uploads/2023/09/Amended-Budget-FY-2023-2024.pdf (last visited Jan. 18, 2024).
[21] District Charter, s. 8(12)(d).

The district's charter limits any annual increase in the stormwater management fee to ten percent of the prior year's fee for that type of parcel. Additionally, the charter provides a maximum stormwater management user fee with the following amounts per acre or portion thereof:

- Residential – $25.
- Agricultural – $8.50.
- Commercial – $52.50.[22]

The stormwater management fee levied by the district must be approved the Brevard County Board of County Commissioners after conducting a special public hearing within the boundaries of the district.[23] Approval of the fee requires both a majority vote of all members of the Brevard County Board of County Commissioners and an affirmative vote from each county commissioner whose district lies wholly or partially within the district.[24]

Effect of Proposed Changes

The bill removes obsolete language from the District Charter pertaining to initial stormwater management fees levied for budget year 1990-91. The bill increases the maximum stormwater management user fee per acre or portion thereof the District may charge. The bill increases the fee caps to:

- Residential – $50.
- Agricultural – $17.
- Commercial – $105.

The Economic Impact Statement indicates that the bill will not have a fiscal impact.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2001-336, Laws of Fla., as amended by chs. 2003-334, 2010-253, and 2019-175, Laws of Fla., relating to the Melbourne-Tillman Water Control District.

Section 2: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? November 8, 2023.

WHERE? The *Florida Today*, a newspaper of general circulation in Brevard County.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [X] No []

[22] *Id*.
[23] District Charter, s. 8(12)(b).
[24] District Charter, s. 8(12)(c)

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to the Melbourne-Tillman Water Control District, Brevard County; amending chapter 2001-336, Laws of Florida; deleting obsolete language; revising maximum stormwater management user fees for residential, agricultural, and commercial parcels of land; providing an effective date.

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

Section 1. Subsection (12) of section 8 of section 3 of chapter 2001-336, Laws of Florida, is amended to read:

Section 8. Powers given the Board to effect a surface water management system within District boundaries.—In order to responsibly, efficiently, and effectively secure, operate, and maintain an adequate, dependable surface water management system, the Board of Directors, consistent with and supportive of the state water policy, the state water use plan, the state land development plan, and the regional policy plan, shall:

(12) ~~(a)~~ Levy, assess, and collect an annual stormwater management user fee to carry out the purposes of the District, beginning with the 1990-1991 budget year.

(a) Such fee must be just and equitable and shall be based upon the impact that a given parcel of land imposes on the stormwater management system.

(b) A fee may not be finally set by the Board of Directors or approved by the Board of County Commissioners of Brevard County during its annual budget review until after a public hearing is held by the Board of County Commissioners. The Board of County Commissioners must hold a special public hearing within the boundaries of the District. At the public hearing, all owners of property in the District shall have an opportunity to be heard concerning the proposed fee.

(c) Notice of such public hearing for the 1990-1991 budget year must be given in the manner prescribed in subsection (2) of Section 16. Thereafter, notice must be given by publication in a newspaper of general circulation in Brevard County at least 7 days before the date of the hearing. The stormwater management user fee, when established, shall be deemed to be reasonable and necessary to carry out the obligations, responsibilities, and duties of the District. All of the proceeds of the fee are in payment for the use of the District stormwater management system. The fee must be established by resolution of the Board of Directors and approved by a majority vote of the Board of County Commissioners of Brevard County, with each County Commissioner whose county commission residency area lies wholly or partially within the District voting in the affirmative.

(d) The stormwater management user fee structure shall have three land classifications: Residential, Agricultural, and Commercial. The Board of Directors, in establishing the annual

fee, must use the Brevard County Land Use Code Index as the basis for land classification. The annual stormwater management user fee shall be levied on the parcels, as the Brevard County Land Use Code Index has them designated, for that respective budget year.

~~For the 1990-1991 budget year, the residential fee may not exceed $10 per acre or portion thereof, the agricultural fee may not exceed $3.50 per acre or portion thereof, and the commercial fee may not exceed $21 per acre or portion thereof.~~

~~Thereafter,~~ The stormwater management fee for residential parcels, agricultural parcels, or commercial parcels may not be more than 10 percent above the fee for the preceding year. However, the maximum fee per acre or portion thereof for residential parcels may not exceed $50 ~~$25~~, the maximum fee per acre or portion thereof for agricultural parcels may not exceed $17 ~~$8.50~~, and the maximum fee per acre or portion thereof for commercial parcels may exceed $105 ~~$52.50~~.

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

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee

Representative Altman offered the following:

Amendment

Remove line 68 and insert:

Section 2. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 833 Public Safety Programs
SPONSOR(S): Yarkosky and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1708

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Burgess	Darden
2) Judiciary Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Current law contains multiple provisions to ensure Floridians are not subject to discrimination on the basis of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status. Sheriffs and municipal law enforcement agencies are required to incorporate an antiracial or other anti-discriminatory profiling policy into the sheriff's policies and practices, utilizing the Florida Police Chiefs Association Model Policy as a guide. Anti-profiling policies have to include the elements of definitions, traffic stop procedures, community education and awareness efforts, and policies for the handling of complaints from the public.

The bill requires any public safety program established, created, funded, administered, or promoted by a sheriff or municipal law enforcement agency that provides training to businesses and their employees on assisting crime victims or reporting crimes to provide training on a broad range of victims and the common crimes affecting persons, property, and businesses in the area. Requires signs or symbols that designate participation in the training programs or designate safe locations under those programs to be inclusive of all people to prevent the benefit of a limited group of people based on characteristics such as a person's race, religion, ethnicity, national origin, sexual orientation, or sex.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Anti-Discrimination

The Florida Civil Rights Act

The Florida Civil Rights Act of 1992 (FCRA) secures for all individuals within the state freedom from discrimination because of race, color, religion, sex, pregnancy, national origin,[1] age, handicap, or marital status.[2] These protections are in place to safeguard each individual's interest in personal dignity, making available to the state his or her full productive capacities. These protections also help to secure the state against domestic strife and unrest; preserve the public safety, health, and general welfare; and promote the interests, rights, and privileges of individuals within the state.[3] FCRA prohibits discrimination in places of public accommodation and unlawful employment practices.[4]

Florida Educational Equity Act

The Florida Educational Equity Act (FEEA) requires equal access to, and prohibits discrimination against, any student or employee of the state's K-20 public education system on the basis of race, ethnicity, gender, national origin, disability, religion, or marital status.[5] No individual may, on such bases, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any public K-20 education program or activity, or in any employment conditions or practices, conducted by a public educational institution that receives or benefits from federal or state financial assistance.[6] Additionally, the prohibition on discrimination extends to participation in any interscholastic, intercollegiate, club, or intermural athletics offered by a public K-20 educational institution, and no K-20 education institution may provide athletics separately on such basis, except as provided by law.[7] Further, the FEEA expressly requires that any discrimination motivated by anti-Semitic[8] intent be treated in an identical manner to discrimination motivated by race.[9]

Anti-Discrimination by Sheriffs and Municipal Law Enforcement

Sheriffs and municipal law enforcement are required to incorporate an antiracial or other anti-discriminatory profiling policy into the sheriff's policies and practices, utilizing the Florida Police Chiefs Association Model Policy as a guide.[10] Anti-profiling policies must include elements of definitions, traffic

[1] "National origin" includes ancestry. S. 760.02(5), F.S.
[2] S. 760.01(2), F.S.
[3] *Id.*
[4] Ss. 760.08 and 760.10, F.S.
[5] S. 1000.05(2)(a), F.S.
[6] *Id.* Students may be separated for permissible single gender programs, for portions of a class that deals with human reproduction, or during participation in bodily contact sports. S. 1000.05(2)(d), F.S. All K-20 public education classes and guidance services must be made available to students without regard to any of the bases described above. S. 1000.05(2)(c) and (e), F.S.
[7] S. 1000.05(3)(a), F.S. Public K-20 educational institutions are authorized to maintain separate teams for members of each gender or based on ability in certain circumstances. S. 1000.05(3)(b)-(c), F.S. It is the responsibility of the Board of Governors and the Commissioner of Education to determine whether equal athletic opportunities are provided for both genders at state universities and in school districts and Florida College Systems, respectively. S. 1000.05(3)(d), F.S.
[8] For purposes of this section, the term "anti-Semitism" includes a certain perception of the Jewish people, which may be expressed as hatred toward Jewish people, rhetorical and physical manifestations of anti-Semitism directed toward a person, his or her property, or toward Jewish community institutions or religious facilities. S. 1005.05(7), F.S. The FEEA also lists examples of anti-Semitism. S. 1000.05(7)(a)-(b), F.S.
[9] S. 1000.05(7), F.S.
[10] Ss. 30.15(3) and 166.0493, F.S.

stop procedures, community education and awareness efforts, and policies for the handling of complaints from the public.

Effect of Proposed Changes

The bill requires any public safety program established, created, funded, administered, or promoted by a sheriff or municipal law enforcement agency that provides training to businesses and their employees on assisting crime victims or reporting crimes to provide training on a broad range of victims and the common crimes affecting persons, property, and businesses in the area. Requires signs or symbols that designate participation in the training programs or designate safe locations under those programs to be inclusive of all people to prevent the benefit of a limited group of people based on characteristics such as a person's race, religion, ethnicity, national origin, sexual orientation, or sex.

B. SECTION DIRECTORY:

Section 1: Amends s. 30.15, F.S., concerning the powers, duties, and obligations of sheriffs.

Section 2: Amends s. 166.0493, F.S., concerning the powers, duties, and obligations of municipal law enforcement.

Section 3: Provides an effective date of October 1, 2024.

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to public safety programs; amending s. 30.15, F.S.; requiring a public safety training program established, created, funded, administered, or promoted by a sheriff to meet certain conditions; providing applicability; amending s. 166.0493, F.S.; requiring a public safety program established, created, funded, administered, or promoted by a municipal law enforcement agency to meet certain conditions; providing applicability; providing an effective date.

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

Section 1. Subsection (3) of section 30.15, Florida Statutes, is amended to read:

30.15 Powers, duties, and obligations.—

(3)(a) Every sheriff shall incorporate an antiracial or other antidiscriminatory profiling policy into the sheriff's policies and practices, utilizing the Florida Police Chiefs Association Model Policy as a guide. Antiprofiling policies shall include the elements of definitions, traffic stop procedures, community education and awareness efforts, and policies for the handling of complaints from the public.

(b) A public safety program established, created, funded,

administered, or promoted by a sheriff, which provides training to businesses and their employees on assisting crime victims or reporting crimes, must provide training on a broad range of victims and the common crimes affecting persons, property, and businesses in the area. Any signage or symbols designating participation in such training programs or designating safe locations under such programs must be inclusive of all persons and may not indicate an intent to benefit a limited group of persons based on characteristics such as a person's race, religion, ethnicity, national origin, sexual orientation, or sex.

Section 2. Section 166.0493, Florida Statutes, is amended to read:

166.0493 Powers, duties, and obligations of municipal law enforcement agencies.—

(1) Every municipal law enforcement agency shall incorporate an antiracial or other antidiscriminatory profiling policy into the agency's policies and practices, utilizing the Florida Police Chiefs Association Model Policy as a guide. Antiprofiling policies shall include the elements of definitions, traffic stop procedures, community education and awareness efforts, and policies for the handling of complaints from the public.

(2) A public safety program established, created, funded, administered, or promoted by a municipal law enforcement agency,

which provides training to businesses and their employees on assisting crime victims or reporting crimes, must provide training on a broad range of victims and the common crimes affecting persons, property, and businesses in the area. Any signage or symbols designating participation in such training programs or designating safe locations under such programs must be inclusive of all persons and may not indicate an intent to benefit a limited group of persons based on characteristics such as a person's race, religion, ethnicity, national origin, sexual orientation, or sex.

Section 3. This act shall take effect October 1, 2024.

HB 873

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 873 Dangerous Dogs
SPONSOR(S): Payne and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1156

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Burgess	Darden
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Local governments may adopt ordinances to address safety and welfare concerns stemming from dog attacks on people or domestic animals, placing restrictions and additional requirements on owners of dangerous dogs, provided that no regulations may be specific to breed, weight, or size.

An animal control officer is typically the person who investigates an incident involving a dog. In areas unserved by an animal control authority, the sheriff assumes the duties required of an animal control officer.

Upon receiving a report of a potentially dangerous dog, the animal control authority must investigate the incident, interview the owner, and require a sworn affidavit from any person who seeks to have a dog classified as dangerous. An animal that is the subject of a dangerous dog investigation because of a severe injury to a human being may be immediately confiscated by an animal control authority, may be placed in quarantine, or impounded and held. A dog being investigated as a dangerous dog that is not impounded with the animal control authority must be humanely and safely confined by the owner pending the outcome of the investigation.

After investigating, the animal control authority must initially determine whether sufficient cause exists to classify the dog as dangerous, and if sufficient cause is found, provide the owner with an opportunity for a hearing before making a final determination regarding the classification or penalty. The owner has seven calendar days from receiving the notice to file a written request for a hearing. Within 14 days after the classification of the dog as dangerous by the animal control authority, the owner must register the dog with the animal control authority and renew the certification annually.

The bill revises provisions relating to dangerous dogs by requiring:

- A dog owner has knowledge of a dog's dangerous propensities to securely confine the dog in a proper enclosure as if the dog had been determined to be dangerous;
- Dogs to be held during the course of a dangerous dog investigation in certain instances;
- Dogs that have been declared dangerous to be spayed or neutered;
- The owner of a dangerous dog to obtain liability insurance.

The bill requires the Department of Agriculture and Consumer Services to create a statewide Dangerous Dog Registry and requires animal control authorities to provide specified information for inclusion in the database. The bill increases the maximum fine for violations of the dangerous dog statute to $1,000. The bill repeals an exemption for hunting dogs and revises an exemption for police canines.

The bill may have a fiscal impact on state and local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Local governments may adopt ordinances to address safety and welfare concerns stemming from dog attacks on people or domestic animals, placing restrictions and additional requirements on owners of dangerous dogs, provided that no regulations may be specific to breed, weight, or size.[1]

Current law defines a dangerous dog as any dog that, according to the records of the appropriate authority:

- Has aggressively bitten, attacked, endangered or inflicted severe injury[2] on a human being on public or private property;
- Has more than once severely injured or killed a domestic animal while off the owner's property; or
- Has, when unprovoked,[3] chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.[4]

Incidents involving a potentially dangerous dog are investigated by animal control officers.[5] In areas unserved by an animal control authority, the sheriff assumes the duties required of an animal control officer.[6]

Upon receiving a report of a potentially dangerous dog, the animal control authority must investigate the incident, interview the owner, and require a sworn affidavit from any person who seeks to have a dog classified as dangerous.[7] An animal that is the subject of a dangerous dog investigation because of severe injury to a human being may be immediately confiscated by an animal control authority, placed in quarantine, if necessary, for the proper length of time, or impounded and held.[8] The owner of the dog is responsible for all boarding costs and other fees required to humanely and safely keep the animal pending any appeal or hearing. A dog being investigated as a dangerous dog that is not impounded with the animal control authority must be humanely and safely confined by the owner in a securely fenced or enclosed area pending the outcome of the investigation.[9] The owner must provide the address at which the animal resides to the animal control authority and may not relocate or transfer ownership of the animal pending the outcome of the investigation, including any hearing or appeals.

The animal control authority may not declare a dog as dangerous if:

- The injured person was unlawfully on the property or, if lawfully on the property, was tormenting, abusing, or assaulting the dog, or its owner or a family member; or

[1] S. 767.14, F.S.
[2] "Severe injury" is defined as any physical injury resulting in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery. S. 767.11(3), F.S.
[3] "Unprovoked" is defined as a victim who conducted himself or herself peacefully and lawfully was bitten or chased in a menacing fashion or attacked by a dog. S. 767.11(2), F.S.
[4] S. 767.11(1), F.S.
[5] "Animal control officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this act or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve seizure and impoundment of any animal. See s. 767.11(6), F.S.
[6] S. 767.11(5), F.S.
[7] S. 767.12(1), F.S.
[8] S. 767.12(1)(a), F.S.
[9] S. 767.12(1)(b), F.S.

- The dog was protecting a person within the immediate vicinity of the dog from an unjustified attack or assault.[10]

After investigating, the animal control authority must initially determine whether sufficient cause exists to classify the dog as dangerous, and if sufficient cause is found, provide the owner with an opportunity for a hearing before making a final determination regarding the classification or penalty.[11] The animal control authority must provide written notice of sufficient cause and proposed penalty to the owner by registered mail, certified hand delivery, or service in conformity with how service of process is made.

The owner has seven calendar days from receiving the notice to file a written request for a hearing. If the owner requests a hearing, the hearing officer must hold the hearing as soon as possible, but no later than 21 calendar days and no sooner than five days after receiving the request for a hearing.[12] If a hearing is not timely requested, the authority's determination becomes final.

If a dog is classified as a dangerous dog due to an incident that causes severe injury to a human being, based upon the nature and circumstances of the injury and the likelihood of a future threat to public safety, health, and welfare, the dog may be destroyed in an expeditious and humane manner.[13]

Otherwise, within 14 days after the classification of the dog as a dangerous dog by the animal control authority, the owner must register the dog with the animal control authority and renew the certification annually.[14] An animal control authority may only issue a certificate or renewal to a person 18 years of age or older who provides sufficient evidence of:

- A current certificate of rabies vaccination;
- A proper enclosure to confine a dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points that informs both children and adults of the presence of a dangerous dog on the property; and
- Permanent identification of the dog, such as a tattoo on the inside thigh or electronic implantation.[15]

The owner must immediately notify the animal control authority if the dog:

- Is loose or unconfined;
- Bites a person or attacks another animal
- Is sold, given away, or dies; or
- Is moved to another address.[16]

If a dangerous dog is sold or given away, the owner must provide the name, address, and telephone number of the new owner to the animal control authority.[17] The new owner must abide by these requirements. If the dog is moved to another jurisdiction, the owner is responsible for informing the local animal control officer.

A dangerous dog must remain in its enclosure at all times unless it is muzzled and restrained by a chain or leash.[18]

Any violation of these requirements is a noncriminal infraction punishable by a fine not to exceed $500.[19]

[10] S. 767.12(2)(a)-(b), F.S.
[11] S. 767.12(3), F.S.
[12] S. 767.12(3), F.S.
[13] S. 767.12(5)(b), F.S.
[14] S. 767.12(5)(a)1., F.S.
[15] *Id.*
[16] S. 767.12(5)(a)2., F.S.
[17] S. 767.12(5)(a), F.S.
[18] S. 767.12(5)(a)3., F.S.
[19] S. 767.12 (7), F.S.

In addition to civil penalties, the owner of a dog can be charged with the following criminal violations:

- First degree misdemeanor, if the dog has previously been declared dangerous and attacks or bites a person or domestic animal without provocation.[20]
- Second degree misdemeanor, if the dog has not previously been declared dangerous but causes severe injury to or death of any human and the owner had prior knowledge of, but recklessly disregarded, the dog's dangerous propensities.[21]
- Third degree felony, if the dog has previously been declared dangerous, attacks and causes severe injury to or death of any human.[22]

According to the Florida Department of Health, each year more than 600 Floridians are hospitalized because of injuries from dog bites, and about two people die from them. In August 2022, a postal worker was delivering mail when she was attacked by five dogs in Putnam County and died the next day.[23] An 86-year-old veteran had to have her leg amputated after being attacked by a neighbor's dog in early 2023 in Hawthorne.[24]

Effect of Proposed Changes

Statewide Dangerous Dog Registry

The bill requires the Department of Agriculture and Consumer Services (DACS) to create and maintain a statewide Dangerous Dog Registry that provides the public with an online database of dogs declared dangerous by local authorities. The bill requires each animal control authority to report the following information concerning dangerous dogs within its jurisdiction to be listed in the registry:

- A current certificate of rabies vaccination for the dog;
- Evidence of a proper enclosure where the dog will be confined and the posting of a warning sign at all entry points that informs children and adults a dangerous dog is present on the property;
- Evidence of permanent identification of the dog, such as a tattoo on the inside thigh or an implantation of a microchip;
- Evidence of the dog having been spayed or neutered;
- Evidence that the owner has obtained the required liability insurance;
- The dog's name and a photograph of the dog;
- The county in which the dog is located;
- The owner's name and address.

The bill authorizes DACS to adopt rules to administer the statewide Dangerous Dog Registry.

Dangerous Dogs

The bill revises the definition of "proper enclosure" to include a locked, fenced yard suitable to prevent the entry of young children and designed to prevent the dog from escaping over, under, or through the fence. The bill provides that if a dog owner has knowledge of the dog's dangerous propensities, the owner must securely confine the dog in a proper enclosure as if the dog had been determined to be dangerous.

[20] S. 767.13(1), F.S.
[21] S. 767.136(1), F.S.
[22] S. 767.13(2), F.S.
[23] Senait Gebregiorgis, *Florida bill aims to make 'dangerous dogs' registry, add tougher penalties for owners*, KTVZ News Channel 21, (Jan. 5, 2024), https://ktvz.com/cnn-regional/2024/01/05/florida-bill-aims-to-make-dangerous-dogs-registry-add-tougher-penalties-for-owners/ (last visited Jan. 17, 2024).
[24] Anne Maxwell, *State senator's office drafting legislation to address dangerous dogs after attacks*, News4Jax, (July 18, 2023), https://www.news4jax.com/news/local/2023/07/18/state-senators-office-drafting-legislation-to-address-dangerous-dogs-after-attacks/ (last visited Jan. 17, 2024).

The bill requires dogs subject to a dangerous dog investigation for acts toward a person to be confiscated by the animal control authority, placed in quarantine as necessary, impounded, and held. The dog must be held until the conclusion of the investigation, including any hearings or appeals. The bill provides that the owner is responsible for all boarding costs and other fees required to humanely and safely keep the animal pending any investigation or appeal, unless it is determined the dog is not dangerous.

During a dangerous dog investigation arising from the severe injury or killing of a domestic animal while off the owner's property, the dog may be immediately confiscated by an animal control authority, placed in quarantine, impounded, and held. If the dog is not impounded, the owner must keep the dog within a proper enclosure pending the outcome of the investigation.

Once a dog is classified as dangerous, the animal control authority must provide DACS with the information for the dangerous dog's inclusion in the statewide Dangerous Dog Registry.

The bill removes the requirement that animal control authorities consider the nature and circumstances of the injury and the likelihood of a future threat to public safety, health, and welfare before humanely and expeditiously destroying a dog classified as dangerous due to an incident that caused severe injury to a human.

The bill requires the owner to obtain a registration certificate for a dog declared dangerous upon the issuance of the final order and requires:

- The dog to be spayed or neutered;
- The owner must obtain liability insurance coverage of at least $100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person; and
- Provide proof of insurance to the animal control authority.

The bill increases the maximum fine for violations of provisions relating to dangerous dogs to $1,000.

The bill provides that the owner of a dog commits a second-degree misdemeanor if a dog that has not previously been declared dangerous causes severe injury to or death of any human, the owner had prior knowledge of the dog's dangerous propensities, and the owner failed to secure a dog in a proper enclosure.

The bill removes an exception for hunting dogs engaged in a legal hunt or training procedure. The bill provides that police canines are only exempt from provisions concerning dangerous dogs while the canine is on duty.

B. SECTION DIRECTORY:

Section 1: Amends s. 767.01, F.S., concerning the dog owner's liability for damages to persons, domestic animals, or livestock.

Section 2: Amends s. 767.10, F.S., concerning legislative findings relating to dangerous dogs.

Section 3: Amends s. 767.11, F.S., defining and revising definitions.

Section 4: Amends s. 767.12, F.S., revising stipulations regarding dangerous dogs.

Section 5: Creates s. 767.125, F.S., relating to a statewide Dangerous Dog Registry.

Section 6: Amends s. 763.13, F.S., to make conforming and technical changes.

Section 7: Amends s. 763.135, F.S., to make conforming and technical changes.

Section 8: Amends s. 767.136, F.S., relating to attack or bite by unclassified dog that causes severe injury of death.

Section 9: Amends s. 767.16, F.S., revising an exemption.

Section 10: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may increase expenditures by DACS to the extent additional resources are needed to create and maintain a statewide Dangerous Dog Registry.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill may have an insignificant negative fiscal impact on local governments to the extent those governments incur costs related to updated the statewide Dangerous Dog Registry.

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 counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill requires DACS to adopt rules in order to administer the statewide dangerous dog registry.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to dangerous dogs; amending s. 767.01, F.S.; requiring certain dog owners to securely confine their dogs in a proper enclosure; amending s. 767.10, F.S.; revising legislative findings relating to dangerous dogs; reordering and amending s. 767.11, F.S.; defining the term "department"; revising definitions; amending s. 767.12, F.S.; requiring, rather than authorizing, that dogs subject to certain dangerous dog investigations be confiscated, impounded, and held; requiring, rather than authorizing, that the dog be held until the completion of certain actions; requiring that certain dogs not impounded be confined in a proper enclosure by the owner; requiring animal control authorities to provide certain information to the Department of Agriculture and Consumer Services and to destroy certain dogs; revising the information that the owner of a dog classified as a dangerous dog is required to provide to an animal control authority; requiring such owner to obtain liability insurance coverage for a dog classified as a dangerous dog; providing requirements for such insurance; deleting an exemption for certain hunting dogs; revising the civil penalty for violations; creating s. 767.125, F.S.; requiring the

department to create and maintain a statewide Dangerous Dog Registry; providing the purpose of the registry; requiring animal control authorities to provide the department with certain information; requiring the department to adopt rules; amending ss. 767.13 and 767.135, F.S.; making technical changes; conforming provisions to changes made by the act; amending s. 767.136, F.S.; revising the circumstances under which the owner of a dog that has not been declared dangerous is liable for such dog's severe injury to, or the death of, a human; amending s. 767.16, F.S.; providing that police canines are only exempt from certain provisions while on duty; providing an effective date.

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

Section 1. Section 767.01, Florida Statutes, is amended to read:

767.01 Dog owner's liability for damages to persons, domestic animals, or livestock.—

(1) A dog owner is ~~Owners of dogs shall be~~ liable for any damage done by the owner's dog ~~their dogs~~ to a person or to any animal included in the definitions of "domestic animal" and "livestock" as provided by s. 585.01.

(2) If a dog owner has knowledge of the dog's dangerous propensities, the owner must securely confine the dog in a proper enclosure as defined in s. 767.11.

Section 2. Section 767.10, Florida Statutes, is amended to read:

767.10 Legislative findings.—The Legislature finds that dangerous dogs are an increasingly serious and widespread threat to the safety and welfare of the people of this state because of unprovoked attacks which cause injury to persons and domestic animals; that such attacks are in part attributable to the failure of owners to confine and properly train and control their dogs; that existing laws inadequately address this growing problem; and that it is appropriate and necessary to impose uniform requirements for the owners of dogs and dangerous dogs.

Section 3. Section 767.11, Florida Statutes, is reordered and amended to read:

767.11 Definitions.—As used in this part ~~act~~, unless the context clearly requires otherwise:

(3)~~(1)~~ "Dangerous dog" means a ~~any~~ dog that according to the records of the appropriate authority:

(a) Has aggressively bitten, attacked, or endangered or has inflicted severe injury on a human being on public or private property;

(b) Has more than once severely injured or killed a domestic animal while off the owner's property; or

(c) Has, when unprovoked, chased or approached a person upon the streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude of attack, provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the appropriate authority.

(4) "Department" means the Department of Agriculture and Consumer Services.

(8) ~~(2)~~ "Unprovoked" means that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog.

(7) ~~(3)~~ "Severe injury" means any physical injury that results in broken bones, multiple bites, or disfiguring lacerations requiring sutures or reconstructive surgery.

(6) ~~(4)~~ "Proper enclosure ~~of a dangerous dog~~" means, while on the owner's property, a ~~dangerous~~ dog is securely confined:

(a) Indoors;

(b) In a locked, fenced yard, suitable to prevent the entry of young children and designed to prevent the dog from escaping over, under, or through the fence; or

(c) In a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the dog ~~animal~~ from escaping. The ~~Such~~ pen or structure must ~~shall~~ have secure sides and a secure top to prevent the dog from escaping over, under, or through the structure and must ~~shall~~ also provide protection from the elements.

(1)~~(5)~~ "Animal control authority" means an entity acting alone or in concert with other local governmental units and authorized by them to enforce the animal control laws of the city, county, or state. In those areas not served by an animal control authority, the sheriff shall carry out the duties of the animal control authority under this part ~~act~~.

(2)~~(6)~~ "Animal control officer" means any individual employed, contracted with, or appointed by the animal control authority for the purpose of aiding in the enforcement of this part ~~act~~ or any other law or ordinance relating to the licensure of animals, control of animals, or seizure and impoundment of animals and includes any state or local law enforcement officer or other employee whose duties in whole or in part include assignments that involve the seizure and impoundment of an ~~any~~ animal.

(5)~~(7)~~ "Owner" means a ~~any~~ person, a firm, a corporation, or an organization possessing, harboring, keeping, or having control or custody of an animal or, if the animal is owned by a person ~~under the age of~~ 18 years of age or younger, that person's parent or guardian.

Section 4. Section 767.12, Florida Statutes, is amended to read:

767.12 Classification of dogs as dangerous; owner requirements; penalty ~~certification of registration; notice and hearing requirements; confinement of animal; exemption; appeals;~~

~~unlawful acts~~.—

(1) An animal control authority shall investigate reported incidents involving any dog that may be dangerous and, if possible, shall interview the owner and require a sworn affidavit from any person, including any animal control officer or enforcement officer, desiring to have a dog classified as dangerous.

(a) An animal that is the subject of a dangerous dog investigation for behavior described in s. 767.11(3)(a) or (c) must ~~because of severe injury to a human being may~~ be immediately confiscated by an animal control authority;~~,~~ placed in quarantine, if necessary, for the proper length of time;~~, or~~ impounded; and held. The animal must ~~may~~ be held pending the outcome of the investigation and any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. If the dog is to be destroyed, the dog may not be destroyed while an appeal is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal pending any hearing or appeal, unless it is determined that the dog is not dangerous.

(b) An animal that is the subject of a dangerous dog investigation for behavior described in s. 767.11(3)(b) may be immediately confiscated by an animal control authority; placed in quarantine, if necessary, for the proper length of time; or

impounded and held. An animal that ~~which~~ is not impounded with the animal control authority must be ~~humanely and safely~~ confined by the owner in a proper enclosure ~~securely fenced or enclosed area. The animal shall be confined in such manner~~ pending the outcome of the investigation and the resolution of any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. The owner shall provide the address at which the animal resides ~~shall be provided~~ to the animal control authority. A dog that is the subject of a dangerous dog investigation may not be relocated or have its ownership transferred pending the outcome of the investigation and any hearings or appeals related to the dangerous dog classification or any penalty imposed under this section. If a dog is to be destroyed, the dog may not be relocated or have its ownership transferred.

(2) A dog may not be declared dangerous if either of the following apply:

(a) The threat, injury, or damage was sustained by a person who, at the time, was unlawfully on the property or who, while lawfully on the property, was tormenting, abusing, or assaulting the dog or its owner or a family member.

(b) The dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.

(3) After the investigation, the animal control authority

shall make an initial determination as to whether there is sufficient cause to classify the dog as dangerous and, if sufficient cause is found, as to the appropriate penalty ~~under subsection (5)~~. The animal control authority shall afford the owner an opportunity for a hearing before ~~prior to~~ making a final determination regarding the classification or penalty. The animal control authority shall provide written notification of the sufficient cause finding and proposed penalty to the owner by registered mail or~~,~~ certified hand delivery~~,~~ or service in conformance with ~~the provisions of~~ chapter 48 relating to service of process. The owner may file a written request for a hearing regarding the dangerous dog classification, penalty, or both, within 7 calendar days after receipt of the notification of the sufficient cause finding and proposed penalty. If the owner requests a hearing, the hearing must ~~shall~~ be held as soon as possible, but not later than 21 calendar days and not sooner than 5 days after receipt of the request from the owner. If a hearing is not timely requested regarding the dangerous dog classification or proposed penalty, the determination of the animal control authority as to such matter is ~~shall become~~ final. Each applicable local governing authority shall establish hearing procedures that conform to this subsection.

(4) Upon a dangerous dog classification and penalty becoming final after a hearing or by operation of law pursuant to subsection (3), the animal control authority shall do all of

the following:

(a) Provide a written final order to the owner by registered mail or~~,~~ certified hand delivery or service. The owner may appeal the classification or~~,~~ penalty, or both, to the circuit court in accordance with the Florida Rules of Appellate Procedure after receipt of the final order. If the dog is not held by the animal control authority, the owner must confine the dog in a proper enclosure ~~securely fenced or enclosed area~~ pending resolution of the appeal. Each applicable local governing authority must establish appeal procedures that conform to this paragraph ~~subsection~~.

(b) Provide the information required by s. 767.125(2) to the department for the dangerous dog's inclusion in the statewide Dangerous Dog Registry.

(c) If the dog is classified as a dangerous dog due to an incident that caused severe injury to a human being, destroy the dog in an expeditious and humane manner.

(5)~~(a)~~ Except as otherwise provided in paragraph (4)(c) ~~(b)~~, the owner of a dog classified as a dangerous dog shall do all of the following:

(a)~~1.~~ Upon ~~Within 14 days after~~ issuance of the final order classifying the dog as dangerous or the conclusion of any appeal that affirms such final order, obtain a certificate of registration for the dog from the animal control authority serving the area in which he or she resides, and renew the

certificate annually. Animal control authorities may ~~are authorized to~~ issue such certificates of registration, and renewals thereof, only to persons who are at least 18 years of age and who present to the animal control authority sufficient evidence of all of the following:

1.~~a.~~ A current certificate of rabies vaccination for the dog.

2.~~b.~~ A proper enclosure to confine the ~~a~~ dangerous dog and the posting of the premises with a clearly visible warning sign at all entry points which informs both children and adults of the presence of a dangerous dog on the property.

3.~~c.~~ Permanent identification of the dog, such as a tattoo on the inside thigh or an ~~electronic~~ implantation of a microchip.

4. The dog having been spayed or neutered.

5. Liability insurance as required by paragraph (b).

The appropriate governmental unit may impose an annual fee for the issuance of certificates of registration required by this section.

(b) Upon issuance of the final order classifying the dog as dangerous or the conclusion of any appeal that affirms such final order, obtain liability insurance coverage in an amount of at least $100,000 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide

proof of the required liability insurance coverage to the animal control authority for the area in which the dog is kept.

(c)~~2.~~ Immediately notify the appropriate animal control authority when the dog:

1.~~a.~~ Is loose or unconfined;~~.~~

2.~~b.~~ Has bitten a human being or attacked another animal;~~.~~

3.~~c.~~ Is sold, given away, or dies; or~~.~~

4.~~d.~~ Is moved to another address.

(d) Before selling or giving away the ~~a~~ dangerous dog ~~is sold or given away~~, ~~the owner shall~~ provide the name, address, and telephone number of the new owner to the animal control authority. The new owner must comply with ~~all of the requirements of~~ this section and any implementing local ordinances, even if the animal is moved from one local jurisdiction to another within this ~~the~~ state. The animal control officer must be notified by the owner of a dog classified as dangerous that the dog is in his or her jurisdiction.

(e)~~3.~~ Not allow ~~permit~~ the dog to be outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash and under control of a competent person. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting a person or an animal. The owner may exercise the dog on the owner's property in a proper

enclosure ~~securely fenced or enclosed area that does not have a top,~~ without a muzzle or leash~~,~~ if the dog remains within the owner's ~~his or her~~ sight and only members of the immediate household or persons 18 years of age or older, if applicable, are allowed in the enclosure when the dog is present. When being transported, such dogs must be safely and securely restrained within a vehicle.

~~(b) If a dog is classified as a dangerous dog due to an incident that causes severe injury to a human being, based upon the nature and circumstances of the injury and the likelihood of a future threat to the public safety, health, and welfare, the dog may be destroyed in an expeditious and humane manner~~.

(6) ~~Hunting dogs are exempt from this section when engaged in any legal hunt or training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials are exempt from this section when engaged in any legal procedures. However, such dogs at all other times in all other respects are subject to this and local laws.~~ Dogs that have been classified as dangerous may not be used for hunting purposes.

(7) A person who violates ~~any provision of~~ this section commits a noncriminal infraction, punishable by a fine not to exceed $1,000 per violation ~~$500~~.

Section 5. Section 767.125, Florida Statutes, is created

to read:

767.125 Statewide Dangerous Dog Registry.—

(1) The department shall create and maintain a statewide Dangerous Dog Registry that provides the public with a searchable online database of dogs throughout this state which have been declared dangerous by local authorities.

(2) Each animal control authority shall, at a minimum, report all of the following information regarding a dangerous dog within its jurisdiction to the department for inclusion in the registry:

(a) A current certificate of rabies vaccination for the dog.

(b) Evidence of a proper enclosure within which the dangerous dog will be confined and of the posting of the premises with a clearly visible warning sign at all entry points which informs both children and adults of the presence of a dangerous dog on the property.

(c) Evidence of permanent identification of the dog, such as a tattoo on the inside thigh or an implantation of a microchip.

(d) Evidence of the dog having been spayed or neutered.

(e) Evidence that the owner has obtained the required liability insurance.

(f) The dog's name and a photograph of the dog.

(g) The county in which the dog is located.

(h) The owner's name and address.

(3) The department shall adopt rules to administer this section.

Section 6. Subsections (1) and (2) of section 767.13, Florida Statutes, are amended to read:

767.13 Attack or bite by dangerous dog; penalties; confiscation; destruction.—

(1) If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, the owner commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. ~~In addition,~~ The dangerous dog must ~~shall~~ be immediately confiscated by an animal control authority;~~,~~ placed in quarantine, if necessary, for the proper length of time;~~, or~~ impounded; and held for 10 business days after the owner is given written notification under s. 767.12, and thereafter destroyed in an expeditious and humane manner. ~~This 10-day time period shall allow~~ The owner may ~~to~~ request a hearing under s. 767.12 during the 10-day time period. The owner is ~~shall be~~ responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

(2) If a dog that has previously been declared dangerous attacks and causes severe injury to or death of any human, the owner commits ~~is guilty of~~ a felony of the third degree,

punishable as provided in s. 775.082, s. 775.083, or s. 775.084. ~~In addition,~~ The dog must ~~shall~~ be immediately confiscated by an animal control authority~~,~~ placed in quarantine, if necessary, for the proper length of time; impounded; and ~~or~~ held for 10 business days after the owner is given written notification under s. 767.12, and thereafter destroyed in an expeditious and humane manner. ~~This 10-day time period shall allow~~ The owner may ~~to~~ request a hearing under s. 767.12 during the 10-day time period. The owner is ~~shall be~~ responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

Section 7. Section 767.135, Florida Statutes, is amended to read:

767.135 Attack or bite by unclassified dog that causes death; confiscation; destruction.—If a dog that has not been declared dangerous attacks and causes the death of a human, the dog must ~~shall~~ be immediately confiscated by an animal control authority~~,~~ placed in quarantine, if necessary, for the proper length of time; impounded; and ~~or~~ held for 10 business days after the owner is given written notification under s. 767.12, and thereafter destroyed in an expeditious and humane manner. ~~This 10-day time period shall allow~~ The owner may ~~to~~ request a hearing under s. 767.12 during the 10-day time period. If the owner files a written appeal under s. 767.12 or this section, the dog must be held and may not be destroyed while the appeal

is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

Section 8. Subsection (1) of section 767.136, Florida Statutes, is amended to read:

767.136 Attack or bite by unclassified dog that causes severe injury or death; penalties.—

(1) If a dog that has not been declared dangerous attacks and causes severe injury to, or the death of, a human, and the owner of the dog had knowledge of the dog's dangerous propensities, yet failed to secure the dog in a proper enclosure pursuant to s. 767.01(2) ~~demonstrated a reckless disregard for such propensities under the circumstances~~, the owner of the dog commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Subsection (1) of section 767.16, Florida Statutes, is amended to read:

767.16 Police canine or service dog; exemption.—

(1) Any canine that is owned, or the service of which is employed, by a law enforcement agency~~,~~ is exempt from this part while the canine is on duty.

Section 10. This act shall take effect July 1, 2024.

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee

Representative Payne offered the following:

Amendment (with title amendment)

Between lines 42 and 43, insert:

Section 1. This act may be cited as the "Pam Rock Act."

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

Remove line 2 and insert:

An act relating to dangerous dogs; providing a short title; amending s. 767.01,

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee
Representative Payne offered the following:

Amendment (with title amendment)

Remove lines 288-396 and insert:

(6) Hunting dogs are exempt from this section when engaged in any legal hunt or training procedure. Dogs engaged in training or exhibiting in legal sports such as obedience trials, conformation shows, field trials, hunting/retrieving trials, and herding trials are exempt from this section when engaged in any legal procedures. However, such dogs at all other times in all other respects are subject to this and local laws. Dogs that have been classified as dangerous may not be used for hunting purposes.

(7) A person who violates ~~any provision of~~ this section commits a noncriminal infraction, punishable by a fine not to exceed $1,000 per violation ~~$500~~.

Section 5. Section 767.125, Florida Statutes, is created to read:

767.125 Statewide Dangerous Dog Registry.—

(1) The department shall create and maintain a statewide Dangerous Dog Registry that provides the public with a searchable online database of dogs throughout this state which have been declared dangerous by local authorities.

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(b) Evidence of a proper enclosure within which the dangerous dog will be confined and of the posting of the premises with a clearly visible warning sign at all entry points which informs both children and adults of the presence of a dangerous dog on the property.

(c) Evidence of permanent identification of the dog, such as a tattoo on the inside thigh or an implantation of a microchip.

(d) Evidence of the dog having been spayed or neutered.

(e) Evidence that the owner has obtained the required liability insurance.

(f) The dog's name and a photograph of the dog.

(g) The county in which the dog is located.

(h) The owner's name and address.

(3) The department shall adopt rules to administer this section.

Section 6. Subsections (1) and (2) of section 767.13, Florida Statutes, are amended to read:

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(1) If a dog that has previously been declared dangerous attacks or bites a person or a domestic animal without provocation, the owner commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. ~~In addition,~~ The dangerous dog must ~~shall~~ be immediately confiscated by an animal control authority;~~,~~ placed in quarantine, if necessary, for the proper length of time;~~, or~~ impounded; and held for 10 business days after the owner is given written notification under s. 767.12, and thereafter destroyed in an expeditious and humane manner. ~~This 10-day time period shall allow~~ The owner may ~~to~~ request a hearing under s. 767.12 during the 10-day time period. The owner is ~~shall be~~ responsible for payment of all boarding costs and other fees as

may be required to humanely and safely keep the animal during any appeal procedure.

(2) If a dog that has previously been declared dangerous attacks and causes severe injury to or death of any human, the owner commits ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. ~~In addition,~~ The dog must ~~shall~~ be immediately confiscated by an animal control authority~~,~~ placed in quarantine, if necessary, for the proper length of time; impounded; and ~~or~~ held for 10 business days after the owner is given written notification under s. 767.12, and thereafter destroyed in an expeditious and humane manner. ~~This 10-day time period shall allow~~ The owner may ~~to~~ request a hearing under s. 767.12 during the 10-day time period. The owner is ~~shall be~~ responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

Section 7. Section 767.135, Florida Statutes, is amended to read:

767.135 Attack or bite by unclassified dog that causes death; confiscation; destruction.—If a dog that has not been declared dangerous attacks and causes the death of a human, the dog must ~~shall~~ be immediately confiscated by an animal control authority~~,~~ placed in quarantine, if necessary, for the proper length of time; impounded; and ~~or~~ held for 10 business days after the owner is given written notification under s. 767.12,

and thereafter destroyed in an expeditious and humane manner. ~~This 10-day time period shall allow~~ The owner may ~~to~~ request a hearing under s. 767.12 during the 10-day time period. If the owner files a written appeal under s. 767.12 or this section, the dog must be held and may not be destroyed while the appeal is pending. The owner is responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the animal during any appeal procedure.

Section 8. Subsection (1) of section 767.136, Florida Statutes, is amended to read:

767.136 Attack or bite by unclassified dog that causes severe injury or death; penalties.—

(1) If a dog that has not been declared dangerous attacks and causes severe injury to, or the death of, a human, and the owner of the dog had knowledge of the dog's dangerous propensities, yet failed to secure the dog in a proper enclosure pursuant to s. 767.01(2) ~~demonstrated a reckless disregard for such propensities under the circumstances~~, the owner of the dog commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

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

Remove lines 23-38 and insert:

for such insurance; revising the civil penalty for violations; creating s. 767.125, F.S.; requiring the department to create and maintain a statewide Dangerous Dog Registry; providing the purpose of the registry; requiring animal control authorities to provide the department with certain information; requiring the department to adopt rules; amending ss. 767.13 and 767.135, F.S.; making technical changes; conforming provisions to changes made by the act; amending s. 767.136, F.S.; revising the circumstances under which the owner of a dog that has not been declared dangerous is liable for such dog's severe injury to, or the death of, a human;

HB 1075

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1075 Soil and Water Conservation Districts
SPONSOR(S): Truenow
TIED BILLS: **IDEN./SIM. BILLS:** SB 1772

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
2) Agriculture, Conservation & Resiliency Subcommittee			
3) Agriculture & Natural Resources Appropriations Subcommittee			
4) State Affairs Committee			

SUMMARY ANALYSIS

In 1937, the Florida Legislature enacted ch. 582, F.S., also known as the Soil and Water Conservation Law. This legislation established a state and local partnership with the federal government to protect and restore soil and water resources and to assist private landowners in using conservation practices, authorizing the creation of soil and water conservation districts (SWCD). The purpose of a SWCD is to provide assistance, guidance, and education to landowners, land occupiers, the agricultural industry, and the general public in implementing land and water resource protection practices.

SWCDs are created by landowner petition process and are governed by five-member elected boards. Board members must possess certain qualifications in the agricultural industry to be eligible to serve. Each SWCD board must meet at least once a year. If the board fails to meet, the district is automatically dissolved as of January 1 of the following year.

The bill makes the following changes to the governance and operation of SWCDs:

- Dissolves all existing SWCDs and transfers the assets of each district to the Department of Agricultural and Consumer Services (DACS) or the county in which the district is located;
- Reestablishes the Soil and Water Conservation Council and revises the membership, organization, and responsibilities of the council;
- Creates seven regional SWCDs covering the entire state;
- Provides that the boards of the regional districts shall be appointed by the Commissioner of Agriculture, subject to confirmation by the Soil and Water Conservation Council;
- Provides for the assumption of contractual obligations in the event the boundaries of the regional SWCDs are amended; and
- Repeals provisions related to the creation of SWCDs and makes other conforming changes.

The bill may have a fiscal impact on state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

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

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as "dependent" if the governing body of a single county or municipality:

- Serves as the governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district's governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.[4]

A district is classified as "independent" if it does not meet one of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.[5]

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating a special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.[6]

The Special District Accountability Program within the Department of Commerce (department) is responsible for maintaining and electronically publishing the official list of all special districts.[7] This list includes all active special districts, as well as a separate list of those districts declared inactive.[8]

Performance Reviews

Current law requires certain special districts to conduct performance reviews to evaluate the programs, activities, and functions of those districts, including:

- The purpose and goals as stated in the district's charter;
- The district's goals and objectives for each program and activity, the problem or need that the program or activity was designed to address, the expected benefits of each program and activity, and the performance measures and standards used by the special district to determine if the program or activity achieves the district's goals and objectives;

[1] *See Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).
[2] *See* ss. 189.02(1), 189.031(3), and. 190.005(1), F.S. *See generally* s. 189.012(6), F.S.
[3] Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227 (last visited Nov. 28, 2023).
[4] S. 189.012(2), F.S.
[5] S. 189.012(3), F.S.
[6] Art. VII, s. 9(a), Fla. Const.
[7] S. 189.061, F.S.
[8] Ss. 189.061 and 189.062(6), F.S.

- The delivery of services by the district, including alternative methods of providing those services that would reduce costs and improve performance;
- A comparison of similar services provided by the county and municipal governments located wholly or partially within its boundaries, including similarities and differences in services, relative costs and efficiencies, and possible service consolidations;
- The revenues and costs of programs and activities of the district, using data from the current year and the previous three fiscal years;
- The extent to which the district's goals and objectives have been achieved;
- Any performance measures and standards of the district's program and activities using data from the current year and the previous three fiscal years;
- Factors that have contributed to any failure to meet the district's performance measures and standards or achieve the district's goals and objectives; and
- Recommendations for statutory or budgetary changes to improve the district's program operations, reduce costs, or reduce duplication.[9]

All independent special fire control districts and each hospital governed by the governing body of a special district or the board of trustees of a public health trust must conduct a performance review every five years beginning October 1, 2022, and October 1, 2023, respectively.[10]

All fire control districts not located within a rural area of opportunity and all hospital districts must contract with an independent entity to conduct the performance review, while the Office of Program Policy Analysis and Government Accountability (OPPAGA) must conduct a performance review of each fire control district located within a rural area of opportunity. The completed performance review must be filed with the governing body of the district, the Auditor General, the President of the Senate, and the Speaker of the House of Representatives no later than nine months from the beginning of the fiscal year in which the report is due.

OPPAGA has also been directed to conduct performance reviews of all independent MCDs and soil and water conservation districts (SWCDs).[11] These reviews must be submitted to the President of the Senate and the Speaker of the House of Representatives by September 30, 2023, and September 30, 2024, respectively.

Soil and Water Conservation Districts

History and Purpose of SWCD

In response to the 1930's Dust Bowl disaster,[12] in 1935, the United States Congress declared soil and water conservation a national policy and priority, intending to elicit the active support of landowners on a local level. Shortly thereafter, in 1937, the Florida Legislature enacted ch. 582, F.S., also known as the Soil and Water Conservation Law.[13] This legislation established a state and local partnership with the federal government to protect and restore soil and water resources and to assist private landowners in using conservation practices, providing for the creation of SWCD.[14] The purpose of SWCDs is to provide assistance, guidance, and education to landowners, land occupiers, the agricultural industry, and the general public in implementing land and water resource protection practices.[15] The overall goal

[9] S. 189.0695(1), F.S.
[10] S. 189.0695(2), F.S.
[11] S. 189.0695(3), F.S.
[12] "[N]ame given to the drought-stricken Southern Plains regions of the United States, which suffered severe dust storms during a dry period in the 1930s. . . . By 1934, an estimated 35 million acres of formerly cultivated land had been rendered useless for farming, while another 125 million acres . . . was rapidly losing its topsoil." History, *Dust Bowl*, (Apr. 24, 2023), https://www.history.com/topics/great-depression/dust-bowl (last visited Jan. 23, 2024).
[13] Ch. 18144, Laws of Fla. (1937); Association of Florida Conservation Districts, *History of Conservation Districts*, https://afcd.us/history/ (last visited Jan. 23, 2024).
[14] Association of Florida Conservation Districts, *Florida Soil and Water Conservation District Supervisor Handbook* (2018), https://www.afcd.us/files/9bf1184a6/florida-soil-and-water-conservation-district-supervisor-handbook.pdf (last visited Jan. 23, 2024).
[15] S. 582.02(4), F.S.

of creating SWCD was to promote the efficient use of soil and water resources by protecting water quality and preventing floodwater and sediment damage.[16]

Creation of SWCD

Any 10 percent of landowners within the territory of a proposed SWCD may petition the Department of Agriculture and Consumer Services (DACS) to organize a SWCD. The petition must include the following:

- The proposed name of the SWCD;
- That there is a need, in the interest of the public health, safety, and welfare, for a SWCD to function in the territory;
- A description of the territory proposed to be organized as a SWCD; and
- A request that DACS define the boundaries for such SWCD, hold a referendum within the territory on the question of the creation of a SWCD in the territory, and determine that such a district be created.[17]

Within 30 days of such petition being filed, DACS must give notice and hold a meeting of affected landowners to discuss the desirability and necessity of creating such a SWCD, the appropriate boundaries, and the accuracy and completeness of the petition. [18] If, after the first hearing, it is determined the SWCD should include areas outside of the initial petition, a second hearing must be held and noticed throughout the entire area, including the additional area, considered for inclusion in the district. After both hearings, DACS must determine whether there is a need for a SWCD and either grant or deny the petition. A new petition regarding the same or substantially same territory cannot be refiled for six months after a denial.

If DACS grants a petition for creation of a SWCD, it must then determine whether the creation of such a district is administratively practicable and feasible. [19] The department holds a referendum within the proposed district at which all owners of land lying within the boundaries of the territory are eligible to vote. Additionally, DACS takes into account a variety of economic and social factors that may be relevant to the determination, but may not determine that the creation of a SWCD is administratively practicable and feasible unless at least a majority of the votes cast at the referendum are in favor of the creation of the district.[20]

If DACS determines that the operation of the proposed SWCD within the defined boundaries is administratively practicable and feasible, an application must be filed with the Department of State accompanied by a statement from DACS certifying that the proper proceedings were taken upon the filing of the initial petition for creation.[21] The Department of State, pending any issues with the name chosen for the district, records the application and statement and issues a certificate of the due organization of the district and records the certificate.[22]

As of January 23, 2024, there were 53 active SWCDs statewide.[23]

[16] Michael T. Olexa, Tatiana Borisova, and Jarrett Davis, *Handbook of Florida Water Regulation: Soil and Water Conservation Districts*, Institute of Food and Agricultural Sciences, University of Florida, https://edis.ifas.ufl.edu/pdf%5CFE%5CFE101700.pdf (last visited Jan. 23, 2024).
[17] S. 582.10(1)(a)-(d), F.S.
[18] S. 582.11, F.S.
[19] S. 582.12, F.S.; DACS pays all expenses for the issuance of required notices and the conduct of hearings and referenda. S. 582.13, F.S.
[20] S. 582.14, F.S.
[21] S. 582.15(1), F.S.
[22] S. 582.15(2), F.S.
[23] Dept. of Commerce, Special District Accountability Program, *Official List of Special Districts*, available at https://specialdistrictreports.floridajobs.org/OfficialList/CustomList (last visited Jan. 23, 2024).

Soil and Water Conservation Council

Within DACS is the Soil and Water Conservation Council (Council). [24] The Council is composed of seven members appointed by the Commissioner of Agriculture (Commissioner) who have been involved in the practice of soil or water conservation, or in the development or implementation of interim measures or best management practices related to soil or water conservation. The members must have been engaged in agriculture or an occupation related to the agricultural industry for at least five years prior to their appointment. Members of the Council may be removed by the Governor for neglect of duty or malfeasance in office.[25]

The Council is organized as an advisory committee under DACS and conducts meetings and keeps records pursuant to those provisions.[26] The Council accepts and reviews requests for creating or dissolving SWCDs and make recommendations to the commissioner on if a district should be created or dissolved.[27]

Governing Board of SWCD

The governing body of a SWCD consists of five supervisors serving staggered four-year terms.[28] Elections for supervisors are held every two years during the general election. The office of the supervisor is a non-partisan office. Each supervisor must qualify as required in the election law.[29] A supervisor holds office until a successor has been elected and qualified.[30] The Governor may remove any supervisor, upon notice and hearing, for neglect or malfeasance in office, but for no other reason.[31] Supervisors do not receive compensation but may be reimbursed for travel expenses.[32]

Powers of SWCD

SWCD and the supervisors have the power to:

- Conduct surveys, studies, and research relating to soil and water resources and publish and disseminate the results of such surveys, studies, research, and related information;[33]
- Conduct agricultural best management practices demonstration projects and projects for the conservation, protection, and restoration of soil and water resources;[34]
- Cooperate or enter into agreements with any special district, municipality, county, water management district, state or federal agency, governmental or otherwise, or owner or occupier of lands;[35]
- Obtain options upon and acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; maintain, administer, and improve any properties acquired, receive income from such properties and expend such income in carrying out soil and water conservation; and sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of soil and water conservation;[36]
- Make available to landowners agricultural and engineering machinery and equipment, and other materials and equipment, that will assist landowners in carrying out conservation operations;[37]

[24] S. 582.06(1), F.S.
[25] S. 582.06(2)(c), F.S.
[26] S. 582.06(2)(a). F.S. *See also* s. 570.232, F.S. (procedures for DACS advisory committees).
[27] S. 582.06(2)(b), F.S.
[28] S. 582.18(1), F.S.
[29] S.582.18(2), F.S. *See* ch. 99, F.S., *passim.*
[30] S. 582.19(2), F.S.
[31] S. 582.19(4), F.S.
[32] S. 582.19(2), F.S.
[33] S. 582.20(1), F.S.
[34] S. 582.20(2), F.S.
[35] S. 582.20(3), F.S.
[36] S. 582.20(4), F.S.
[37] S. 582.20(5), F.S.

- Construct, improve, operate, and maintain such structures as may be necessary or convenient for the performance of any conservation operations;[38]
- Sue and be sued in the name of the district, have a seal, make and execute contracts, borrow money, and execute promissory notes;[39]
- Use the services of the county agricultural agents and their offices; and
- Employ additional permanent and temporary staff.[40]

SWCD Activities

Some activities of SWCD include:
- Cooperative programs such as best management practices projects and Farm Bill programs like the Environmental Quality Incentives Program, Agricultural Conservation Easement Program, and Regional Conservation Partnership Programs;
- Conservation projects focusing on water quality improvement, habitat restoration, and administering cost-share funds to help farmers and other landowners implement conservation practices;
- Demonstration projects focusing on irrigation, drainage, tailwater recovery, erosion control, and waste management;
- Educational workshops on topics like water quality and quantity, pesticide and fertilizer management, watershed engineering, wetlands, soil characteristics, soil tillage techniques, plan identification, invasive plant control, farm ponds, and agricultural production;
- Mobile Irrigation Labs to evaluate agricultural irrigation systems; and
- Planning and rulemaking at the county, regional, state, and federal levels.[41]

Dissolution of SWCD

The process to dissolve a SWCD that has been in existence for at least five years may be started by a petition signed by at least 10 percent of the landowners with the district filing a dissolution petition with DACS.[42] The department may hold public meetings concerning the petition, but must give notice of a referendum within 60 days of receipt of the petition. The SWCD is dissolved if two-thirds or more of the qualified voters in a referendum have voted for dissolution.[43]

Alternatively, the Commissioner may dissolve a district if:
- The Council reviews and recommends to the Commissioner that the continued operation of the district is not administratively practicable and feasible;
- The district fails to comply with any special district audit or financial reporting requirements and DACS's inspector general reviews and confirms in writing that the district has failed to comply with such requirements; or
- DACS receives a resolution adopted by the supervisors of the district requesting that the Commissioner issue a certificate determining that the continued operation of the district is not administratively practicable and feasible.[44]

If any of the requirements for dissolution are met, DACS must publish notice of a proposed certification determining that the continued operation of the district is not administratively practicable and feasible at least once a week for two weeks in a newspaper of general circulation within the county or counites in which the district is located.[45] The notice must include the name of the district, a general description of its territory, and require any comments or objections to the certification, as well any claims against

[38] S. 582.20(6), F.S.
[39] S. 582.20(8), F.S.
[40] S. 582.20(9), F.S.
[41] *Supra* note 14, at 5.
[42] S. 582.30(1), F.S.
[43] S. 582.30(2), F.S.
[44] S. 582.30(3), F.S.
[45] S. 582.30(4), F.S.

assets of the district, be filed with FACS within 60 days of the last publication. Once the supervisors of a SWCD receive notification from DACS that the department has determined that the continued operation of the district is not practicable or feasible the supervisors must proceed to terminate the affairs of the district.[46]

The supervisors must dispose of all the property belonging to the SWCD at public auction and transfer the proceeds of such sale to the State Treasury, which funds must be used to liquidate any legal obligations the district may have at the time of its discontinuance. [47] The supervisors are then required to file an application with the Department of State for discontinuance of the district. The Department of State must then issue a certificate of dissolution to the supervisors. Upon issuance of a certificate of dissolution, the title to all property owned by the preexisting SWCD transfers to the local general-purpose government, which also assumes all indebtedness of the SWCD.[48]

Executive Branch Entities

Chapter 20, F.S., authorizes the creation of different entities within the executive branch to assist agencies in performing their duties more efficiently and effectively. These entities include commissions, committees or task forces, coordinating councils, and advisory councils. These entities are statutorily defined:

- "Commission," unless otherwise required by the State Constitution, means a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Office of the Governor and exercising limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.[49]
- "Committee" or "task force" means an *advisory body* created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.[50]
- "Coordinating Council" means an interdepartmental advisory body created by law to coordinate programs and activities for which one department has primary responsibility but in which one or more other departments have an interest.[51]
- "Council" or "advisory council" means an *advisory body* created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.[52]

Agency Advisory Bodies and Related Entities

Each executive agency advisory body, commission, board of trustees, or any other collegial body created as an adjunct to the agency, must be established, evaluated, or maintained in accordance with the following provisions:

- Must be necessary and beneficial to the furtherance of a public purpose.
- Must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of a public purpose. The executive agency to which it is made an adjunct, must advise the Legislature when it ceases to be essential to the furtherance of a public purpose.
- The Legislature and the public must be kept informed of the numbers, purposes, memberships, activities, and expenses of advisory bodies, commissions, boards of trustees, and other collegial bodies established as adjuncts to executive agencies.

[46] S. 582.31, F.S.
[47] *Id*.
[48] S. 189.076(2), F.S.
[49] S. 20.03(4), F.S.
[50] S. 20.03(5), F.S.
[51] S. 20.03(6), F.S.
[52] S. 20.03(7), F.S.

- An advisory body, commission, board of trustees, or other collegial body may not be created or reestablished unless:
    - Its members are appointed to four-year staggered terms, unless expressly provided otherwise in the State Constitution.
    - Its members serve without additional compensation or honorarium and are only authorized to receive per diem and reimbursement for travel expenses, unless expressly provided otherwise by specific statutory enactment.
    - Members of an entity, other than a commission or board of trustees, must be appointed by the Governor, a department head, an executive director, or a Cabinet officer.
    - Its powers and responsibilities conform with the definitions for governmental units.
- Members of a commission or board of trustees must be appointed by the Governor unless otherwise provided by law, confirmed by the Senate, and are subject to the dual-office-holding prohibition of s. 5(a), Art. II of the State Constitution.[53]

All meetings and records of the entity are public, unless an exemption is specifically provided by law.[54]

Effect of Proposed Changes

Soil and Water Conservation Districts

The bill dissolves the following SWCDs and transfers all assets and liabilities to DACS:

- Alachua SWCD;
- Bradford SWCD;
- Brevard SWCD;
- Broward SWCD;
- Charlotte SWCD;
- Chipola River SWCD;
- Clay SWCD;
- Choctawhatchee River SWCD;
- Collier SWCD;
- Dixie SWCD;
- Duval SWCD;
- Escambia SWCD;
- Franklin SWCD;
- Gadsden SWCD;
- Gilchrist SWCD;
- Hamilton County SWCD;
- Hardee SWCD;
- Highlands SWCD;
- Hillsborough Soil SWCD;
- Holmes Creek SWCD;
- Indian River SWCD;
- Jackson SWCD;
- Jefferson SWCD;
- Lafayette SWCD;
- Lake SWCD;
- Leon SWCD;
- Levy SWCD;
- Manatee River SWCD;
- Marion SWCD;

[53] S. 20.052(1)-(5), F.S.
[54] S. 20.052(5)(c), F.S.

- Nassau SWCD;
- Okeechobee SWCD;
- Orange Hill SWCD;
- Orange SWCD;
- Osceola SWCD;
- Palm Beach SWCD;
- Peace River SWCD;
- Putnam SWCD;
- Santa Fe SWCD;
- Sarasota SWCD;
- Seminole SWCD;
- South Dade SWCD;
- St. Johns SWCD;
- St. Lucie SWCD;
- Sumter SWCD;
- Suwannee County Conservation District;
- Tupelo SWCD;
- Volusia SWCD;
- Wakulla SWCD; and
- Yellow River SWCD.

The bill also dissolves the following SWCDs and transfers the assets and liabilities of those districts as follows:

- Baker SWCD, transferred to Baker County;
- Blackwater SWCD, transferred to Santa Rosa County;
- Glades SWCD, transferred to Glades County;
- Hendry SWCD, transferred to Hendry County;
- Madison SWCD, transferred to Madison County;
- Martin SWCD, transferred to Martin County;
- Polk SWCD, transferred to Polk County;
- Taylor SWCD, transferred to Taylor County; and
- Union SWCD, transferred to Union County.

The bill provides that as of 11:59 p.m. on June 30, 2024, the state shall be divided into seven regional SWCDs:

- West Emerald Coast SWCD, consisting of Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington Counties;
- East Emerald Coast SWCD, consisting of Franklin, Gadsden, Hamilton, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla Counties;
- North Central SWCD, consisting of Alachua, Baker, Bradford, Columbia, Dixie, Gilchrist, Lafayette, Suwannee, and Union Counties;
- Northeast SWCD, consisting of Citrus, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, St. Johns, and Volusia Counties;
- West Central SWCD, consisting of Desoto, Hardee, Hernando, Highlands, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties;
- East Central SWCD, consisting of Brevard, Indian River, Lake, Martin, Okeechobee, Orange, Osceola, Seminole, St. Lucie, and Sumter Counties; and
- Southwest Florida SWCD, consisting of Broward, Charlotte, Collier, Dade, Glades, Hendry, Lee, Monroe, and Palm Beach Counties.

The bill provides that if the boundaries of the district are changed, all contractual obligations associated with the area being transferred move to the new district. The bill provides that if the contractual

obligations are to the federal government, the change may only take effect upon federal approval of the assumption of contractual duties.

The bill provides that the governing board of each district shall consist of at least one member each from a minimum of seven counties with the district. Members are appointed by the Commissioner, subject to confirmation by the Council at their next quarterly meeting following the appointment. Members serve a four-year term.

The bill provides that the Commissioner shall take initial appointments to the governing board beginning on the effective date of the bill, but that such appointments sunset on the second Wednesday in January.

The bill contains another series of provisions concerning district governing board members providing that each district shall be governed by a board of seven members who reside with the district with no more than one supervisor from each county within the district.

The bill requires supervisors to be someone who is:

- Actively engaged in, or retired after 10 years of being engaged in, agricultural operations;
- Employed by an agricultural producer for a minimum of five years; or
- The owner, lessee, or actively employed on land classified as agricultural.

The bill provides that a nominee for a district board must submit an affirmation of qualifications similar to the one currently required for elected members of SWCD boards.

The bill requires all district boards to meet at least quarterly and provides that members may be compensated for per diem and travel expenses up to a $1,000 annual limit.

The bill revises the powers of district boards to allow districts to conduct projects within the boundaries of another district with the approval of the Commissioner, Council and the other district.

The bill provides that the Commissioner may suspend a supervisor for neglect of duty or malfeasance.

The bill provides that if a district is dissolved for failure to meet, the assets of the district will be reassigned by DACS to another district for similar work.

The bill provides the following definitions:

- “Agriculture” as the science and art of production of plants and animals useful to humans, including the preparation of plant and animal products for human use and their disposal by marketing or otherwise. The term includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production.
- “Agricultural operations” or “agricultural purposes” as the following activities:
  - Raising, growing, harvesting, or storing of crops, including, but not limited to, soil preparation and crop production services such as plowing, fertilizing, seed bed preparation, planting, cultivating, and crop protecting services;
  - Feeding, breeding, or managing livestock, equine, or poultry;
  - Producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys;
  - Producing plants, trees, fowl, equine, or other animals;
  - Producing aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry, egg, and apiarian products;
  - Processing poultry;
  - Slaughtering poultry and other animals; and
  - Manufacturing dairy products.

The bill provides that the terms “agricultural operations” or “agricultural purposes” do not include constructing, installing, altering, repairing, dismantling, or demolishing real property structures or fixtures, including, but not limited to, grain bins, irrigation equipment, and fencing.

The bill removes the term “qualified elector” and revises the term “supervisor” to reflect changes in the bill making that position appointed rather than elected. The bill repeals all statutes relating to the creation of SWCDs to reflect the above changes.

Soil and Water Conservation Council

The bill both the powers and membership of the Council. The bill provides that the Council is established because it is in the best interest of the state that public agencies responsible for and involved in the development and implementation of best management practices, agricultural water quality, and water supply policy and planning work together to reduce duplication of effort, foster maximum efficient use of existing resources, and advise and assist the agencies involved.

The bill provides that the Council is created adjunct to DACS and consists, starting with appointments in the 2024-2025 fiscal year, with a seven-member board appointed by the Commissioner. The Commissioner must appoint one member from each of the seven SWCD regions. The bill provides that initial appointments to the board sunset on the second Wednesday of January.

The bill provides that the following persons shall serve ex officio in an advisory capacity to the Council:

- The Secretary of Environmental Protection.
- The executive director of the Fish and Wildlife Conservation Commission.
- The associate dean of research of the Florida Medical Entomological Research Laboratory at the University of Florida Institute of Food and Agricultural Sciences.
- The state conservationist for the United States Department of Agriculture, Natural Resources Conservation Service.
- The president of the Florida Farm Bureau.
- Two supervisors nominated by the Association of Florida Conservation Districts, two representatives of Florida environmental groups, and two private citizens who are landowners or producers enrolled in best management practices.
- Such other representatives of state or federal agencies as the Council deems desirable.

The bill provides that the Council is to be chaired by the Commissioner or the Commissioner’s designee. The bill provides that a quorum will be a majority of the members of the Council. The chair is responsible for recording and distributing to the members a summary of the proceedings of all Council meetings. The Council is required to meet at least three times a year. The bill allows the Council to create subcommittees but requires the first subcommittee to be the Subcommittee on Managed Marshes (SMM). SMM is to provide technical assistance and guidance on basin management action plans and research proposals, taking into account the total maximum daily load reduction implications and natural resource interests.

The bill provides the following responsibilities to the Council:

- Develop and implement guidelines and strategies to assist DACS in developing agricultural best management practices to improve water quality and water use efficiency while promoting the sustainability of agriculture;
- Develop and update commodity specific best management practices manuals that are adopted by rule;
- Develop and recommend to DACS a request for proposal process for research;
- Collaborates with partners in the development, implementation, and evaluation of statewide water policy as it relates to water supply and water quality;

- Identify potential funding sources for research or implementation projects and evaluate and prioritize proposals upon request by the funding source;
- Prepare and present reports, as needed, on activities in the state to other governmental organizations, as appropriate;
- Accept and review requests for creating or dissolving SWCDs and shall, by a majority vote, recommend, by resolution, to the commissioner that a district be created or dissolved pursuant to the request, or that the request be denied; and
- Provide a recommendation to the Commissioner whether to remove a supervisor for neglect of duty or malfeasance in office only after notice, hearing, and thorough review when requested by the Governor, Commerce, or a district.

B. SECTION DIRECTORY:

Section 1: Dissolves certain SWCDs and transfers their assets and liabilities to DACS.

Section 2: Dissolves certain SWCDs and transfers their assets and liabilities to specific counties.

Section 3: Amends s. 582.01, F.S., relating to definitions used within ch. 582, F.S.

Section 4: Amends s. 582.055, F.S., relating to powers and duties of FDACS.

Section 5: Amends s. 582.06, F.S., relating to the Council.

Section 6: Amends s. 582.10, F.S., relating to the creation of SWCDs.

Section 7: Amends s. 582.16, F.S., relating to changes of SWCD boundaries.

Section 8: Amends s. 582.18, F.S., relating to appointment of supervisors of SWCDs.

Section 9: Creates s. 582.181, F.S., relating to the governing boards of SWCDs.

Section 10: Amends s. 582.19, F.S., relating to the qualifications and tenure of supervisors.

Section 11: Amends s. 582.195, F.S., relating to meetings of supervisors.

Section 12: Creates s. 582.196, F.S., relating to supervisor compensation.

Section 13: Creates s. 582.20, F.S., relating to powers of SWCDs and supervisors.

Section 14: Amends s. 582.295, F.S., relating to automatic dissolution of SWCDs.

Section 15: Amends s. 582.30, F.S., relating to discontinuance of SWCDs.

Section 16: Repeals s. 582.11, F.S., relating to hearing upon question of creation.

Section 17: Repeals s. 582.12, F.S., relating to referendum for creation.

Section 18: Repeals s. 582.13, F.S., relating to expenses of referendum.

Section 19: Repeals s. 582.14, F.S., relating to results of referendum.

Section 20: Repeals s. 582.15, F.S., relating to organization of district.

Section 21: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may increase expenditures by DACS relating to implementing the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill may have an indeterminate impact on local government expenditures as duties are transferred from existing SWCDs to regional SWCDs created by the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   Dual Officeholding

   Article II, s. 5(a) of the Florida Constitution provides that no person shall hold more than one office[55] under the government of the state and the counties and municipalities therein, except that an officer may serve on a statutory body having only advisory powers. Section 20.03, F.S., defines an advisory council as an advisory body "created by a specific statutory enactment" that provides "recommendations and policy alternatives." The Council, as reestablished by the bill, possesses powers that would likely not be considered advisory in nature, including confirming the members of the seven regional SWCDs and developing best management practices that the Council would adopt

[55] The term "office" implies "a delegation of a portion of the sovereign power to, and the possession of it by, the person filling the office, while an "employment" does not comprehend a delegation of any part of the sovereign authority. The term "office" embraces the idea of tenure, duration, and duties in exercising some portion of the sovereign power, conferred or defined by law and not by contract. An employment does not authorize the exercise in one's own right of any sovereign power or any prescribed independent authority of a governmental nature; and this constitutes, perhaps, the most decisive difference between an employment and an office …" *State ex rel. Holloway v. Sheats*, 83 So. 508, 509 (Fla. 1919); *see also State ex rel. Clyatt v. Hocker*, 22 So. 721 (Fla. 1897); *see also,* Office of the Attorney General, *Dual Office-Holding* (updated April 2018), https://www.myfloridalegal.com/files/pdf/page/4FF72ECF62927EEA85256CC6007B4517/DualOfficeHoldingPamplet.pdf (last visited Jan. 24, 2024).

by rule. Therefore, it appears that an officer appointed to the Council could be subject to the prohibition on dual officeholding.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

Lines 105-107 and 120-122 of the bill attempt to dissolve two SWCDs, the Baker SWCD and Martin SWCD, which have already been dissolved.[56]

Lines 327-329 of the bill divide the state into seven regional SWCDs at 11:59 p.m. on June 30, 2024. This date is before the effective date of the bill (July 1, 2024) and appears to be unnecessary, as the districts would be created upon the bill taking effect.

Lines 356-385 of the bill assign each county to a regional SWCD, but two paragraphs in the section are repeated. Lines 390-392 reference those paragraphs, creating ambiguity.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

[56] *See* Dept. of Commerce, *Official List of Special District- All Dissolved Special District*, https://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/official-list-of-special-districts (last visited Jan. 23, 2024).

A bill to be entitled

An act relating to soil and water conservation districts; dissolving specified soil and water conservation districts and transferring district assets and liabilities to the Department of Agriculture and Consumer Services; dissolving specified soil and water conservation districts and transferring district assets and liabilities to specified counties; amending s. 582.01, F.S.; providing and revising definitions; amending s. 582.055, F.S.; requiring the department provide travel expenses for soil and water conservation district board members; amending s. 582.06, F.S.; revising provisions for the establishment, composition, membership, organization, and responsibilities of the Soil and Water Conservation Council; amending s. 582.10, F.S.; establishing regional soil and water conservation districts beginning on a specified date; amending s. 582.16, F.S.; providing for the transfer of certain contractual obligations for real property interests equipment, vehicles, other personal property, and records; providing an exception; amending s. 582.18, F.S.; providing for the appointment of district supervisors; creating s. 582.181, F.S.; providing for soil and water

conservation district governing boards; amending s. 582.19, F.S.; revising provisions for the qualifications and tenure of soil and water conservation district supervisors; amending s. 582.195, F.S.; revising provisions for mandatory meeting of soil and water conservation district supervisors; creating s. 582.196, F.S.; authorizing certain compensation for soil and water conservation district board supervisors; amending s. 582.20, F.S.; revising the powers of soil and water conservation district supervisors; amending s. 582.295, F.S.; providing for the reassignment of assets of certain dissolved soil and water conservation districts; amending s. 582.30, F.S.; revising provisions to changes made by the act; repealing s. 582.11, F.S., relating to hearings regarding the creation of soil and water conservation districts; repealing ss. 582.12, 582.13, and 582.14, F.S., relating to referendums for the creation of soil and water conservation districts; repealing s. 582.15, F.S., relating to the organization of soil and water conservation districts; providing an effective date.

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

Section 1. The following soil and water conservation districts are dissolved and all assets and liabilities of each district are transferred to the Florida Department of Agriculture and Consumer Services:

(1) Alachua Soil and Water Conservation District.

(2) Bradford Soil and Water Conservation District.

(3) Brevard Soil and Water Conservation District.

(4) Broward Soil and Water Conservation District.

(5) Charlotte Soil and Water Conservation District.

(6) Chipola River Soil and Water Conservation District.

(7) Clay Soil and Water Conservation District.

(8) Choctawhatchee River Soil and Water Conservation District.

(9) Collier Soil and Water Conservation District.

(10) Dixie Soil and Water Conservation District.

(11) Duval Soil and Water Conservation District.

(12) Escambia Soil and Water Conservation District.

(13) Franklin Soil and Water Conservation District.

(14) Gadsden Soil and Water Conservation District.

(15) Gilchrist Soil and Water Conservation District.

(16) Hamilton County Soil and Water Conservation District.

(17) Hardee Soil and Water Conservation District.

(18) Highlands Soil and Water Conservation District.

(19) Hillsborough Soil and Water Conservation District.

(20) Holmes Creek Soil and Water Conservation District.

(21) Indian River Soil and Water Conservation District.
(22) Jackson Soil and Water Conservation District.
(23) Jefferson Soil and Water Conservation District.
(24) Lafayette Soil and Water Conservation District.
(25) Lake Soil and Water Conservation District.
(26) Leon Soil and Water Conservation District.
(27) Levy Soil and Water Conservation District.
(28) Manatee River Soil and Water Conservation District.
(29) Marion Soil and Water Conservation District.
(30) Nassau Soil and Water Conservation District.
(31) Okeechobee Soil and Water Conservation District.
(32) Orange Hill Soil and Water Conservation District.
(33) Orange Soil and Water Conservation District.
(34) Osceola Soil and Water Conservation District.
(35) Palm Beach Soil and Water Conservation District.
(36) Peace River Soil and Water Conservation District.
(37) Putnam Soil and Water Conservation District.
(38) Santa Fe Soil and Water Conservation District.
(39) Sarasota Soil and Water Conservation District.
(40) Seminole Soil and Water Conservation District.
(41) South Dade Soil and Water Conservation District.
(42) St. Johns Soil and Water Conservation District.
(43) St. Lucie Soil and Water Conservation District.
(44) Sumter Soil and Water Conservation District.
(45) Suwannee County Conservation District.

(46) Tupelo Soil and Water Conservation District.

(47) Volusia Soil and Water Conservation District.

(48) Wakulla Soil and Water Conservation District.

(49) Yellow River Soil and Water Conservation District.

Section 2. (1) The Baker Soil and Water Conservation District is dissolved and the assets and liabilities of the district are transferred to Baker County.

(2) The Blackwater Soil and Water Conservation District is dissolved and the assets and liabilities of the district are transferred to Santa Rosa County.

(3) The Glades Soil and Water Conservation District is dissolved and the assets and liabilities of the district are transferred to Glades County.

(4) The Hendry Soil and Water Conservation District is dissolved and the assets and liabilities of the district are transferred to Hendry County.

(5) The Madison Soil and Water Conservation District is dissolved and the assets and liabilities of the district are transferred to Madison County.

(6) The Martin Soil and Water Conservation District is dissolved and the assets and liabilities of the district are transferred to Martin County.

(7) The Polk Soil and Water Conservation District is dissolved and the assets and liabilities of the district are transferred to Polk County.

(8) The Taylor Soil and Water Conservation District is dissolved and the assets and liabilities of the district are transferred to Taylor County.

(9) The Union Soil and Water Conservation District is dissolved and the assets and liabilities of the district are transferred to Union County.

Section 3. Section 582.01, Florida Statutes, is amended to read:

582.01 Definitions.—As used in this chapter, the term:

(1) "Agriculture" means the science and art of production of plants and animals useful to humans, including to a variable extent the preparation of these products for human use and their disposal by marketing or otherwise, and includes aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, and any and all forms of farm products and farm production. For the purposes of marketing and promotional activities, the term includes seafood.

(2) "Agricultural operations" or "agricultural purposes" means the following activities:

(a) Raising, growing, harvesting, or storing of crops, including, but not limited to, soil preparation and crop production services such as plowing, fertilizing, seed bed preparation, planting, cultivating, and crop protecting services.

(b) Feeding, breeding, or managing livestock, equine, or

poultry.

(c) Producing or storing feed for use in the production of livestock, including, but not limited to, cattle, calves, swine, hogs, goats, sheep, equine, and rabbits, or for use in the production of poultry, including, but not limited to, chickens, hens, ratites, and turkeys.

(d) Producing plants, trees, fowl, equine, or other animals.

(e) Producing aquacultural, horticultural, viticultural, silvicultural, grass sod, dairy, livestock, poultry, egg, and apiarian products.

(f) Processing poultry.

(g) Post-harvest services on crops with the intent of preparing them for market or further processing, including, but not limited to, crop cleaning, drying, shelling, fumigating, curing, sorting, grading, packing, ginning, canning, pickling, and cooling.

(h) Slaughtering poultry and other animals.

(i) Manufacturing dairy products.

The term does not include constructing, installing, altering, repairing, dismantling, or demolishing real property structures or fixtures, including, but not limited to, grain bins, irrigation equipment, and fencing.

(3) ~~(1)~~ "Commissioner" means the Commissioner of

Agriculture.

(4) ~~(2)~~ "Council" means the Soil and Water Conservation Council.

(5) ~~(3)~~ "Department" means the Department of Agriculture and Consumer Services.

(6) ~~(4)~~ "District" or "soil and water conservation district" means a governmental subdivision of this state and a body corporate and politic, organized in accordance with the provisions of this chapter for the purpose, with the powers, and subject to the provisions set forth in this chapter. The term "district" when used in this chapter means and includes a "soil and water conservation district." All districts organized under this chapter shall be known as soil and water conservation districts and shall have all the powers set out herein.

(7) ~~(5)~~ "Due notice," in addition to notice required pursuant to the provisions of chapter 120, means notice published at least twice, with an interval of at least 7 days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area.

(8) ~~(6)~~ "Land occupier" or "occupier of land" means a person, other than the owner, who possesses any lands lying within a district organized under the provisions of this chapter, whether as lessee, renter, tenant, or otherwise.

(9) ~~(7)~~ "Landowner" or "owner of land" means a person who holds legal or equitable title to any lands lying within a

district organized under the provisions of this chapter.

~~(8) "Qualified elector" means a person qualified to vote in general elections under the constitution and laws of this state.~~

(10) ~~(9)~~ "Supervisor" means a member of the governing body of a district who is appointed ~~elected~~ in accordance with the provisions of this chapter.

Section 4. Subsections (4) through (9) of section 582.055, Florida Statutes, are renumbered as subsections (5) through (10), respectively, and a new subsection (4) is added to that section to read:

582.055 Powers and duties of the Department of Agriculture and Consumer Services; rules.—

(4) The department shall provide for travel expenses to members appointed to the soil and water conservation district board.

Section 5. Section 582.06, Florida Statutes, is amended to read:

582.06 Soil and Water Conservation Council; establishment, composition, membership, organization, and responsibilities ~~powers and duties~~.—

(1) ESTABLISHMENT.-It is declared to be in the best interest of the state that public agencies responsible for and involved in the development and implementation of best management practices, agricultural water quality, and water

supply policy and planning work together to reduce duplication of effort, foster maximum efficient use of existing resources, and advise and assist the agencies involved.

(2)~~(1)~~ COMPOSITION.—

(a) The Soil and Water Conservation Council is created adjunct to ~~in~~ the Department of Agriculture and Consumer Services to perform the functions conferred upon in this section and shall be composed of 7 members who have been involved in the practice of soil or water conservation, or in the development or implementation of interim measures or best management practices related thereto, and who have been engaged in agriculture or an occupation related to the agricultural industry for at least 5 years at the time of their appointment.

(b) Beginning with appointments in the 2024-2025 fiscal year, the commissioner shall appoint one member at-large from each of the 7 soil and water conservation district regions to serve on the council. The initial appointments shall sunset on the second Wednesday of January ~~All members shall be appointed by the commissioner~~.

(c) Thereafter, members shall serve 4-year terms or until their successors are duly qualified and appointed. If a vacancy occurs, it shall be filled for the remainder of the term in the manner of an initial appointment.

(3) MEMBERSHIP, ORGANIZATION, AND RESPONSIBILITIES.—

(a) The following representatives or their authorized

designees shall serve ex officio in an advisory capacity to the Soil and Water Conservation Council:

1. The Secretary of Environmental Protection.

2. The executive director of the Fish and Wildlife Conservation Commission.

3. The associate dean of research of the Florida Medical Entomological Research Laboratory at the University of Florida Institute of Food and Agricultural Sciences.

4. The state conservationist for the United States Department of Agriculture, Natural Resources Conservation Service.

5. The president of the Florida Farm Bureau.

6. Two supervisors nominated by the Association of Florida Conservation Districts, two representatives of Florida environmental groups, and two private citizens who are landowners or producers enrolled in best management practices.

7. Such other representatives of state or federal agencies as the council deems desirable.

(b) The council shall be chaired by the commissioner or the commissioner's authorized designee. A majority of the membership of the council shall constitute a quorum for the conduct of business. The chair shall be responsible for recording and distributing to the members a summary of the proceedings of all council meetings. The council shall meet at least three times each year, or as needed. The council may

designate subcommittees from time to time to assist in carrying out its responsibilities, provided that the Subcommittee on Managed Marshes shall be the first subcommittee appointed by the council. The subcommittee shall continue to provide technical assistance and guidance on basin management action plans and research proposals, taking into account the total maximum daily load reduction implications and natural resource interests.

(c) The council shall:

1. Develop and implement guidelines and strategies to assist the department to develop agricultural best management practices to improve water quality and water use efficiency while promoting the sustainability of agriculture.

2. Develop and update commodity specific best management practices manuals that are adopted by rule.

3. Develop and recommend to the department a request for proposal process for research.

4. Collaborates with partners in the development, implementation, and evaluation of statewide water policy as it relates to water supply and water quality.

5. Identify potential funding sources for research or implementation projects and evaluate and prioritize proposals upon request by the funding source.

6. Prepare and present reports, as needed, on activities in the state to other governmental organizations, as appropriate.

7. Accept and review requests for creating or dissolving soil and water conservation districts and shall, by a majority vote, recommend, by resolution, to the commissioner that a district be created or dissolved pursuant to the request, or that the request be denied.

8. When requested by the Governor, Department of Commerce or a district, the council shall provide a recommendation to the Commissioner whether to remove a supervisor for neglect of duty or malfeasance in office only after notice, hearing, and thorough review.

~~(2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS.—~~

~~(a) The meetings, powers and duties, procedures, and recordkeeping of the Soil and Water Conservation Council shall be conducted pursuant to s. 570.232.~~

~~(b) The council shall accept and review requests for creating or dissolving soil and water conservation districts and shall, by a majority vote, recommend, by resolution, to the commissioner that a district be created or dissolved pursuant to the request, or that the request be denied.~~

~~(c) When requested by the Governor or a district, the council shall provide a recommendation to the Governor whether to remove a supervisor for neglect of duty or malfeasance in office only after notice, hearing, and thorough review.~~

Section 6. Section 582.10, Florida Statutes, is amended to read:

582.10 Creation of soil and water conservation districts.—

(1) At 11:59 p.m. on June 30, 2024, the state shall be divided into the following 7 regional soil and water conservation districts ~~Any 10 percent of owners of land lying within the limits of the territory proposed to be organized into a district may file a petition with the Department of Agriculture and Consumer Services, asking that a soil and water conservation district be organized to function in the territory described in the petition. Such petition shall set forth~~:

(a) West Emerald Coast Soil and Water Conservation District ~~The proposed name of said district~~.

(b) East Emerald Coast Soil and Water Conservation District ~~That there is need, in the interest of the public health, safety, and welfare, for a soil and water conservation district to function in the territory described in the petition~~.

(c) North Central Soil and Water Conservation District ~~A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate~~.

(d) Northeast Soil and Water Conservation District ~~A request that the department duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil and water conservation district in such territory; and that the department~~

~~determine that such a district be created~~.

(e) West Central Soil and Water Conservation District.

(f) East Central Soil and Water Conservation District.

(g) Southwest Florida Soil and Water Conservation District.

(2) Notwithstanding the provisions of any other special or general act to the contrary, the boundaries of the respective districts named in subsection (1) shall include the areas within the following boundaries:

(a) The counties of Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington shall constitute the West Emerald Coast Soil and Water Conservation District.

(b) The counties of Franklin, Gadsden, Hamilton, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla shall constitute the East Emerald Coast Soil and Water Conservation District.

(c) The counties of Alachua, Baker, Bradford, Columbia, Dixie, Gilchrist, Lafayette, Suwannee, and Union shall constitute the North Central Soil and Water Conservation District.

(d) The counties of Citrus, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, St. Johns, and Volusia shall constitute the Northeast Soil and Water Conservation District.

(e) The counties of Desoto, Hardee, Hernando, Highlands,

Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota shall constitute the West Central Soil and Water Conservation District.

(d) The counties of Brevard, Indian River, Lake, Martin, Okeechobee, Orange, Osceola, Seminole, St. Lucie, and Sumter shall constitute the East Central Soil and Water Conservation District.

(e) The counties of Broward, Charlotte, Collier, Dade, Glades, Hendry, Lee, Monroe, and Palm Beach and shall constitute the Southwest Florida Soil and Water Conservation District ~~Where more than one petition is filed covering parts of the same territory the department may consolidate all or any petitions~~.

Section 7. Section 582.16, Florida Statutes, is amended to read:

582.16 Change of district boundaries.—Upon the change of boundaries of the respective districts under s. 582.10(2)(a)-(e), all contractual obligations with respect to an area being transferred to another district shall be assumed by the district receiving such area; all real property interests owned by a district within an area to be transferred shall be conveyed to the district receiving such area; and all equipment, vehicles, other personal property, and records owned, located, and used by a district solely within an area being transferred shall be delivered to the district receiving such area. However, if an area is transferred from a district with a contractual

obligation to the United States for the operation and maintenance of works within such area, then the deliveries and conveyances required in this section shall be deferred until the United States has approved the assumption of the contractual obligations by the receiving district ~~Requests for increasing or reducing the boundaries of an existing district may be filed with the department, and the department shall follow the proceedings provided in this chapter to create a district~~.

Section 8. Section 582.18, Florida Statutes, is amended to read:

582.18 Appointment ~~Election~~ of supervisors of each district.—

(1) The governing board of each soil and water conservation district shall be composed of at least one member from a minimum of 7 counties within a district who resides within the district. Members of the governing boards shall be appointed by the commissioner, subject to confirmation by the council at the next regular quarterly meeting following the appointment. Refusal or failure of the council to confirm an appointment creates a vacancy in the district to which the appointment was made. The term of office for a governing board member is 4 years and begins on March 2 of the year in which the appointment is made and terminates on March 1 of the fourth calendar year of the term or may continue until a successor is appointed, but not longer than 180 days. Terms of office of

governing board members shall be staggered to help maintain consistency and continuity in the exercise of governing board duties and to minimize disruption in district operations ~~The election of supervisors for each soil and water conservation district shall be held every 2 years, with one supervisor elected from each of the five numbered subdivisions created by the department pursuant to s. 582.15(4). The elections shall be held at the time of the general election provided for by s. 100.041. The office of the supervisor of a soil and water conservation district is a nonpartisan office, and candidates for such office are prohibited from campaigning or qualifying for election based on party affiliation~~.

~~(a) Each candidate for supervisor for such district must qualify as directed by chapter 99.~~

~~(b) Each nominee who collects or expends campaign contributions shall conduct her or his campaign for supervisor of a soil and water conservation district in accordance with the provisions of chapter 106. Candidates who neither receive contributions nor make expenditures, other than expenditures for verification of signatures on petitions, are exempt from the provisions of chapter 106 requiring establishment of bank accounts and appointment of a campaign treasurer, but shall file periodic reports as required by s. 106.07.~~

~~(c) The names of all nominees on behalf of whom such nominating petitions have been filed shall appear upon ballots~~

~~in accordance with the general election laws. All qualified electors residing within the district shall be eligible to vote in such election. The candidates who receive the largest number of the votes cast from each group of candidates in such election shall be the elected supervisors from such group for such district. In the case of a newly created district participating in a regular election for the first time, candidates shall be elected from district subdivisions 1, 3, and 5 for terms of 4 years, and candidates shall be elected from district subdivisions 2 and 4 for initial terms of 2 years. Each candidate elected shall assume office on the first Tuesday after the first Monday in January following the election.~~

(2) Beginning on July 1, 2024, the commissioner shall appoint a supervisor from a minimum of 7 counties within the soil and water conservation district regions to serve on the governing board for each year the commissioner is in office. Such initial appointments shall sunset on the second Wednesday of January. Thereafter, members shall serve 4-year terms or until their successors are duly qualified and appointed. A vacancy shall be filled for the remainder of the term in the manner of an initial appointment ~~After the issuance of a certificate of organization of a soil and water conservation district by the Department of State, or in the event of a vacancy resulting from death, resignation, removal, or otherwise, each vacancy shall be filled by appointment by the~~

~~remaining supervisors of the district until the next regular election~~.

Section 9. Section 582.181, Florida Statutes, is created to read:

582.181 District governing boards.—

(1) The governing board of each soil and water conservation district shall be composed of seven members who reside within the district with not more than one supervisor from each county within a district.

(2) Members of the governing boards shall be appointed by the commissioner, subject to confirmation by the council at the next regular quarterly meeting following the appointment. Refusal or failure of the council to confirm an appointment creates a vacancy in the district to which the appointment was made.

(3) Beginning on July 1, 2024, the commissioner shall appoint a supervisor from each county within the soil and water conservation district regions to serve on the governing board for each year the commissioner is in office. Such initial appointments shall sunset on the second Wednesday of January. Thereafter, members shall serve 4-year terms or until their successors are duly qualified and appointed. A vacancy shall be filled for the remainder of the term in the manner of an initial appointment.

(3) The term of office for a governing board member is 4

years and begins on March 2 of the year in which the appointment is made and terminates on March 1 of the fourth calendar year of the term or may continue until a successor is appointed, but not longer than 180 days. Terms of office of governing board members shall be staggered to help maintain consistency and continuity in the exercise of governing board duties and to minimize disruption in district operations.

Section 10. Subsections (1) and (2) of section 582.19, Florida Statutes, are amended to read:

582.19 Qualifications and tenure of supervisors.—

(1) The governing body of the district shall consist of seven ~~five~~ supervisors, appointed ~~elected~~ as provided in s. 582.18.

(a) To qualify to serve on the governing body of a district, a supervisor must be an eligible voter who resides in the district and who:

1. Is actively engaged in, or retired after 10 years of being engaged in, agricultural operations ~~agriculture as defined in s. 570.02~~;

2. Is employed for a minimum of 5 years by an agricultural producer who~~; or~~

~~3.~~ owns, leases, or is actively employed on land classified as agricultural under s. 193.461.

(b) At the time of qualifying, a nominee ~~candidate~~ for supervisor shall submit an affirmation in substantially the

following form:

State of Florida

County of ....

Statement of Nominee ~~Candidate~~ for Supervisor of Soil and Water Conservation District

I, ...(name of nominee ~~candidate~~)..., a nominee ~~candidate~~ for Supervisor of Soil and Water Conservation District, meet the qualifications pursuant to s. 582.19(1), Florida Statutes, to serve on the governing body of the Soil and Water Conservation District.

...(Signature of candidate)...

...(Address)...

Sworn to and subscribed before me this .... day of ....., ...(year)..., at .... County, Florida.

(2) The supervisors shall designate a chair and may, from time to time, change such designation by majority vote. The term of office of each supervisor shall be 4 years~~, except that two supervisors shall be elected to serve for initial terms of 2 years, respectively, from the date of their election as provided in this chapter~~. A supervisor shall hold office until her or his successor has been appointed ~~elected~~ and qualified. The selection of successors to fill an unexpired term shall be in accordance with s. 582.18(1) ~~s. 582.18(2)~~. Selection for a full term in a newly created district shall be by election of the qualified electors of the district. A majority of the

supervisors shall constitute a quorum and the concurrence of a majority of the supervisors in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for her or his services, but she or he shall, with approval of the supervisors of the district, be reimbursed for travel expenses as provided in s. 112.061.

Section 11. Section 582.195, Florida Statutes, is amended to read:

582.195 Mandatory meeting of supervisors.—All seven ~~five~~ supervisors of the governing body of each district shall meet at least quarterly ~~once~~ per calendar year in a public meeting pursuant to s. 286.011.

Section 12. Section 582.196, Florida Statutes, is created to read:

582.196 Supervisor compensation.—Supervisors of a soil and water conservation district board may receive compensation for per diem and travel expenses authorized pursuant to s. 112.061, not to exceed $1,000 for each supervisor during any one year, for travel expenses incurred in the performance of their duties under this chapter as provided in s. 112.061.

Section 13. Paragraph (b) of subsection (2) and subsection (11) of section 582.20, Florida Statutes, are amended to read:

582.20 Powers of districts and supervisors.—A soil and water conservation district organized under the provisions of this chapter shall constitute a governmental subdivision of this

state, and a public body corporate and politic, exercising public powers, and such district and the supervisors thereof shall have the following powers, in addition to others granted in other sections of this chapter:

(2) To conduct agricultural best management practices demonstration projects and projects for the conservation, protection, and restoration of soil and water resources:

(b) Within another district's boundaries, subject to the approval of the commissioner, the council, and the approval of other districts ~~district's approval~~;

(11) To request that the commissioner ~~Governor~~ remove a supervisor for neglect of duty or malfeasance in office by adoption of a resolution at a public meeting. If the district believes there is a need for a review of the request, the district may request that the council, by resolution, review its request to the commissioner ~~Governor~~ and provide the commissioner ~~Governor~~ with a recommendation.

Any provision with respect to the acquisition, operation, or disposition of property by public bodies of this state does not apply to a district organized under this chapter unless specifically so stated by the Legislature. The property and property rights of every kind and nature acquired by any district organized under the provisions of this chapter are exempt from state, county, and other taxation.

Section 14. Subsection (1) of section 582.295, Florida Statutes, is amended to read:

582.295 Automatic dissolution of districts.—

(1) If the governing body of a district fails to meet as required under s. 582.195, the district shall be automatically dissolved as of January 1 of the year immediately following the year in which the governing body failed to meet. All assets and liabilities of the district shall be transferred to the Department of Agriculture and Consumer Services. The department will reassign assets to another Soil and Water Conservation District for similar work.

Section 15. Subsection (1) and paragraph (b) of subsection (5) of section 582.30, Florida Statutes, are amended to read:

582.30 Discontinuance of districts; referendum; commissioner's authority.—

(1) Any time after 5 years from the organization of a district under the provisions of this chapter, any 10 percent of owners of land lying within the boundaries of such district may file a petition with the Department of Agriculture and Consumer Services requesting ~~praying~~ that the operations of the district be terminated and the existence of the district discontinued. The department may conduct such public meetings and public hearings upon petition as may be necessary to assist it in the consideration thereof. Within 60 days after such a petition has been received by the department it shall give due notice of the

holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the ...(Name of the soil and water conservation district to be here inserted)..." and "Against terminating the existence of the ...(Name of the soil and water conservation district to be here inserted)..." shall appear with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All owners of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such landowners shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

(5)

(b) If the commissioner issues a certificate determining that the continued operation of a district is not administratively practicable and feasible under the provisions of this chapter, the department shall file the original certificate with the Department of State and shall provide a copy of the certificate to the supervisors of the district at the district's principal office ~~designated under s.~~

~~582.15(1)(c)~~.

Section 16. Section 582.11, Florida Statutes, is repealed.

Section 17. Section 582.12, Florida Statutes, is repealed.

Section 18. Section 582.13, Florida Statutes, is repealed.

Section 19. Section 582.14, Florida Statutes, is repealed.

Section 20. Section 582.15, Florida Statutes, is repealed.

Section 21. This act shall take effect July 1, 2024.

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee
Representative Truenow offered the following:

Amendment (with title amendment)

Remove lines 53-54 and insert:
district are transferred to their respective regional districts as defined in 582.10:

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

Remove lines 5-6 and insert:
assets and liabilities to their respective regional districts; dissolving

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee

Representative Truenow offered the following:

Amendment

Remove lines 354-392 and insert:

(g) South Florida Soil and Water Conservation District.

(2) Notwithstanding the provisions of any other special or general act to the contrary, the boundaries of the respective districts named in subsection (1) shall include the areas within the following boundaries:

(a) The counties of Bay, Calhoun, Escambia, Gulf, Holmes, Jackson, Okaloosa, Santa Rosa, Walton, and Washington shall constitute the West Emerald Coast Soil and Water Conservation District.

(b) The counties of Franklin, Gadsden, Hamilton, Jefferson, Leon, Liberty, Madison, Taylor, and Wakulla shall constitute the East Emerald Coast Soil and Water Conservation District.

(c) The counties of Alachua, Baker, Bradford, Columbia, Dixie, Gilchrist, Lafayette, Suwannee, and Union shall constitute the North Central Soil and Water Conservation District.

(d) The counties of Citrus, Clay, Duval, Flagler, Levy, Marion, Nassau, Putnam, St. Johns, and Volusia shall constitute the Northeast Soil and Water Conservation District.

(e) The counties of Desoto, Hardee, Hernando, Highlands, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota shall constitute the West Central Soil and Water Conservation District.

(f) The counties of Brevard, Indian River, Lake, Martin, Okeechobee, Orange, Osceola, Seminole, St. Lucie, and Sumter shall constitute the East Central Soil and Water Conservation District.

(g) The counties of Broward, Charlotte, Collier, Dade, Glades, Hendry, Lee, Monroe, and Palm Beach and shall constitute the South Florida Soil and Water Conservation District ~~Where more than one petition is filed covering parts of the same territory the department may consolidate all or any petitions~~.

Section 7. Section 582.16, Florida Statutes, is amended to read:

582.16 Change of district boundaries.—Upon the change of boundaries of the respective districts under s. 582.10(2)(a)-(g), all contractual obligations with respect to an area being

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee

Representative Truenow offered the following:

Amendment (with title amendment)

Remove lines 561-593 and insert:

least once per calendar year in a public meeting pursuant to s. 286.011.

Section 12. Section 582.196, Florida Statutes, is created to read:

582.196 Supervisor compensation.—Supervisors of a soil and water conservation district board may receive compensation for per diem and travel expenses authorized pursuant to s. 112.061, not to exceed $1,000 for each supervisor during any one year, for travel expenses incurred in the performance of their duties under this chapter as provided in s. 112.061.

Section 13. Paragraph (b) of subsection (2) and subsection (11) of section 582.20, Florida Statutes, are amended and subsection (12) of that section is added, to read:

582.20 Powers of districts and supervisors.—A soil and water conservation district organized under the provisions of this chapter shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district and the supervisors thereof shall have the following powers, in addition to others granted in other sections of this chapter:

(2) To conduct agricultural best management practices demonstration projects and projects for the conservation, protection, and restoration of soil and water resources:

(b) Within another district's boundaries, subject to the approval of the commissioner, the council, and the approval of other districts ~~district's approval~~;

(11) To request that the commissioner ~~Governor~~ remove a supervisor for neglect of duty or malfeasance in office by adoption of a resolution at a public meeting. If the district believes there is a need for a review of the request, the district may request that the council, by resolution, review its request to the commissioner ~~Governor~~ and provide the commissioner ~~Governor~~ with a recommendation.

(12) Districts shall provide services to their regions in proportion to the contributions made upon dissolution and transfer to the regional district through June 30, 2026.

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

Remove lines 30-32 and insert:
582.195, F.S.; making conforming changes; creating s. 582.196, F.S.; authorizing

HB 1115

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1115 Three Rivers Stewardship District, Sarasota County
SPONSOR(S): Buchanan
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Roy	Darden
2) State Affairs Committee			

SUMMARY ANALYSIS

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter.

The Three Rivers Stewardship District (District) is an independent special district in Sarasota County created in 2023. The District was created for the purpose of facilitating an integral relationship among regional transportation, land use, and urban design, to provide for economic development opportunities. The District is governed by a five-member board of supervisors selected on a one vote per acre basis for four-year terms.

The district is authorized to impose ad valorem taxes but only after all members of the board are elected on a popular vote basis and the levy of ad valorem taxes is approved by the district voters in a subsequent referendum. In addition, the district may levy user charges and fees, non-ad valorem maintenance taxes as authorized by general law, maintenance special assessments, and benefit special assessments.

The bill revises the boundaries of the district to correct errors in the property description and to add an additional tract to the district. The additional tract increases the total acreage of the district by approximately 949 acres, bringing the district to a total of 3,686.495 acres.

The Economic Impact Statement indicates the bill will raise an expected $150,000 and $172,500 in additional revenue in the first and second fiscal year after the bill takes effect, all of which is anticipated to be used for infrastructure and costs related to the jurisdictional expansion.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.[1] Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.[2] A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.[3] Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.[4]

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as "dependent" if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district's governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.[5]

A district is classified as "independent" if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.[6]

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.[7]

Three Rivers Stewardship District

The Three Rivers Stewardship District (District) is an independent special district in Sarasota County created in 2023.[8] The District was created for the purpose of facilitating an integral relationship among regional transportations, land use, and urban design, to provide for economic development opportunities.[9] The district is authorized to provide district services extraterritorially upon execution of

[1] *See Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).
[2] *See* ss. 189.02(1), 189.031(3), and 190.005(1), F.S. *See generally* s. 189.012(6), F.S.
[3] Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227 (last visited Jan. 19, 2024).
[4] The method of financing a district must be stated in its charter. Ss. 189.02(4)(g) and 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. *See, e.g.,* ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). *See also, e.g.,* ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), and 388.221, F.S. (mosquito control), and ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).
[5] S. 189.012(2), F.S.
[6] S. 189.012(3), F.S.
[7] *See, e.g.*, ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).
[8] Ch. 2023-337, s.2(1)(a), Laws of Fla.
[9] Ch. 2023-337, s. 2(1)(b), Laws of Fla.

an interlocal agreement.[10]

The district is governed by a five-member board of supervisors (board) elected by the landowners on a one-acre, one-vote basis to serve four-year terms.[11] As qualified electors move into the district, members will be chosen in an election of the qualified electorate rather than at a landowners' meeting, and once 27,000 qualified electors reside within the district, all five members will be elected by the qualified electorate.[12]

The district is authorized to levy ad valorem taxes but only after all members of the board are elected on a popular vote basis and the levy of ad valorem taxes is approved by the district voters in a subsequent referendum.[13] In addition, the district may levy user charges and fees, non-ad valorem maintenance taxes as authorized by general law, maintenance special assessments, and benefit special assessments.[14]

The district's charter provides that the charter may only be amended by special act of the Legislature. However, the board may not ask the Legislature to amend its charter without first obtaining a resolution or official statement from Manatee County stating the amendment is consistent with approved local government plans of the county and that the county has no objection to the amendment.[15] The district received this consent.[16]

Effects of Proposed Changes

The bill revises the boundaries of the district to correct errors in the property description and to add an additional tract to the district. The additional tract increases the total acreage of the district by approximately 949 acres, bringing the district to a total of 3,686.495 acres.

The Economic Impact Statement indicates the bill will raise an expected $150,000 and $172,500 in additional revenue in the first and second fiscal year after the bill takes effect, all of which is anticipated to be used for infrastructure and costs related to the jurisdictional expansion.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2023-337, Laws of Florida, revising boundaries of the district.

Section 2: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? November 11, 2023.

WHERE? *The Herald-Tribune*, a daily newspaper of general circulation published in Sarasota County.

[10] Ch. 2023-337, s. 3(4), Laws of Fla.
[11] Ch. 2023-337, s. 5, Laws of Fla.
[12] Ch. 2023-337, s. 5(3)(a)2.a(V), Laws of Fla.
[13] Ch. 2023-337, ss. 5(3)(a)1. and 6(12)(a), Laws of Fla. The district currently does not levy ad valorem taxes.
[14] Ch. 2023-337, ss. 6(6)(j) and 6(12), Laws of Fla.
[15] Ch. 2023-337, s.2(3)(f), Laws of Fla.
[16] Letter from Ron Cutsinger, Chair, Sarasota County Board of County Commissioners to Patrick Neal, President, Neal Land and Neighborhoods (Oct. 24, 2023) (on file with Federal Affairs & Special Districts Subcommittee).

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to the Three Rivers Stewardship District, Sarasota County; amending chapter 2023-337, Laws of Florida; revising the boundaries of the district; providing an effective date.

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

Section 1. Section 4 of chapter 2023-337, Laws of Florida, is amended to read:

Section 4. Formation; boundaries.—The Three Rivers Stewardship District, an independent special district, is created and incorporated in Sarasota County and shall embrace and include the territory described as:

TRACT 1 DESCRIPTION (as prepared by the certifying Surveyor and Mapper):

A tract of land of lying in Sections 16, 20, 21, 28, 29 & 32, Township 37 South, Range 19 East, Sarasota County, Florida, being more particularly described as follows:

BEGIN at the northernmost corner of LT Ranch Neighborhood One recorded in Plat Book 53, Page 176

~~175~~ of the Public Records of Sarasota County, Florida; the following nine (9) calls are along the westerly boundary line of said LT Ranch Neighborhood One: (1) thence S.34°10'43"W., a distance of 1,104.05 feet to a point of curvature of a curve to the left having a radius of 2,865.00 feet and a central angle of 33°39'37"; (2) thence Southerly along the arc of said curve, a distance of 1,683.14 feet, to the point of tangency of said curve; (3) thence S.00°31'06"W., a distance of 255.04 feet to a point of curvature of a curve to the right having a radius of 955.00 feet and a central angle of 24°06'58"; (4) thence Southerly along the arc of said curve, a distance of 401.96 feet, to the point of tangency of said curve; (5) thence S.24°38'04"W., a distance of 694.50 feet to the point of curvature of a non-tangent curve to the left, having a radius of 955.00 ~~955.09~~ feet and a central angle of 31°15'02" ~~31°14'51"~~; (6) thence Southerly along the arc of said curve, a distance of 520.88 feet, said curve having a chord bearing and distance of S.09°18'38"W., 514.45 feet, to the point of tangency of said curve; (7) thence S.06°18'48"E., a distance of 1,214.80 feet to the point of curvature of a non-tangent curve to the right, having a radius of 955.00 feet and a central angle of 69°53'06"; (8)

thence Southwesterly along the arc of said curve, a distance of 1,164.84 feet, said curve having a chord bearing and distance of S.28°37'45"W. ~~S.28°37'10"W.~~, 1,093.96 feet, to the point of tangency of said curve; (9) thence S.63°34'18"W. ~~S.63°33'43"W.~~, along said westerly boundary and the extension thereof, a distance of 390.82 feet to a point of curvature of a curve to the left having a radius of 955.00 feet and a central angle of 49°33'38" ~~49°33'39"~~; the following seven (7) calls are along the centerline of a 150-foot wide Access Easement, recorded in Official Record Instrument Number 2015078648 of said Public Records; (1) thence Southwesterly along the arc of said curve, a distance of 826.07 feet, to the point of tangency of said curve; (2) thence S.14°00'40"W. ~~S.14°00'06"W.~~, a distance of 1,573.41 feet to a point of curvature of a curve to the right having a radius of 955.00 feet and a central angle of 75°26'47"; (3) thence Southwesterly along the arc of said curve, a distance of 1,257.54 ~~1,257.53~~ feet, to the point of tangency of said curve; (4) thence S.89°27'28"W. ~~S.89°26'53"W.~~, a distance of 400.65 feet to a point of curvature of a curve to the left having a radius of 694.00 feet and a central angle of 89°57'34" ~~89°57'53"~~; (5) thence Southwesterly along the arc of said curve, a distance of 1,089.64

~~1,089.71~~ feet, to the point of tangency of said curve; (6) thence S.00°30'06"E. ~~S.00°31'00"E.~~, a distance of 1,417.28 ~~1,416.57~~ feet; (7) thence S.00°31'33"W. ~~S.00°33'01"W.~~, a distance of 2691.19 ~~2691.22~~ feet to the end of said 150-foot wide Access Easement, also being a point on the easterly line of aforementioned Section 32; thence S.00°35'45"W., along the easterly line of said Section 32, a distance of 2690.82 feet to the southeast corner of said Section 32; thence N.89°34'53"W., along the southerly line of said Section 32, a distance of 5,324.11 ~~5,348.98 feet to the southwest corner of said Section 32; thence N.01°29'58"E., along the westerly line of said Section 32, a distance of 5,355.02 feet to the southwest corner of the aforementioned Section 29; thence N.01°03'48"W., along the westerly line of said Section 29, a distance of 5,373.24 feet to the southwest corner of the aforementioned Section 20; thence N.88°56'12"E., a distance of 25.00~~ feet to the east right-of-way line of Ibis Street as~~,~~ recorded in Official Record Book 60, Page 196 of said Public Records, said point lying S.89°34'53"E. 25.00 feet from the southwest corner of said Section 32; the following four (4) calls are along the easterly right-of-way line of said Ibis Street and lying 25.00 feet

easterly of the east lines of Sections 32, 29, and 20; (1) thence N.01°30'08"E., a distance of 5,354.56 feet; (2) thence N.00°12'43"E., a distance of 2672.81 feet; (3) thence N.02°19'37"W., a distance of 2,702.87 feet; (4)~~;~~ thence N.00°21'49"W., ~~along said east line,~~ a distance of 5,396.54 feet to the north line of the aforementioned ~~said~~ Section 20; thence S.89°33'38"E., a distance of 5,323.34 feet to the southwest corner of the aforementioned Section 16; thence N.00°24'46"E., along the west line of said Section 16, a distance of 1,320.36 feet; thence S.89°52'39"E., a distance of 2,660.98 feet; thence N.00°53'16"E., a distance of 1,295.00 feet to the south right-of-way line of Clark Road, State Road 72; thence S.55°49'33"E., along said south right-of-way line, a distance of 3,081.77 feet to the POINT OF BEGINNING.

~~Said tract of land contains 2,802.19 acres, more or less.~~

LESS AND EXCEPT: (The School Board of Sarasota County, Florida - Official Record Instrument #2020093694)

A parcel of land lying in Section 21, Township 37 South, Range 19 East, Sarasota County, Florida, and

being more particularly described as follows:

COMMENCE at the Northeast corner of said Section 21;~~,~~ ~~run~~ thence along the North boundary of said Section 21, N.89°41'18"W., a distance of 766.13 feet to a point on a curve on the Westerly boundary of the 150-foot Access Easement, according to Official Records Instrument Number 2015078648, of the Public Records of Sarasota County, Florida; thence along said Westerly boundary of the 150-foot Access Easement, the following eight (8) courses: 1) Southerly, 1683.76 feet along the arc of a non-tangent curve to the left having a radius of 2,940.00 ~~2940.00~~ feet and a central angle of 32°48'50" (chord bearing S.16°55'31"W., 1660.85 feet); 2) S.00°31'06"W., a distance of 255.04 feet; 3) Southerly, 370.40 feet along the arc of a tangent curve to the right having a radius of 880.00 feet and a central angle of 24°06'58" (chord bearing S.12°34'35"W., 367.67 feet); 4) S.24°38'04"W., a distance of 699.55 feet; 5) Southerly, 78.14 ~~78.13~~ feet along the arc of a tangent curve to the left having a radius of 1030.00 feet and a central angle of 04°20'47" (chord bearing S.22°27'40"W., 78.12 feet) to the POINT OF BEGINNING; 6) Southerly, 478.21 feet along the arc of a non-tangent curve to the left

having a radius of 1030.00 feet and a central angle of 26°36'05" (chord bearing S.06°59'14"W., 473.93 feet~~)~~; 7) S.06°18'48"E., a distance of 1214.80 feet; 8) Southerly, 172.95 feet along the arc of a tangent curve to the right having a radius of 880.00 feet and a central angle of 11°15'37" (chord bearing S.00°40'59"E., 172.67 feet); thence Southwesterly, 41.76 feet along the arc of a compound curve to the right having a radius of 25.00 feet and a central angle of 95°42'19" (chord bearing S.52°47'59"W., 37.07 feet); thence N.79°20'52"W., a distance of 132.30 feet; thence Northwesterly, 670.59 feet along the arc of a tangent curve to the right having a radius of 940.00 feet and a central angle of 40°52'28" (chord bearing N.58°54'38"W., 656.46 feet); thence Northwesterly, 953.27 feet along the arc of a reverse curve to the left having a radius of 1060.00 feet and a central angle of 51°31'36" (chord bearing N.64°14'12"W., 921.47 feet); thence N.90°00'00"W., a distance of 178.46 feet; thence N.00°00'00"E., a distance of 1497.37 feet; thence N.90°00'00"E., a distance of 546.03 feet; thence Easterly, 619.13 feet along the arc of a tangent curve to the right having a radius of 1440.00 feet and a central angle of 24°38'04" (chord bearing S.77°40'58"E., 614.37 feet);

thence S.65°21'56"E., a distance of 542.10 feet; thence Southeasterly, 37.37 feet along the arc of a tangent curve to the right having a radius of 25.00 feet and a central angle of 85°39'13" (chord bearing S.22°32'20"E., 33.99 feet) to the POINT OF BEGINNING.

Total described parcel containing 2,727.1 ~~65.09~~ acres, more or less. (2,792.22 acres, minus 65.09 acres)

TRACT 2 DESCRIPTION (as prepared by the certifying Surveyor and Mapper):

A tract of land lying in Sections 30 and 31, Township 37 South, Range 38 East, Sarasota County, Florida, being more particularly described as follows:

Commence at the northeast corner of said Section 30; thence S.88°31'18"W., along the north line of said Section 30, a distance of 25.01 feet to the POINT OF BEGINNING, said point being on the west right-of-way line of Ibis Street (50.00 foot wide public right-of-way) as recorded in Official Records Book 62, Page 432 in the Public Records of Sarasota County, Florida; thence S.02°19'37"E., along said west right-of-way line, a distance of 2,702.49 feet; thence S.89°18'42"W., a

distance of 1,307.52 feet; thence S.00°22'13"W., a distance of 666.03 feet; thence N.89°15'23"E., a distance of 112.12 feet; thence S.00°20'54"W., a distance of 1,332.28 feet; thence N.89°34'15"E., a distance of 1,200.35 feet to a point on the abovementioned west right-of-way line of Ibis Street; thence along said west right-of-way line for the following two (2) calls: (1) thence S.00°12'43"W., a distance of 667.79 feet; (2) thence S.01°30'08"W., a distance of 4,462.45 feet to the point of curvature of a non-tangent curve to the left, having a radius of 550.00 feet and a central angle of 15°15'39"; thence westerly along the arc of said curve, a distance of 146.49 feet, said curve having a chord bearing and distance of N.67°38'11"W., 146.06 feet, to the end of said curve; thence N.75°16'00"W., a distance of 90.16 feet to the point of curvature of a non-tangent curve to the left, having a radius of 490.00 feet and a central angle of 14°22'03"; thence westerly along the arc of said curve, a distance of 122.87 feet, said curve having a chord bearing and distance of N.82°27'02"W., 122.55 feet, to the point of curvature of a non-tangent curve to the left, having a radius of 718.00 feet and a central angle of 42°03'55"; thence westerly along the arc of said curve, a distance of 527.14 feet, said curve having a

chord bearing and distance of N.75°41'40"W., 515.38 feet, to the end of said curve; thence N.18°54'26"E., a distance of 302.35 feet; thence N.65°01'05"W., a distance of 1,068.36 feet; thence S.35°25'57"W., a distance of 1,176.73 feet; thence N.89°13'36"W., a distance of 489.05 feet; thence S.00°07'10"E., a distance of 427.55 feet to the point of curvature of a non-tangent curve to the left, having a radius of 500.00 feet and a central angle of 11°31'42"; thence westerly along the arc of said curve, a distance of 100.60 feet, said curve having a chord bearing and distance of N.75°35'35"W., 100.43 feet, to the point of tangency of said curve; thence N.81°21'26"W., a distance of 108.92 feet to the point of curvature of a curve to the left having a radius of 350.00 feet and a central angle of 16°01'28"; thence westerly along the arc of said curve, a distance of 97.89 feet to the point of tangency of said curve; thence S.82°37'06"W., a distance of 75.69 feet to the point of curvature of a curve to the left having a radius of 350.00 feet and a central angle of 14°32'49"; thence westerly along the arc of said curve, a distance of 88.86 feet to the end of said curve, said point being on the east right-of-way line of Interstate 75 (State Road 93, Section 17075-2407) as recorded in Road Plat Book 2, Page 54 in said Public Records; thence

N.21°33'01"W., along said east right-of-way line, a distance of 3,912.60 feet to a point on the west line of the abovementioned Section 31; thence N.00°46'55"E., along said west Section line, a distance of 1,210.25 feet to the northwest corner of said Section 31, also being the southwest corner of said Section 30; thence N.00°49'51"E., along the west line of said Section 30, a distance of 2,635.22 feet to the West 1/4 corner of said Section 30; thence N.00°49'50"E., continuing along the west line of said Section 30, a distance of 2,637.35 feet to the northwest corner of said Section 30; thence N.88°31'18"E., along the north line of said Section 30, a distance of 2,067.47 feet to the north 1/4 corner of said Section 30; thence continue N.88°31'18"E., along said north line of Section 30, a distance of 2,642.69 feet to the POINT OF BEGINNING.

Said tract contains 41,791,246 square feet or 959.3950 acres, more or less.

~~TOTAL DESCRIBED PARCEL~~ CONTAINING A TOTAL AREA OF 3,686.495 ~~2,737.1~~ ACRES, MORE OR LESS.

Being subject to any rights-of-way, restrictions, and easements of record.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1117 City of North Port, Sarasota County
SPONSOR(S): Buchanan
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Darden	Darden
2) Ways & Means Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.

The bill creates the Star Farms Village at North Port Stewardship District (District) in City of North Port, Sarasota County. The District's purpose is to install, operate, and maintain community infrastructure serving approximately 2,086 acres. The District is authorized to levy special assessments, fees, and non-ad valorem assessments. The District also is authorized to levy ad valorem taxes upon approval at referendum after the entire board is elected by qualified electors of the District.

The Economic Impact Statement projects revenues and expenditures by the District of $150,000 and $172,500 in the first two fiscal years after creation.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.[1] Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.[2] A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.[3] Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.[4]

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as "dependent" if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district's governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.[5]

A district is classified as "independent" if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.[6]

Formation and Charter of an Independent Special District

With the exception of community development districts (CDDs),[7] the charter for any new independent special district must include the minimum elements required by ch. 189, F.S.[8] Special laws or general laws of local application relating to any special district may not:

- Create a special district with a district charter that does not conform to the minimum requirements in s. 189.031(3), F.S.;[9]
- Exempt district elections from the requirements of s. 189.04, F.S.;[10]
- Exempt a district from the requirements for bond referenda in s. 189.042, F.S.;[11]

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[1] *See Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).
[2] *See* ss. 189.02(1), 189.031(3), and 190.005(1), F.S. *See generally* s. 189.012(6), F.S.
[3] Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227 (last visited Jan. 18, 2024).
[4] The method of financing a district must be stated in its charter. Ss. 189.02(4)(g) and 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. *See, e.g.,* ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). *See also, e.g.,* ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), and 388.221, F.S. (mosquito control), and ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).
[5] S. 189.012(2), F.S.
[6] S. 189.012(3), F.S.
[7] S. 189.0311, F.S. *See* s. 190.004, F.S. (providing that ch. 190, F.S., governs the functions and powers of independent CDDs).
[8] S. 189.031(1) and (3), F.S.
[9] S. 189.031(2)(a), F.S.
[10] S. 189.031(2)(b), F.S.
[11] S. 189.031(2)(c), F.S.

- Exempt a district from certain requirements relating to[12] issuing bonds if no referendum is required,[13] requiring special district reports on public facilities,[14] notice and reports of special district public meetings,[15] or required reports, budgets, and audits;[16] or
- Create a district for which a statement documenting specific required matters is not submitted to the Legislature. The statement must include:
    - The purpose of the proposed district;
    - The authority of the proposed district;
    - An explanation of why the district is the best alternative; and
    - A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating the proposed district is consistent with approved local government plans and the local government does not object to creation of the district.[17]

The charter of a newly created district must state whether it is dependent or independent.[18] Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.[19]

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.[20]

Election of Special District Boards

Members of a special district board are generally elected by the qualified electors of the district.[21] Some district boards, however, are elected according to a one-acre/one-vote methodology.[22]

Section 189.041, F.S., provides a process for transitioning a special district governing board elected on a one-acre/one-vote basis to election by the qualified electors of the district. A referendum may be called at any time once the district has at least 500 qualified electors.[23] A petition signed by 10 percent of the qualified electors must be filed with the governing body of the district requesting a referendum.[24] Upon verification of the petition, the governing board of the district must call for a referendum at the earlier of the next regularly scheduled election of governing body members occurring at least 30 days after the verification of the petition or within six months of verification.[25]

If the qualified electors approve the transition, the size of the board is increased to five members and elections for the board are held at the earlier of the next regularly scheduled general election or a special election held within six months following the referendum approving transition and the finalization

[12] S. 189.031(2)(d), F.S.
[13] S. 189.051, F.S.
[14] S. 189.08, F.S.
[15] S. 189.015, F.S.
[16] S. 189.016, F.S.
[17] S. 189.031(2)(e), F.S.
[18] S. 189.031(5), F.S.
[19] S. 189.031(3), F.S.
[20] Art. VII, s. 9(a), Fla. Const.
[21] *See e.g.* ch. 2015-202, s. 4(4)(2)(a), Laws of Fla. (election provisions for Lehigh Acres Municipal Services Improvement District).
[22] *See* s. 189.04(4), F.S. (providing an exception for special district governing board elected on a one-acre/one-vote basis); *also see e.g.* ch. 2007-306, s. 5, Laws of Fla. (election provisions for the Babcock Ranch Community Independent Special District).
[23] S. 189.041(2)(a)1.a., F.S.
[24] S. 189.041(2)(a)1.b., F.S.
[25] S. 189.041(2)(a)2., F.S.

of the district urban area map.[26] If the qualified electors do not approve the transition, a new referendum may not be held for at least two years.[27]

Within 30 days after the transition referendum, the governing body of the district must direct the district's staff to prepare and present maps describing all urban areas contained in the district.[28] For the purposes of this determination, an "urban area" is a contiguous, developed, and inhabited urban area within a district with a minimum density of at least:

- 1.5 persons per acre, as defined by the latest census or other official population count;
- 1 single-family home per 2.5 acres, with access to improved roads; or
- 1 single-family home per 5 acres within a recorded plat subdivision.[29]

The maps describing the urban areas must be presented to the governing body of the district within 60 days after the referendum.[30] The determination of urban areas is made with the assistance of local general-purpose governments and district landowners or electors may contest the accuracy of the map.[31] If a landowner or elector raises an objection to the map, the map is submitted to the county engineer for review.[32] After all objections to the map have been addressed, the governing body of the district must adopt either its initial map or the map as amended by the county engineer as the official map at a regular scheduled meeting of the governing body held within 60 days of the presentation of all such maps.[33] A landowner or elector may contest the accuracy of the map by filing a petition in circuit court within 30 days.[34]

After the adoption of the official map or a certification by the circuit court, the district urban area map must determine the extent of urban area within the district and the composition of the board.[35] The maps must be readopted every five years, but may be readopted sooner at the discretion of the governing body of the district.[36]

The composition of the board is determined by the percentage of the district that is an urban area, as follows:[37]

Urban Area as Percentage of District	Number of Board Members Elected by Landowners	Number of Board Members Elected by Qualified Electors
Less than 25%	4	1
26%-50%	3	2
51%-70%	2	3
70%-90%	1	4
More than 91%	0	5

Governing board members elected by qualified electors serve four-year terms, except for those elected at the first election and the first landowners meeting following the referendum, who serve the following terms:[38]

[26] S. 189.041(2)(a)3., F.S.
[27] S. 189.041(2)(a)4., F.S.
[28] S. 189.041(2)(b)1. F.S.
[29] S. 189.041(1)(b), F.S.
[30] S. 189.041(2)(b)2., F.S.
[31] S. 189.041(1)(b) and (2)(b)3., F.S.
[32] S. 189.041(2)(b)3., F.S.
[33] S. 189.041(2)(b)4., F.S.
[34] S. 189.041(2)(b)5., F.S.
[35] S. 189.041(2)(b)6., F.S.
[36] S. 189.041(2)(b)8., F.S.
[37] S. 189.041(3)(a), F.S.
[38] S. 189.041(3)(b), F.S.

Urban Area as Percentage of District	Terms of Board Members Elected by Landowners	Terms of Board Members Elected by Qualified Electors
Less than 25%	1 member serving each a 1-, 2-, 3-, and 4-year term	1 member serving a 4-year term
26%-50%	1 member serving each a 1-, 2-, and 3-year term	2 members serving a 4-year term
51%-70%	1 member serving each a 1- and 2-year term	2 members serving a 4-year term, 1 member serving a 2-year term
70%-90%	1 member serving a 1-year term	2 members serving a 4-year term, 2 members serving a 2-year term
More than 91%	n/a	3 members serving a 4-year term, 2 members serving a 2-year term

Annual landowners meetings continue as long as at least one member of the board is elected on a one-acre/one-vote basis.[39] There is no requirement for a majority of the acreage of the district to be represented by either an owner or an owner's proxy at the landowners meeting.[40] Landowner meetings must be held in the month preceding the month of the election of governing body members by electors.[41]

Community Development Districts

Chapter 190, F.S., the "Uniform Community Development District Act of 1980,"[42] sets forth the exclusive and uniform procedures for establishing and operating a CDD.[43] This type of independent special district is an alternative method to manage and finance basic services for community development.[44] As of January 20, 2024, there are currently 961 active CDDs in Florida.[45]

A CDD must act within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general purpose government.[46] CDDs have certain general powers, including the authority to assess and impose ad valorem taxes upon lands in the CDD, sue and be sued, participate in the state retirement system, contract for services, borrow money, accept gifts, adopt rules and orders pursuant to the Administrative Procedure Act,[47] maintain an office, lease property, issue bonds, raise money by user charges or fees, and levy and enforce special assessments.[48]

CDDs may also exercise additional special powers to provide, construct, and maintain public improvements and facilities, such as systems for water management, water supply, sewer, and wastewater management, as well as roads, bridges, culverts, street lights, buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, signage, environmental

[39] S. 189.041(3)(c)1., F.S.
[40] S. 189.041(3)(c)2., F.S.
[41] S. 189.041(3)(c)3., F.S.
[42] S. 190.001, F.S.
[43] Ss. 190.004 and 190.005, F.S.
[44] S. 190.003(6), F.S.
[45] Dept. of Commerce, *Official List of Special Districts Online*, http://www.floridajobs.org/community-planning-and-development/special-districts/special-district-accountability-program/official-list-of-special-districts (last visited Jan. 20, 2024).
[46] S. 190.004(3), F.S.
[47] Ch. 120, F.S.
[48] S. 190.011, F.S.

contamination, conservation areas, mitigation areas, and wildlife habitat.[49] With the consent of the applicable local general-purpose government with jurisdiction over the affected area, a CDD may plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and recreational areas, fire prevention and control, school buildings and related structures, security, control and elimination of mosquitoes and other arthropods of public health importance, and waste collection and disposal.[50]

The method for establishing a CDD depends upon its size. CDDs of more than 2,500 acres are established by petitioning the Florida Land and Water Adjudicatory Commission (FLWAC)[51] to adopt an administrative rule creating the district, while CDDs of less than 2,500 acres are established by ordinance of the county having jurisdiction over the majority of land in the area in which the CDD is to be located.[52]

Effect of Proposed Changes

The bill creates the Star Farms Village at North Port Stewardship District (District), an independent special district in Sarasota County, and provides a charter for the District. The District's purpose is to install, operate, and maintain community infrastructure in the City of North Port, Sarasota County.

Legislative Findings, Legislative Intent and Policy (Section 2)

The bill provides legislative findings and intent, providing that the District will facilitate a comprehensive community development approach that integrates regional transportation, land use, and urban design elements to provide for a mix of housing, employment, and economic development opportunities.

The bill states that a CDD created under ch. 190, F.S., would not serve the public interest due to the size of the proposed District, that the creation of multiple CDDs would result in inefficient and duplicative layers of local special-purpose government, and a separate independent special district is better able to integrate the management of state resources and allow for coordinated stewardship of natural resources.

The bill states that the District does not have the power to engage in comprehensive planning, zoning, or development permitting and that the creation of the District is consistent with the City of North Port Comprehensive Plan. The intent and purpose of the District is that no debt or obligation be placed on City of North Port.

The bill requires the District to receive approval by resolution or official statement from the City of North Port before requesting any amendment to its charter, in a similar manner as is required for the creation of a special district pursuant to s. 189.031(2)(e)4., F.S.

Charter Requirements, Creation, Establishment, Jurisdiction, and Charter (Section 3)

The bill provides a list of sections of the bill that fulfill the requirements for the creation of a special district under s. 189.031(3), F.S.

The bill states the District is a "public body corporate and politic," an independent special district, and any additional power granted to a CDD under ch. 190, F.S., after January 1, 2024, also constitutes a power of the District to the extent such changes are not inconsistent with the provisions of the bill. The

[49] S. 190.012(1), F.S. The rule or ordinance establishing the CDD may restrict the special powers authorized in this subsection. S. 190.005(1)(f) and (2)(d), F.S.
[50] S. 190.012(2), F.S.
[51] Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least two Cabinet members.
[52] S. 190.005(1) and (2), F.S.

bill provides that the District may not exercise such additional power without entering into an interlocal agreement with City of North Port consenting to the exercise of the power. The bill provides that the District may exercise its power within the boundaries of the District, or extraterritorially with the consent of City of North Port, as evidenced by an interlocal agreement or a development order.

District Boundaries (Section 4)

The bill provides the legal description of the boundaries of the District.

Membership, Powers, and Duties of the Board of Supervisors (Section 5)

The bill provides for a five-member board (Board), with each member serving a four-year term. Members of the Board must be both Florida residents and United States citizens.

A meeting of the landowners of the District must be held within 90 days after the effective date of the act. Notice of the meeting must be provided once a week for two consecutive weeks in a newspaper of general circulation in the area of the District. The landowners present at the meeting must elect a chair from among attendees to conduct the meeting. The chair may nominate candidates and make motions if that person is a landowner or holds the proxy of a landowner. The landowners present constitute a quorum, even if they represent less than 50 percent of the total acreage of the District, and such landowners may elect members of the governing board. The three candidates for the Board receiving the first, second, and third highest number of votes are elected to terms expiring November 28, 2028, while the two candidates receiving the fourth and fifth highest number of votes are elected to terms expiring November 24, 2026.

Each landowner is entitled to one vote for each acre owned. Any fractional acre is treated as one acre for the purposes of the landowner vote. Landowners who are unable to attend may cast their votes by proxy. Subsequent landowners' elections must be announced at a public meeting at least 90 days before the landowners meeting and noticed in the same manner as the initial landowners meeting. Subsequent elections to the Board occur on the first Tuesday after the first Monday of November every two years.

The bill provides for a transition of the Board from being elected by landowners to the qualified electors residing in the District on the following schedule:

Number of Qualified Electors	Number of Board Members Elected by Landowners	Number of Board Members Elected by Qualified Electors
0-1,299	5	0
1,300-2,499	4	1
2,500-3,699	3	2
3,700-4,899	2	3
4,900-6,099	1	4
6,100 or more	0	5

The transition to a Board seat elected by the qualified electors of the District does not require an election to occur prior to the expiration of the existing Board member's term.

On or before June 1 of each election year, the Board must determine the number of qualified electors in the District as of April 15 of that year. The Board must consult the records of the Sarasota County Supervisor of Elections, Property Appraiser, and Tax Collector when making this determination.

Members of the Board elected by qualified electors are selected at-large in non-partisan elections and must be qualified electors of the District. In addition, Board members must abide by the Florida Election Code.

The bill provides that the Governor may remove a Board member for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by the act. In the event of a vacancy, the remaining members of the Board may appointment someone to serve the remainder of the unexpired term, unless the vacancy was created by the Governor removing the Board member, in which case the Governor makes an appointment to fill the vacancy.

The Board is required to elect a chair and a secretary, as well as other officers the Board deems necessary. The secretary does not have to be a member of the Board.

The Board must keep a record of its proceedings containing all meeting, resolutions, bonds, and any corporate acts. The record book and other District records must be open to inspection by the public as required by ch. 119, F.S.

Board members may receive compensation up to the amount authorized for the supervisors of a CDD and are entitled to travel and per diem expenses as provided in s. 112.061, F.S.[53] In addition, Board members must meet ethics and conflict of interest provisions under general law for local public officials.[54]

The bill prohibits the District from levying ad valorem taxes until all members of the Board are elected by and are qualified electors of the District.[55]

General Duties of the Board (Section 6)

District Manager and Treasurer

The Board is required to employ a district manager to oversee any improvements or facilities constructed by the District. The bill specifies that employing a Board member, district manager, or other employee of a landowner as the district manager for the District does not constitute a conflict of interest under ch. 112, F.S. The district manager is permitted to hire additional employees as necessary and authorized by the Board.

The Board is also required to hire a treasurer, who must be a resident of the state. The treasurer manages the finances of the District and may be granted other powers as the Board finds appropriate. The Board sets the compensation of the treasurer and may require the treasurer to post a surety bond. The bill requires the financial records of the Board be audited by an independent certified public accountant in accordance with general law requirements.[56] The Board, in conjunction with the treasurer, must select a qualified public depository for the funds of the District.

Budget and Reporting

The district manager is required to prepare a proposed budget on or before July 15 of each year for consideration by the Board. The budget must contain all expenditures of the District and estimates of projected revenues. The Board may make amendments to the proposed budget before approval. The Board is required to provide adequate notice of the budget hearing. The Board must adopt a final budget before October 1, the beginning of its fiscal year, and the Board must submit a copy of its

[53] S. 190.006(8), F.S., provides that supervisors of a CDD may receive compensation of no greater than $200 per meeting and no more than $4,800 per year, unless a higher amount is approved by electors in a referendum.
[54] *See* Ch. 112, Part III, F.S. (code of ethics for public officers and employees).
[55] The Board must receive voter approval before levying ad valorem taxes. *See* art. VII, s. 9, Fla. Const. (special districts may levy ad valorem taxes at a "millage authorized by law approved by vote of the electors.")
[56] As an independent special district, the District must maintain a public website on which it must post its annual budget and any amendments, all required financial reports and audits of the District's finances, and a link to the Department of Financial Services' website. Ss 189.016 and 189.069, F.S. The District must file a separate annual financial statement with the Department of Financial Services, under s. 218.32, F.S., and periodic audited financial statements with the Florida Auditor General, under s. 218.39, F.S.

budget to the City Commission for the City of North Port for informational purposes at least 60 days prior to its adoption.

The Board must provide City of North Port with a copy of the District's public facilities report as required by s. 189.08, F.S.

The District must provide full disclosure of its public financing and maintenance of improvements to real property to all existing and prospective residents of the District. The District must provide each developer of a residential development within the District with sufficient copies of the information to provide to each prospective purchaser. The District must also file the disclosure documents in the property records of the county.

The bill provides that the District must maintain an official website by the end of its first full fiscal year, as required by s. 189.069, F.S.

General Powers

The bill grants the District the following general powers to:

- Conduct business on behalf of the District, including suing or being sued, adopting a seal, and acquiring and disposing of property;
- Apply for Florida Retirement System coverage for its employees;
- Contract for professional services;
- Conduct financial transactions for District purposes;
- Adopt and enforce rules;
- Maintain an office;
- Hold, control, purchase, or dispose of public easements;
- Lease as lessor or lessee any type of project the District is authorized to undertake;
- Borrow money and issue bonds as authorized in the act and to levy taxes and assessments;
- Charge user fees as necessary to conduct District activities;
- Exercise eminent domain;[57]
- Cooperate with other government entities;
- Assess and impose ad valorem taxes, as provided in the act;
- Levy and impose maintenance taxes, if authorized by general law;
- Levy and impose special assessments;
- Exercise special powers; and
- Exercise powers necessary and proper for fulfilling the special and limited purpose of the District as authorized by this act.

Special Powers

The bill also grants the District special powers to implement its lawful and special purpose and to provide the following systems and infrastructure for those special and limited purposes:

- Water management and control, including irrigation systems and facilities, for the lands within the District and to connect some or any of such facilities with roads and bridges;
- Water supply, sewer, wastewater, and reclaimed water management, reclamation, and reuse;
- Bridges, culverts, wildlife corridors, or road crossings that may be needed across any drain, ditch, canal, floodway, holding basin, or other body of water;
- District roads equal to or exceeding specifications of the county in which the roads are located, and street lighting;

[57] The Board may exercise eminent domain within the boundaries of the District without additional approval. The Board may only exercise eminent domain outside the boundaries of the District with approval from a general-purpose local government (the municipality, for lands in an incorporated area; the county, for lands in unincorporated areas).

- Buses, trolleys, rail access, mass transit facilities, transit shelters, ridesharing facilities and services, parking improvements, and related signage;
- Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the District;
- Observation, mitigation, wetland creation, and wildlife habitat areas;
- Parks and facilities for indoor and outdoor recreational, cultural, and educational uses;
- School buildings and related structures, which may be leased, sold, or donated to the school district;
- Security;[58]
- Control and elimination of mosquitoes and other arthropods of public health importance;
- Enter into impact fee, mobility fee, or other similar credit agreements with the City of North Port, other governmental bodies, or a landowner developer and to see or assign such credits on terms the District deems appropriate;
- Buildings and structures for District offices, maintenance facilities, meeting facilities, town centers, stadiums, or other authorized projects;
- Governmental departments of the Board, which must be established and created at noticed meetings;
- Sustainable or green infrastructure improvements, facilities, and services;[59]
- Any facilities or improvements that may otherwise be provided by a county or municipality, including, but not limited to, libraries, annexes, substations, and other buildings to house public officials, staff, and employees;
- Waste collection and disposal;
- Construction and operation of communications systems and related infrastructure;[60]
- Health care facilities, including the ability to enter public-private partnerships and agreements as necessary to accomplish this task;
- Coordinating, working with, or entering into interlocal agreements with any public or private entity for provision of an institution or institutions of higher education; and
- Any other project within or without the boundaries of the District when the project is subject to an agreement between the District and the City Commission of the city of North Port or with any other applicable public or private entity, and is not inconsistent with effective local comprehensive plans or the general or special powers contained in the bill.

The bill also grants the District the power to enter into interlocal agreements with any public or private entity for the provision of an institution or institutions of higher education and to enter public-private partnerships and agreement as may necessary to effectuate the purposes of the act.

Financing and Bonds

The Board has the power to issue bond anticipation notes that will bear interest not to exceed the maximum rate allowed by law and that will mature no later than five years from issuance. The Board may also obtain loans and issue negotiable notes, warrants, or other evidence of debt, payable at such times and bearing such interest as the Board determines, but not to exceed the maximum rate allowed by general law and to be sold or discounted at such price or prices not less than 95 percent of par value. Bonds may be sold in blocks or installment at different times, at public or private sale after advertisement, at not less than 90 percent of the par value, together with accrued interest. The Board also has the authority to issue refunding bonds, revenue bonds, and general obligation bonds.[61]

[58] The District may contract with the appropriate local general-purpose government agencies for an increased level of services within the District boundaries. The district may also contract with a towing operator to remove a vehicle or vessel from a district-owned facility or property as long as the District has followed the authorization, notice, and procedural requirements of s. 715.07, F.S.
[59] The bill provides that this provision does not authorize the District to provide electric services or otherwise impair electric utility franchise agreements.
[60] The bill provides that this provision does not authorize the District to provide communication services to retail customers or otherwise impair existing service provider franchise agreement.
[61] The charter specifies that a default on a bond or obligation of the District does not constitute a debt or obligation on behalf of the state or any general-purpose local government.

The bill authorizes the Board to levy ad valorem taxes on all taxable property in the District, but only after the Board is elected by and consists of qualified electors of the District and the levy has been approved at a referendum as required by Art. VII, s. 9 of the Florida Constitution. This levy may not exceed 3 mills.

The Board annually must determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance assessable improvements. These assessments are collected annually in the same manner as county taxes. The Board may determine a formula for the determination of an amount, which when paid by a taxpayer with respect to any tax parcel, constitutes a prepayment of all future annual installments of the benefit special assessment.

The Board is authorized to levy a non-ad valorem maintenance tax, if such tax is ever authorized by general law, to maintain and preserve physical facilities and services in the District and to defray current expenses. Upon the completion of the facilities and services, the District would be able to levy annually a non-ad valorem and non-millage tax upon each tract or parcel of land within the District, based on the net assessment of benefits accruing from the original construction of the improvements. This tax would be paid and enforceable in the same manner as county ad valorem taxes.

The Board may levy a maintenance special assessment to preserve the facilities and projects of the District. The amount of the assessment is determined by the Board upon a report of the District's engineer and assessed by the Board upon the land within the District benefited by the maintenance, or apportioned between the benefited lands in proportion to the benefits received by each tract of land. The assessment is a lien on the assessed property until paid and enforceable in the same manner as county taxes. However, this does not prohibit the District from using the method prescribed in ss. 197.363, 197.3631, or 197.3632, F.S., for enforcing and collecting these assessments.

The District may establish and collect rates, fees, rentals, or other charges, referred to as "revenues," for the system and facilities furnished by the District such as recreational facilities; water management and control facilities; and water, sewer, and reuse systems. The District must hold a public hearing concerning the proposed rates, fees, rentals, or other charges, which may not apply to District leases, prior to adoption under the administrative rulemaking authority of the District.

Any rates, fees, rentals, charges, or delinquent penalties not paid within 60 days, will be in default and the unpaid balance together with reasonable attorney fees and costs may be recovered by the District in a civil action. In the event fees, rentals, or other charges for water and sewer, or either of them, are not paid when due, the District may, under rules and regulations of the Board, discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and restoration of service are fully paid.

Enforcement of Taxes and Assessments

The collection and enforcement of all taxes levied by the District operates in the same manner as county taxes, and the provisions of general law relating to the sale of lands for unpaid and delinquent county taxes pertain to the collection of such taxes. Benefit special assessments, maintenance special assessments, and special assessments are non-ad valorem assessments as defined by s. 197.3632, F.S. Maintenance taxes are non-ad valorem taxes and not special assessments.

Any property of a governmental entity subject to a ground lease as described in s. 190.003(13), F.S., is not subject to lien or encumbrance on the underlying fee interest for a levy of ad valorem taxes or non-ad valorem assessments under this bill.

Competitive Bidding and Public Notice Regarding District Purchases

Any contract for goods, supplies, or materials that exceeds $195,000[62] is subject to competitive bidding through a notice of bids published once in a newspaper of general circulation in the City of North Port. In addition, if the Board seeks to construct or improve a public building, structure, or other public works, it must comply with the bidding procedures in s. 255.20, F.S., and any other applicable general law. The Board must accept the bid of the lowest responsive and responsible bidder unless all bids have been rejected. The provisions of the Consultants Competitive Negotiation Act[63] apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services.

Contracts for maintenance services that exceed $195,000[64] are subject to competitive bidding. Any contracts for other services are not subject to competitive bidding unless the District adopts a rule, policy, or procedure to apply competitive bidding procedures to those contracts. The Board may require bidders to supply a bond.

Waiver of Sovereign Immunity

Any suits against the District for damages arising out of tort are subject to the limitations provided in s. 768.28, F.S.

Termination, Contraction, or Expansion of the District

The bill requires the Board to obtain a resolution or official statement of support from the City of North Port before asking the Legislature to expand or contract the District. The bill states the District exists until dissolved by the Legislature or declared inactive by the Department of Commerce.[65]

Notice to Purchasers of Property

After creation of the District, each contract for initial sale of a residential unit within the District must include a disclosure statement informing the purchaser of the existence of the District and that the purchaser will be liable for taxes, assessments, and fees imposed by the District.

Public Access

Any facility, service, works, improvement, project, or other infrastructure owned by the District, or funded by federal tax-exempt bonding issued by the District, is public. The District may establish rules regulating the use of the property and imposing reasonable charges or fees for such use.

Merger with Community Development Districts

The bill provides that the District may merge with one or more CDDs situated wholly within its boundaries. Any CDD within the boundaries of the District may initiate the merger process by filing a written request for merger with the District and the City of North Port.

The District, with Board approval, may enter into a merger agreement with the CDD to provide for the allocation and retirement of debt, transition of the CDD board, and the transfer of all financial obligations and operating and maintenance responsibilities to the District. The bill provides that execution of the merger agreement between the District and the CDD constitutes consent by the landowners within each district.

The District and each CDD requesting merger are required to hold a public hearing within their respective boundaries to provide information and take public comment. The hearing must be held within 45 days after the execution of the merger agreement and must be noticed in a newspaper of

[62] *See* s. 287.017(1)(d), F.S. (creating purchasing categories for procurement of personal property and services).
[63] S. 287.055, F.S.
[64] *Id*.
[65] *See* s. 189.062, F.S.

general circulation in City of North Port at least 14 days before the hearing. At the conclusion of the hearing, the respective districts are required to adopt a resolution approving or disapproving the merger. If the merger is approved, the resolutions and merger agreement must be filed with City of North Port. Upon receipt of the resolutions and merger agreement, City of North Port must adopt an ordinance dissolving each CDD pursuant to s. 190.046(10), F.S.

Economic Impact

The Economic Impact Statement projects revenues and expenditures by the District of $150,000 and $172,500 in the first two fiscal years after creation.

B. SECTION DIRECTORY:

Section 1: Provides the bill may be cited as the “"Star Farms Village at North Port Stewardship District Act.”

Section 2: Provides legislative findings and intent, definitions.

Section 3: Provides for the creation and establishment of the District, jurisdiction, construction.

Section 4: Provides district boundaries.

Section 5: Provides for governing body for the district.

Section 6: Provides power and duties of the governing body of the district.

Section 7: Provides for severability of the act.

Section 8: Provides that the bill takes effect upon becoming a law, except that the provisions authorizing the levy of ad valorem taxation take effect only upon approval by a majority vote of qualified voters in a referendum held after such time when all members of the Board are qualified electors of the District.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? November 1, 2023

WHERE? The *Herald-Tribune*, a daily newspaper of general circulation in Sarasota County.

B. REFERENDUM(S) REQUIRED? Yes [x] No []

IF YES, WHEN? A referendum must be held when all members of the Board are qualified electors, elected by qualified electors, if the Board seeks to levy ad valorem taxes.

C. LOCAL BILL CERTIFICATION FILED? Yes [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill requires rules and orders adopted by the District pertaining to the powers, duties, and functions of the officers of the District; the conduct of the business of the District; the maintenance of records; the form of certificates evidencing tax liens and all other documents and records of the District; and the operation of guardhouses by the District or any other unit of local government to serve security purposes, be adopted and enforced pursuant to ch. 120, F.S., the Administrative Procedure Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exceptions to General Law

Sections 5(2) and 5(3) of the charter for the District created by Section 1 of the bill provide for the composition of the Board, including the process for transitioning from a Board elected on a one-acre/one-vote basis to an election by the qualified electors of the District. The transition process provided by the bill is in lieu of the process provided in s. 189.041, F.S.

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

Powers of Community Development Districts

Although the District is created pursuant to ch. 189, F.S., the bill proposes to give the District future powers that may be included in ch. 190, F.S., relating to CDDs, as follows:

> Any amendments to chapter 190, Florida Statutes, after January 1, 2023, granting additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter contained in ss. 190.006-190.041, Florida Statutes, which are not inconsistent with this act, shall constitute a general power, special power, authority, or function of the Three Rivers Stewardship District; provided, however, that the exercise of any such additional powers shall be subject to the requirement that the district execute or amend an interlocal agreement with Sarasota County consenting to the exercise of any such additional powers as provided in this act.

Therefore, if the Legislature amends ch. 190, F.S., to grant CDDs additional authority at any time in the future, the bill provides that such additional authority will be granted to the District without further Legislative review or enactment.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to the City of North Port, Sarasota County; creating the Star Farms Village at North Port Stewardship District; providing a short title; providing legislative findings and intent; providing definitions; stating legislative policy regarding creation of the district; establishing compliance with minimum requirements for creation of an independent special district; providing for creation and establishment of the district; establishing the legal boundaries of the district; providing for the jurisdiction and charter of the district; providing for a board of supervisors; providing for election, membership, terms, meetings, and duties of board members; providing a method for transition of the board from landowner control to control by the resident electors of the district; providing for a district manager and district personnel; providing for a district treasurer, selection of a public depository, and district budgets and financial reports; providing the general and special powers of the district; providing for bonds; providing for borrowing; providing for future ad valorem taxation; providing for special assessments; providing for issuance of certificates of indebtedness; providing

for tax liens; providing for competitive procurement; providing for fees and charges; providing for termination, contraction, expansion, or merger of the district; providing for required notices to purchasers of residential units within the district; specifying district public property; providing severability; providing for a referendum; providing an effective date.

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

Section 1. This act may be cited as the "Star Farms Village at North Port Stewardship District Act."

Section 2. Legislative findings and intent; definitions; policy.—

(1) LEGISLATIVE INTENT AND PURPOSE OF THE DISTRICT.—

(a) The extensive lands located wholly within the City of North Port and covered by this act contain many opportunities for thoughtful, comprehensive, responsible, and consistent development over a long period.

(b) There is a need to use a single special and limited purpose independent special district unit of local government for the Star Farms Village at North Port Stewardship District lands located within the City of North Port and covered by this act to provide for a more comprehensive community development

approach, which will facilitate an integral relationship between regional transportation, land use, and urban design to provide for a diverse mix of housing and regional employment and economic development opportunities, rather than fragmented development with underutilized infrastructure generally associated with urban sprawl.

(c) There is a considerably long period of time during which there is a significant burden on the initial landowners of the district lands to provide various systems, facilities, and services, such that there is a need for flexible management, sequencing, timing, and financing of the various systems, facilities, and services to be provided to these lands, taking into consideration absorption rates, commercial viability, and related factors.

(d) While chapter 190, Florida Statutes, provides an opportunity for previous community development services and facilities to be provided by the continued use of community development districts in a manner that furthers the public interest, given the size of the Star Farms Village at North Port Stewardship District lands and the duration of development, continuing to utilize multiple community development districts over these lands would result in an inefficient, duplicative, and needless proliferation of local special purpose governments, contrary to the public interest and the Legislature's findings in chapter 190, Florida Statutes. Instead, it is in the public

interest that the long-range provision for, and management, financing, and long-term maintenance, upkeep, and operation of, services and facilities to be provided for ultimate development and conservation of the lands covered by this act be under one coordinated entity. The creation of a single district will assist in integrating the management of state resources and allow for greater and more coordinated stewardship of natural resources.

(e) Longer involvement of the initial landowner with regard to the provision of systems, facilities, and services for the Star Farms Village at North Port Stewardship District lands, coupled with the special and limited purpose of the district, is in the public interest.

(f) The existence and use of such a special and limited purpose local government for the Star Farms Village at North Port Stewardship District lands, subject to the City of North Port comprehensive plan, will provide for a comprehensive and complete community development approach to promote a sustainable and efficient land use pattern for the Star Farms Village at North Port Stewardship District lands with long-term planning for conservation and development; provide opportunities for the mitigation of impacts and development of infrastructure in an orderly and timely manner; prevent the overburdening of the local general purpose government and the taxpayers; and provide an enhanced tax base and regional employment and economic

development opportunities.

(g) The creation and establishment of the special district will encourage local government financial self-sufficiency in providing public facilities and in identifying and implementing physically sound, innovative, and cost-effective techniques to provide and finance public facilities while encouraging development, use, and coordination of capital improvement plans by all levels of government, in accordance with the goals of chapter 187, Florida Statutes.

(h) The creation and establishment of the special district is a legitimate supplemental and alternative method available to manage, own, operate, construct, and finance capital infrastructure systems, facilities, and services.

(i) In order to be responsive to the critical timing required through the exercise of its special management functions, an independent special district requires financing of those functions, including bondable lienable and nonlienable revenue, with full and continuing public disclosure and accountability, funded by landowners, both present and future, and funded also by users of the systems, facilities, and services provided to the land area by the special district, without unduly burdening the taxpayers, citizens, and ratepayers of the state or the City of North Port.

(j) The special district created and established by this act shall not have or exercise any comprehensive planning,

zoning, or development permitting power; the establishment of the special district shall not be considered a development order within the meaning of chapter 380, Florida Statutes; and all applicable planning and permitting laws, rules, regulations, and policies of the City of North Port control the development of the land to be serviced by the special district.

(k) The creation by this act of the Star Farms Village at North Port Stewardship District is not inconsistent with the City of North Port comprehensive plan.

(l) It is the legislative intent and purpose that no debt or obligation of the special district constitute a burden on the City of North Port.

(2) DEFINITIONS.—As used in this act:

(a) "Ad valorem bonds" means bonds that are payable from the proceeds of ad valorem taxes levied on real and tangible personal property and that are generally referred to as general obligation bonds.

(b) "Assessable improvements" means, without limitation, any and all public improvements and community facilities that the district is empowered to provide in accordance with this act that provide a special benefit to property within the district.

(c) "Assessment bonds" means special obligations of the district which are payable solely from proceeds of the special assessments or benefit special assessments levied for assessable improvements, provided that, in lieu of issuing assessment bonds

to fund the costs of assessable improvements, the district may issue revenue bonds for such purposes payable from assessments.

(d) "Assessments" means those nonmillage district assessments which include special assessments, benefit special assessments, and maintenance special assessments and a nonmillage, non-ad valorem maintenance tax if authorized by general law.

(e) "Benefit special assessments" means district assessments imposed, levied, and collected pursuant to section 6(12)(b).

(f) "Board of supervisors" or "board" means the governing body of the district or, if such board has been abolished, the board, body, or commission assuming the principal functions thereof or to whom the powers given to the board by this act have been given by law.

(g) "Bond" includes "certificate," and the provisions that are applicable to bonds are equally applicable to certificates. The term also includes any general obligation bond, assessment bond, refunding bond, revenue bond, bond anticipation note, and other such obligation in the nature of a bond as is provided for in this act.

(h) "Cost" or "costs," when used in reference to any project, includes, but is not limited to:

1. The expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction.

2. The cost of surveys, estimates, plans, and specifications.

3. The cost of improvements.

4. Engineering, architectural, fiscal, and legal expenses and charges.

5. The cost of all labor, materials, machinery, and equipment.

6. The cost of all lands, properties, rights, easements, and franchises acquired.

7. Financing charges.

8. The creation of initial reserve and debt service funds.

9. Working capital.

10. Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.

11. The cost of issuance of bonds pursuant to this act, including advertisements and printing.

12. The cost of any bond or tax referendum held pursuant to this act and all other expenses of issuance of bonds.

13. The discount, if any, on the sale or exchange of bonds.

14. Administrative expenses.

15. Such other expenses as may be necessary or incidental

to the acquisition, construction, or reconstruction of any project, or to the financing thereof, or to the development of any lands within the district.

16. Payments, contributions, dedications, and any other exactions required as a condition of receiving any governmental approval or permit necessary to accomplish any district purpose.

17. Any other expense or payment permitted by this act or allowable by law.

(i) "District" means the Star Farms Village at North Port Stewardship District.

(j) "District manager" means the manager of the district.

(k) "District roads" means highways, streets, roads, alleys, intersection improvements, sidewalks, crossings, landscaping, irrigation, signage, signalization, storm drains, bridges, multiuse trails, lighting, and thoroughfares of all kinds.

(l) "General obligation bonds" means bonds which are secured by, or provide for their payment by, the pledge of the full faith and credit and taxing power of the district.

(m) "General-purpose local government" means a city, municipality, or consolidated city-county government.

(n) "Governing board member" means any member of the board of supervisors.

(o) "Land development regulations" means those regulations of the general-purpose local government, adopted under the

Community Planning Act, codified as part II of chapter 163, Florida Statutes, to which the district is subject and as to which the district may not do anything that is inconsistent therewith. The term "land development regulations" does not include specific management, engineering, operations, or capital improvement planning needed in the daily management, implementation, and supplying by the district of systems, facilities, services, works, improvements, projects, or infrastructure, so long as they remain subject to and are not inconsistent with the applicable city codes.

(p) "Landowner" means the owner of a freehold estate as it appears on the deed record, including a trustee, a private corporation, and an owner of a condominium unit. The term "landowner" does not include a reversioner, remainderman, mortgagee, or any governmental entity which shall not be counted and need not be notified of proceedings under this act. The term "landowner" also means the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.

(q) "Maintenance special assessments" means assessments imposed, levied, and collected pursuant to section 6(12)(d).

(r) "Non-ad valorem assessment" means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Article X of the State Constitution.

(s) "Powers" means powers used and exercised by the board of supervisors to accomplish the special and limited purpose of the district, including:

1. "General powers," which means those organizational and administrative powers of the district as provided in its charter in order to carry out its special and limited purposes as a local government public corporate body politic.

2. "Special powers," which means those powers enumerated by the district charter to implement its specialized systems, facilities, services, projects, improvements, and infrastructure and related functions in order to carry out its special and limited purposes.

3. Any other powers, authority, or functions set forth in this act.

(t) "Project" means any development, improvement, property, power, utility, facility, enterprise, service, system, works, or infrastructure now existing or hereafter undertaken or established under this act.

(u) "Qualified elector" means any person at least 18 years of age who is a citizen of the United States and a legal resident of the state and of the district, who registers to vote with the Supervisor of Elections of Sarasota County, and who resides in the City of North Port.

(v) "Reclaimed water" means water, including from wells or stormwater management facilities, that has received at least

secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility, or otherwise as an approved use of surface water or groundwater by the water management district.

(w) "Reclaimed water system" means any plant, well, system, facility, or property, and any addition, extension, or improvement thereto at any future time constructed or acquired as part thereof, useful, necessary, or having the present capacity for future use in connection with the development of sources, treatment, purification, or distribution of reclaimed water. The term includes franchises of any nature relating to any such system and necessary or convenient for the operation thereof including for the district's own use or resale.

(x) "Refunding bonds" means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds may be issuable and payable in the same manner as refinanced bonds, except that no approval by the electorate shall be required unless required by the State Constitution.

(y) "Revenue bonds" means obligations of the district that are payable from revenues, including, but not limited to, special assessments and benefit special assessments, derived from sources other than ad valorem taxes on real or tangible personal property and that do not pledge the property, credit, or general tax revenue of the district.

(z) "Sewer system" means any plant, system, facility, or property, and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the collection, treatment, purification, or disposal of sewage, including, but not limited to, industrial wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource. The term also includes treatment plants, pumping stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and other devices for the reception and collection of sewage from premises connected therewith; all real and personal property and any interest therein; and rights, easements, and franchises of any nature relating to any such system and necessary or convenient for operation thereof.

(aa) "Special assessments" means assessments as imposed, levied, and collected by the district for the costs of assessable improvements pursuant to this act; chapter 170, Florida Statutes; and the additional authority under s. 197.3631, Florida Statutes, or other provisions of general law, now or hereinafter enacted, which provide or authorize a supplemental means to impose, levy, or collect special assessments.

(bb) "Star Farms Village at North Port Stewardship District" means the unit of special and limited purpose local government and political subdivision created and chartered by this act, and limited to the performance of those general and special powers authorized by its charter under this act, the boundaries of which are set forth by the act, the governing board of which is created and authorized to operate with legal existence by this act, and the purpose of which is as set forth in this act.

(cc) "Tax" or "taxes" means those levies and impositions of the board of supervisors that support and pay for government and the administration of law and that may be:

1. Ad valorem or property taxes based upon both the appraised value of property and millage, at a rate uniform within the jurisdiction; or

2. If and when authorized by general law, non-ad valorem maintenance taxes not based on millage that are used to maintain district systems, facilities, and services.

(dd) "Water system" means any plant, system, facility, or property, and any addition, extension, or improvement thereto at any future time constructed or acquired as a part thereof, useful, necessary, or having the present capacity for future use in connection with the development of sources, treatment, purification, or distribution of water. The term also includes dams, reservoirs, storage tanks, mains, lines, valves, pumping

stations, laterals, and pipes for the purpose of carrying water to the premises connected with such system, and all rights, easements, and franchises of any nature relating to any such system and necessary or convenient for the operation thereof.

(3) POLICY.—Based upon its findings, ascertainments, determinations, intent, purpose, and definitions, the Legislature states its policy expressly:

(a) The district and the district charter, with its general and special powers, as created in this act, are essential and the best alternative for the residential, commercial, industrial, office, hotel, health care, and other similar community uses, projects, or functions in the included portion of the City of North Port consistent with the effective comprehensive plan, and designed to serve a lawful public purpose.

(b) The district, which is a local government and a political subdivision, is limited to its special purpose as expressed in this act, with the power to provide, plan, implement, construct, maintain, and finance as a local government management entity systems, facilities, services, improvements, infrastructure, and projects, and possessing financing powers to fund its management power over the long term and with sustained levels of high quality.

(c) The creation of the Star Farms Village at North Port Stewardship District by and pursuant to this act, and its

exercise of its management and related financing powers to implement its limited, single, and special purpose, is not a development order and does not trigger or invoke any provision within the meaning of chapter 380, Florida Statutes, and all applicable governmental planning, environmental, and land development laws, regulations, rules, policies, and ordinances apply to all development of the land within the jurisdiction of the district as created by this act.

(d) The district shall operate and function subject to, and not inconsistent with, the applicable comprehensive plan of the City of North Port and any applicable development orders (e.g., detailed site plan development orders), zoning regulations, and other land development regulations.

(e) The special and single purpose Star Farms Village at North Port Stewardship District shall not have the power of a general-purpose local government to adopt a comprehensive plan or related land development regulation as those terms are defined in the Community Planning Act.

(f) This act may be amended, in whole or in part, only by special act of the Legislature. The board of supervisors of the district shall not ask the Legislature to amend this act without first obtaining a resolution or official statement from the district and the City of North Port as may be required by s. 189.031(2)(e)4., Florida Statutes, for creation of an independent special district.

Section 3. Minimum charter requirements; creation and establishment; jurisdiction; construction; charter.—

(1) Pursuant to s. 189.031(3), Florida Statutes, the Legislature sets forth that the minimum requirements in paragraphs (a) through (n) have been met in the identified provisions of this act as follows:

(a) The purpose of the district is stated in the act in section 2 and subsection (4) of this section.

(b) The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements are set forth in section 6.

(c) The provisions for methods for establishing the district are set forth in this section.

(d) The methods for amending the charter of the district are set forth in section 2.

(e) The provisions for the membership and organization of the governing body and the establishment of a quorum are set forth in section 5.

(f) The provisions regarding the administrative duties of the governing body are set forth in sections 5 and 6.

(g) The provisions applicable to financial disclosure, noticing, and reporting requirements generally are set forth in

sections 5 and 6.

(h) The provisions regarding procedures and requirements for issuing bonds are set forth in section 6.

(i) The provisions regarding elections or referenda and the qualifications of an elector of the district are set forth in sections 2 and 5.

(j) The provisions regarding methods for financing the district generally are set forth in section 6.

(k) Other than taxes levied for the payment of bonds and taxes levied for periods not longer than 2 years when authorized by vote of the electors of the district, the provisions for the authority to levy ad valorem tax and the authorized millage rate are set forth in section 6.

(l) The provisions for the method or methods of collecting non-ad valorem assessments, fees, or service charges are set forth in section 6.

(m) The provisions for planning requirements are set forth in this section and section 6.

(n) The provisions for geographic boundary limitations of the district are set forth in sections 4 and 6.

(2) The Star Farms Village at North Port Stewardship District is created and incorporated as a public body corporate and politic, an independent special and limited purpose local government, an independent special district, under s. 189.031, Florida Statutes, as amended from time to time, and as defined

in this act and in s. 189.012(3), Florida Statutes, as amended from time to time, in and for portions of the City of North Port. Any amendments to chapter 190, Florida Statutes, after January 1, 2024, granting additional general powers, special powers, authorities, or projects to a community development district by amendment to its uniform charter, ss. 190.006-190.041, Florida Statutes, which are not inconsistent with this act, shall constitute a general power, special power, authority, or function of the Star Farms Village at North Port Stewardship District. All notices for the enactment by the Legislature of this special act have been provided pursuant to the State Constitution, the Laws of Florida, and the Rules of the Florida House of Representatives and of the Florida Senate. No referendum subsequent to the effective date of this act is required as a condition of establishing the district. Therefore, the district, as created by this act, is established on the property described in this act.

(3) The territorial boundary of the district shall embrace and include all of that certain real property described in section 4.

(4) The jurisdiction of the district, in the exercise of its general and special powers, and in the carrying out of its special and limited purposes, is both within the external boundaries of the legal description of this district and extraterritorially when limited to, and as authorized expressly

elsewhere in, the charter of the district as created in this act or applicable general law. This special and limited purpose district is created as a public body corporate and politic, and local government authority and power is limited by its charter, this act, and subject to other general laws, including chapter 189, Florida Statutes, except that an inconsistent provision in this act shall control and the district has jurisdiction to perform such acts and exercise such authorities, functions, and powers as shall be necessary, convenient, incidental, proper, or reasonable for the implementation of its special and limited purpose regarding the sound planning, provision, acquisition, development, operation, maintenance, and related financing of those public systems, facilities, services, improvements, projects, and infrastructure works as authorized herein, including those necessary and incidental thereto. The district shall only exercise any of its powers extraterritorially within the City of North Port after execution of an interlocal agreement between the district and the City of North Port consenting to the district's exercise of any of such powers within the City of North Port or an applicable development order or as part of other land development regulations issued by the City of North Port.

(5) The exclusive charter of the Star Farms Village at North Port Stewardship District is this act and, except as otherwise provided in subsection (2), may be amended only by

special act of the Legislature.

Section 4. Legal description of the Star Farms Village at North Port Stewardship District.—The metes and bounds legal description of the district, within which there are no parcels of property owned by those who do not wish their property to be included within the district, is as follows:

TRACT 1 (FROM O.R.I. 2002036237)

A PORTION OF THE NORTH HALF OF SECTION 5, TOWNSHIP 39 SOUTH, RANGE 22 EAST, SARASOTA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE N.89°37'34"W., ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 2652.93 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 5; THENCE N.89°37'34"W., ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 2652.93 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF SECTION 5; THENCE N.00°44'41"E., ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 1761.54 FEET TO A POINT ON THE CENTER LINE OF A 100 FOOT WIDE, NON-EXCLUSIVE INGRESS, EGRESS AND UTILITY EASEMENT RUNNING THROUGH SECTIONS

4, 5 AND 6 AS DESCRIBED IN O.R.I. 2001131259, PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA, AND TO A POINT ON A CURVE TO THE RIGHT, HAVING A RADIUS OF 2000.00 FEET, A CENTRAL ANGLE OF 00°51'35", A CHORD BEARING OF S.80°38'17"E., AND A CHORD LENGTH OF 30.01 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 30.01 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.80°12'29"E., CONTINUING ALONG SAID CENTER LINE, A DISTANCE OF 2116.26 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 1000.00 FEET, A CENTRAL ANGLE OF 25°59'19", A CHORD BEARING OF N.86°47'52"E. AND A CHORD LENGTH OF 449.71 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 453.59 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N.73°48'12"E., ALONG SAID CENTER LINE, A DISTANCE OF 348.80 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 1000.00 FEET, A CENTRAL ANGLE OF 71°05'17", A CHORD BEARING OF S.70°39'09"E., AND A CHORD LENGTH OF 1162.66 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 1240.72 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE. S.35°06'31"E., ALONG SAID CENTER LINE, A DISTANCE OF 852.30 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 900.00 FEET, A CENTRAL ANGLE OF 54°12'00", A CHORD BEARING OF

S.62°12'31"E. AND A CHORD LENGTH OF 819.98 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 851.37 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE S.89°18'31"E., ALONG SAID CENTER LINE, A DISTANCE OF 72.56 FEET TO A POINT ON THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 5; THENCE S.00°50'30"W., ALONG SAID EAST LINE, A DISTANCE OF 88.02 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE INGRESS/EGRESS AND UTILITY EASEMENT GRANTED IN O.R. INSTRUMENT NO. 2002036237 OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA

TRACT 2

A PORTION OF SECTIONS 4, 5, 6, 8, 9, 15 AND 16, TOWNSHIP 39 SOUTH, RANGE 22 EAST, SARASOTA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 6, TOWNSHIP 39 SOUTH, RANGE 22 EAST, ALSO BEING THE NORTHEAST CORNER OF THE SECOND ADDITION TO NORTH PORT CHARLOTTE ESTATES, PER PLAT THEREOF RECORDED IN PLAT BOOK 19, PAGES 44 AND 44A THROUGH 44-0, PUBLIC RECORDS OF SAID SARASOTA COUNTY, FLORIDA; THENCE S.00°30'07"W.

(GRID BEARING, FLORIDA TRANSVERSE MERCATOR, WEST ZONE), ALONG THE WEST LINE OF SAID SECTION 6, A DISTANCE OF 2548.44 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF SAID SECTION 6; THENCE S.00°30'07"W., CONTINUING ALONG SAID WEST LINE OF SECTION 6, A DISTANCE OF 100.02 FEET TO THE POINT OF BEGINNING; THENCE S.88°26'46"E., PARALLEL WITH AND 100.00 FEET SOUTH OF THE SOUTH LINE OF THE NORTH HALF OF SAID SECTION 6, A DISTANCE OF 5299.57 FEET TO A POINT ON THE WEST LINE OF SECTION 5, BEARING S.00°44'41"W., A DISTANCE OF 100.01 FEET FROM THE SOUTHWEST CORNER OF THE NORTH HALF OF SAID SECTION 5; THENCE S.89°37'34"E., PARALLEL WITH AND 100.00 FEET SOUTH OF THE SOUTH LINE OF THE NORTH HALF OF SAID SECTION 5, A DISTANCE OF 5305.69 FEET TO A POINT ON THE WEST LINE OF SECTION 4, BEARING S.00°50'30"W., A DISTANCE OF 100.01 FEET FROM THE SOUTHWEST CORNER OF THE NORTH HALF OF SAID SECTION 4; THENCE S.89°49'42"E., PARALLEL WITH AND 100.00 FEET SOUTH OF THE SOUTH LINE OF THE NORTH HALF OF SAID SECTION 4, A DISTANCE OF 4877.78 FEET; THENCE S.16°26'43"E., A DISTANCE OF 960.52 FEET; THENCE S.00°47'59"W., PARALLEL WITH AND 150.00 FEET WEST OF THE EAST LINE OF SAID SECTION 4, A DISTANCE OF 513.02 FEET; THENCE S.18°20'50"W., A DISTANCE OF 1189.95 FEET TO A POINT

ON THE NORTH LINE OF SECTION 9, BEARING N.89°56'00"W., A DISTANCE OF 508.81 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 9; THENCE N.89°56'00"W., ALONG THE NORTH LINE OF SAID SECTION 9, A DISTANCE OF 2148.47 FEET TO THE NORTHWEST CORNER OF THE EAST HALF OF SAID SECTION 9; THENCE S.01°01'52"W., ALONG THE WEST LINE OF THE EAST HALF OF SAID SECTION 9, A DISTANCE OF 5312.87 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF SAID SECTION 9; THENCE S.89°47'00"E., ALONG THE SOUTH LINE OF SECTION 9, ALSO THE NORTH LINE OF SECTION 16, A DISTANCE OF 2662.92 FEET TO THE NORTHWEST CORNER OF SECTION 15; THENCE S.89°40'03"E., ALONG THE NORTH LINE OF SAID SECTION 15, A DISTANCE OF 536.06 FEET TO A POINT IN THE ALDERMAN SLOUGH; THENCE FOLLOWING SAID ALDERMAN SLOUGH IN A SOUTHERLY DIRECTION, THE FOLLOWING COURSES THROUGH SECTION 15: THENCE S.12°02'12"E., A DISTANCE OF 127.44 FEET; THENCE S.09°19'36"E., A DISTANCE OF 688.88 FEET;. THENCE S.04°17'39"E., A DISTANCE OF 145.23 FEET; THENCE S.11°04'54"E., A DISTANCE OF 278.80 FEET; THENCE S.18°24'37"W., A DISTANCE OF 118.03 FEET; THENCE S.27°30'33"W., A DISTANCE OF 170.26 FEET; THENCE S.05°11'15"E., A DISTANCE OF 86.33 FEET; THENCE S.07°05'59"W., A DISTANCE OF 206.26 FEET; THENCE S.03°47'11"E., A DISTANCE OF 108.15 FEET; THENCE

S.15°38'29"W., A DISTANCE OF 229.08 FEET; THENCE S.11°11'29"W., A DISTANCE OF 651.33 FEET; THENCE S.04°17'53"W., A DISTANCE OF 74.25 FEET; THENCE S.16°13'07"W., A DISTANCE OF 79.94 FEET; THENCE S.06°56'07"W., A DISTANCE OF 292.06 FEET; THENCE S.19°33'24"W., A DISTANCE OF 62.42 FEET; THENCE S.51°48'15"W., A DISTANCE OF 177.50 FEET; THENCE S.35°17'02"W., A DISTANCE OF 182.82 FEET; THENCE S.51°44'00"W., A DISTANCE OF 129.18 FEET TO A POINT ON THE EAST LINE OF SECTION 16, BEARING N.00°16'13"E., A DISTANCE OF 1734.15 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 16; THENCE S.51°44'00'W., THROUGH SECTION 16, A DISTANCE OF 18.84 FEET; THENCE S.35°17'35"W., A DISTANCE OF 203.28·FEET TO A POINT ON THE NORTHERLY LIMITED ACCESS RIGHT-OF-WAY LINE FOR INTERSTATE HIGHWAY #75; THENCE N.44°57'25"W., ALONG SAID RIGHT-OF- WAY LINE, A DISTANCE OF 7168.47 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, HAVING A RADIUS OF 5846.49 FEET, A CENTRAL ANGLE OF 44°14'48", A CHORD BEARING OF N.67°04'49'W., AND A CHORD LENGTH OF 4403.59 FEET; THENCE ALONG THE ARC OF SAID CURVE, AN ARC LENGTH OF 4514.95 FEET TO THE POINT OF TANGENCY OF SAID CURVE; THENCE N.89°12'13"W., ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 1309.66 FEET TO A POINT ON THE WEST LINE OF SECTION 8; THENCE N.01°04'23"E., ALONG

THE WEST LINE OF SAID SECTION 8, A DISTANCE OF 2325.50 FEET TO THE SOUTHEAST CORNER OF SECTION 6; THENCE N.87°10'58"W., ALONG THE SOUTH LINE OF SAID SECTION 6, ALSO THE NORTH LINE OF SECTION 7, A DISTANCE OF 5292.12 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 6; THENCE N.00°30'07"E., ALONG THE WEST LINE OF SECTION 6, A DISTANCE OF 2448.42 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT:

A PORTION OF THE SOUTH HALF OF SECTION 6, TOWNSHIP 39 SOUTH, RANGE 22 EAST, SARASOTA COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 6, N.= 1007797.74, E.= 605625.27, FLORIDA STATE PLANE COORDINATE SYSTEM, WEST ZONE; THENCE N.00°30'07"E., 'GRID BEARING' ALONG THE WEST LINE OF SAID SECTION 6, A DISTANCE OF 56.50 FEET; THENCE N.42°23'13"E., A DISTANCE OF 2975.77 FEET; THENCE S.88°26'46"E., A DISTANCE OF 2676.20 FEET TO A POINT ON THE NORTHEASTERLY LINE OF THAT CERTAIN 50 FOOT WIDE WATER PIPE LINE EASEMENT AS DESCRIBED IN O.R.I. # 1999158305, PUBLIC RECORDS OF SAID SARASOTA COUNTY,

FLORIDA; THENCE S.44°53'43"E., ALONG SAID NORTHEASTERLY LINE, A DISTANCE OF 889.05 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 6; THENCE S.00°44'41"W., ALONG SAID EAST LINE, A DISTANCE OF 1812.32 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 6; THENCE N.87°10'58"W., ALONG THE SOUTH LINE OF SAID SECTION 6, A DISTANCE OF 5292.12 FEET TO THE POINT OF BEGINNING.

AND LESS THE PORTION THEREOF CONVEYED IN O.R. INSTRUMENT NO. 2002056489, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA

TOGETHER WITH AN EASEMENT FOR INGRESS/EGRESS & UTILITIES OVER, ACROSS AND THROUGH SAID LANDS DESCRIBED IN O.R. INSTRUMENT NO. 2002056489

TRACT 3 (FROM O.R.I. 2000076817)

A PORTION OF SECTIONS 3, 4, 5, 6, 9 AND 10, TOWNSHIP 39 SOUTH, RANGE 22 EAST, SARASOTA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 6, TOWNSHIP 39 SOUTH, RANGE 22 EAST, ALSO BEING THE

NORTHEAST CORNER OF THE SECOND ADDITION TO NORTH PORT CHARLOTTE ESTATES, PER PLAT THEREOF RECORDED IN PLAT BOOK 19, PAGES 44 AND 44A THROUGH 44-0, PUBLIC RECORDS OF SAID SARASOTA COUNTY, FLORIDA; THENCE S.00°30'07"W. (GRID BEARING, FLORIDA TRANSVERSE MERCATOR, WEST ZONE), ALONG THE WEST LINE OF SAID SECTION 6, A DISTANCE OF 2548.44 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF SAID SECTION 6 AND THE POINT OF BEGINNING; THENCE S.88°26'46'E., ALONG THE SOUTH LINE OF SAID NORTH HALF A DISTANCE OF 5299.99 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF SECTION 5; THENCE S.89°37'34"E., ALONG THE SOUTH LINE OF SAID NORTH HALF, A DISTANCE OF 5305.86 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF SECTION 4; THENCE S.89°49'42"E., ALONG THE SOUTH LINE OF SAID NORTH HALF, A DISTANCE OF 5280.31 FEET TO A POINT IN THE ALDERMAN SLOUGH BEARING N.89°49'42"W., A DISTANCE OF 32.18 FEET FROM THE SOUTHEAST CORNER OF THE NORTH HALF OF SAID SECTION 4; THENCE FOLLOWING SAID ALDERMAN SLOUGH IN A SOUTHERLY DIRECTION, THE FOLLOWING COURSES: S.19°46'12"W., A DISTANCE OF 384.63 FEET; THENCE S.06°17'38"E., A DISTANCE OF 74.84 FEET; THENCE S.16°26'43"E., A DISTANCE OF 499.12 FEET TO A POINT ON THE WEST LINE OF SECTION 3, BEARING N.00°47'59"E., A DISTANCE OF 1748.16 FEET FROM THE SOUTHWEST CORNER OF

SAID SECTION 3; THENCE S.16°26'43"E., THROUGH SECTION 3, A DISTANCE OF 211.62 FEET; THENCE S.03°07'54"W., A DISTANCE OF 225.97 FEET; THENCE S.07°53'10"W., A DISTANCE OF 216.17 FEET; THENCE S.18°35'25"W., A DISTANCE OF 87.96 FEET TO A POINT ON THE EAST LINE OF SECTION 4, BEARING N.00°47'59"E., A DISTANCE OF 1022.00 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 4; THENCE S.18°20'50"W., A DISTANCE OF 1076.23 FEET TO A POINT ON THE NORTH LINE OF SECTION 9, BEARING N.89°56'00"W., A DISTANCE OF 324.51 FEET FROM THE NORTHEAST CORNER OF SAID SECTION 9; THENCE S.18°25'53"W., THROUGH SECTION 9, A DISTANCE OF 85.39 FEET; THENCE S.27°12'16"E., A DISTANCE OF 517.18 FEET; THENCE S.57°39'41"E., A DISTANCE OF 124.04 FEET TO A POINT ON THE WEST LINE OF SECTION 10, BEARING S.00°58'09"W., A DISTANCE OF 607.04 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 10; THENCE S.57°39'41"E., THROUGH SECTION 10, A DISTANCE OF 63.21 FEET; THENCE S.10°12'48"E., A DISTANCE OF 555.38 FEET; THENCE S.07°21'16"E., A DISTANCE OF 672.34 FEET; THENCE S.10°44'03"E., A DISTANCE OF 651.24 FEET; THENCE S.10°36'13"W., A DISTANCE OF 530.75 FEET; THENCE S.01°14'47"W., A DISTANCE OF 820.24 FEET; THENCE S.03°22'21"E., A DISTANCE OF 253.99 FEET; THENCE S.08°05'01"E., A DISTANCE OF 925.01 FEET;

THENCE S.12°02'12"E., A DISTANCE OF 324.13 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 10; THENCE N.89°40'03"W., ALONG THE SOUTH LINE OF SAID SECTION 10 AND LEAVING SAID ALDERMAN SLOUGH, A DISTANCE OF 536.06 FEET TO THE SOUTHEAST CORNER OF SECTION 9; THENCE N.89°47'00"W., ALONG THE SOUTH LINE OF SAID SECTION 9, A DISTANCE OF 2662.92 FEET TO THE SOUTHWEST CORNER OF THE EAST HALF OF SAID SECTION 9; THENCE N.01°01'52"E., ALONG THE WEST LINE OF SAID EAST HALF, A DISTANCE OF 5312.87 FEET TO THE NORTHWEST CORNER OF THE EAST HALF OF SAID SECTION 9; THENCE S89°56'00"E., ALONG THE NORTH LINE OF SECTION 9, ALSO THE SOUTH LINE OF SECTION 4, A DISTANCE OF 2148.47 FEET TO A POINT BEARING N.89°56'00"W., A DISTANCE OF 508.81 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 4; THENCE N.18°20'50"E., THROUGH SECTION 4, A DISTANCE OF 1189.95 FEET; THENCE N.00°47'59"E., PARALLEL WITH AND 150.00 FEET WEST OF THE EAST LINE OF SAID SECTION 4, A DISTANCE OF 513.02 FEET; THENCE N.16°26'43"W., A DISTANCE OF 960.52 FEET; THENCE N.89°49'42"W., PARALLEL WITH AND 100.00 FEET SOUTH OF THE SOUTH LINE OF THE NORTH HALF OF SAID SECTION 4, A DISTANCE OF 4877.78 FEET TO A POINT ON THE EAST LINE OF SECTION 5; THENCE N.89°37'34"W., PARALLEL WITH AND 100.00 FEET SOUTH OF THE SOUTH LINE OF THE NORTH HALF OF SAID

SECTION 5, A DISTANCE OF 5305.69 FEET TO A POINT ON THE EAST LINE OF SECTION 6; THENCE N.88°26'46"W., PARALLEL WITH AND 100.00 FEET SOUTH OF THE SOUTH LINE OF THE NORTH HALF OF SAID SECTION 6, A DISTANCE OF 5299.57 FEET TO THE WEST LINE OF SAID SECTION 6; THENCE N.00°30'07"E., ALONG SAID WEST LINE, A DISTANCE OF 100.02 FEET TO THE SOUTHWEST CORNER OF THE NORTH HALF OF SAID SECTION 6 AND THE POINT OF BEGINNING.

AND LESS THE PORTION THEREOF CONVEYED IN O.R. INSTRUMENT NO. 2002056489, OF THE PUBLIC RECORDS OF SARASOTA COUNTY, FLORIDA.

TOGETHER WITH AN EASEMENT FOR INGRESS/EGRESS & UTILITIES OVER, ACROSS AND THROUGH SAID LANDS DESCRIBED IN O.R. INSTRUMENT NO. 2002056489.

CONTAINING A TOTAL AREA OF 2,086 ACRES, MORE OR LESS.

Being subject to any rights-of-way, restrictions and easements of record.

Section 5. Board of supervisors; members and meetings; organization; powers; duties; terms of office; related election requirements.—

(1) The board of the district shall exercise the powers granted to the district pursuant to this act. The board shall consist of five members, each of whom shall hold office for a term of 4 years, as provided in this section, except as otherwise provided herein for initial board members, and until a successor is chosen and qualified. The members of the board must be residents of the state and citizens of the United States.

(2)(a) Within 90 days after the effective date of this act, there shall be held a meeting of the landowners of the district for the purpose of electing five supervisors for the district. Notice of the landowners' meeting shall be published once a week for 2 consecutive weeks in a newspaper that is in general circulation in the area of the district, the last day of such publication to be not less than 14 days or more than 28 days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a chair, who shall conduct the meeting. The chair may be any person present at the meeting. If the chair is a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions. The landowners present at the meeting, in person or by proxy, shall constitute a quorum. At any landowners' meeting, 50 percent of the district acreage shall not be required to constitute a quorum, and each governing board member elected by landowners shall be elected by a majority of the acreage represented either by owner or proxy present and

voting at said meeting.

(b) At such meeting, each landowner shall be entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. Each proxy must be signed by one of the legal owners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized. A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote with respect thereto. The three candidates receiving the highest number of votes shall each be elected for terms expiring November 28, 2028, and the two candidates receiving the next highest number of votes shall each be elected for terms expiring November 24, 2026, with the term of office for each successful candidate commencing upon election. The members of the first board elected by landowners shall serve their respective terms; however, the next election of board members shall be held on the first Tuesday after the first Monday in November 2026. Thereafter, there shall be an election by landowners for the district every 2 years on the first Tuesday after the first

Monday in November, which shall be noticed pursuant to paragraph (a). The second and subsequent landowners' election shall be announced at a public meeting of the board at least 90 days before the date of the landowners' meeting and shall also be noticed pursuant to paragraph (a). Instructions on how all landowners may participate in the election, along with sample proxies, shall be provided during the board meeting that announces the landowners' meeting. Each supervisor elected in or after November 2026 shall serve a 4-year term.

(3)(a)1. The board may not exercise the ad valorem taxing power authorized by this act until such time as all members of the board are qualified electors who are elected by qualified electors of the district.

2.a. Regardless of whether the district has proposed to levy ad valorem taxes, board members shall begin being elected by qualified electors of the district as the district becomes populated with qualified electors. The transition shall occur such that the composition of the board, after the first general election following a trigger of the qualified elector population thresholds set forth below, shall be as follows:

(I) Once 1,300 qualified electors reside within the district, one governing board member shall be a person who is a qualified elector of the district and who was elected by the qualified electors, and four governing board members shall be persons who were elected by the landowners.

(II) Once 2,500 qualified electors reside within the district, two governing board members shall be persons who are qualified electors of the district and who were elected by the qualified electors, and three governing board members shall be persons who were elected by the landowners.

(III) Once 3,700 qualified electors reside within the district, three governing board members shall be persons who are qualified electors of the district and who were elected by the qualified electors, and two governing board members shall be persons who were elected by the landowners.

(IV) Once 4,900 qualified electors reside within the district, four governing board members shall be persons who are qualified electors of the district and who were elected by the qualified electors, and one governing board member shall be a person who was elected by the landowners.

(V) Once 6,100 qualified electors reside within the district, all five governing board members shall be persons who are qualified electors of the district and who were elected by the qualified electors.

Nothing in this sub-subparagraph is intended to require an election prior to the expiration of an existing board member's term.

b. On or before June 1 of each election year, the board shall determine the number of qualified electors in the district

as of the immediately preceding April 15. The board shall use and rely upon the official records maintained by the supervisor of elections and property appraiser or tax collector in Sarasota County in making this determination. Such determination shall be made at a properly noticed meeting of the board and shall become a part of the official minutes of the district.

c. All governing board members elected by qualified electors shall be elected at large at an election occurring as provided in subsection (2) and this subsection.

d. All governing board members elected by qualified electors shall reside in the district.

e. Once the district qualifies to have any of its board members elected by the qualified electors of the district, the initial and all subsequent elections by the qualified electors of the district shall be held at the general election in November. The board shall adopt a resolution, if necessary, to implement this requirement. The transition process described herein is intended to be in lieu of the process set forth in s. 189.041, Florida Statutes.

(b) Elections of board members by qualified electors held pursuant to this subsection shall be nonpartisan and shall be conducted in the manner prescribed by law for holding general elections. Board members shall assume the office on the second Tuesday following their election.

(c) Candidates seeking election to office by qualified

electors under this subsection shall conduct their campaigns in accordance with chapter 106, Florida Statutes, and shall file qualifying papers and qualify for individual seats in accordance with s. 99.061, Florida Statutes.

(d) The supervisor of elections shall appoint the inspectors and clerks of elections, prepare and furnish the ballots, designate polling places, and canvass the returns of the election of board members by qualified electors. The county canvassing board shall declare and certify the results of the election.

(4) Members of the board, regardless of how elected, shall be public officers, shall be known as supervisors, and, upon entering into office, shall take and subscribe to the oath of office as prescribed by s. 876.05, Florida Statutes. Members of the board shall be subject to ethics and conflict of interest laws of the state that apply to all local public officers. They shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. If, during the term of office, a vacancy occurs, the remaining members of the board shall fill each vacancy by an appointment for the remainder of the unexpired term.

(5) Any elected member of the board of supervisors may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by this act, and any vacancies that may

occur in such office for such reasons shall be filled by the Governor as soon as practicable.

(6) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the members present unless general law or a rule of the district requires a greater number.

(7) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(8) The board shall keep a permanent record book entitled "Record of Proceedings of Star Farms Village at North Port Stewardship District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book and all other district records shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to chapter 119, Florida Statutes. The record book shall be kept at the office or other regular place of business maintained by the board in a designated location in Sarasota County.

(9) No supervisor shall be entitled to receive

compensation for his or her services in excess of the limits established in s. 190.006(8), Florida Statutes, or any successor statute thereto; however, each supervisor shall receive travel and per diem expenses as set forth in s. 112.061, Florida Statutes.

(10) All meetings of the board shall be open to the public and governed by chapter 286, Florida Statutes.

Section 6. Board of supervisors; general duties.—

(1) DISTRICT MANAGER AND EMPLOYEES.—The board shall employ and fix the compensation of a district manager, who shall have charge and supervision of the works of the district and shall be responsible for preserving and maintaining any improvement or facility constructed or erected pursuant to this act, for maintaining and operating the equipment owned by the district, and for performing such other duties as may be prescribed by the board. It shall not be a conflict of interest or constitute an abuse of public position under chapter 112, Florida Statutes, for a board member, the district manager, or another employee of the district to be a stockholder, officer, or employee of a landowner or an affiliate of a landowner. The district manager may hire or otherwise employ and terminate the employment of such other persons, including, without limitation, professional, supervisory, and clerical employees, as may be necessary and authorized by the board. The compensation and other conditions of employment of the officers and employees of the district

shall be as provided by the board.

(2) TREASURER.—The board shall designate a person who is a resident of the state as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order of or pursuant to a resolution of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her compensation. The board may require the treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the board shall be audited by an independent certified public accountant in accordance with the requirements of general law.

(3) PUBLIC DEPOSITORY.—The board is authorized to select as a depository for its funds any qualified public depository as defined in s. 280.02, Florida Statutes, which meets all the requirements of chapter 280, Florida Statutes, and has been designated by the treasurer as a qualified public depository upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable.

(4) BUDGET; REPORTS AND REVIEWS.—

(a) The district shall provide financial reports in such form and such manner as prescribed pursuant to this act and chapter 218, Florida Statutes, as amended from time to time.

(b) On or before July 15 of each year, the district manager shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for board approval. The proposed budget shall include at the direction of the board an estimate of all necessary expenditures of the district for the ensuing fiscal year and an estimate of income to the district from the taxes and assessments provided in this act. The board shall consider the proposed budget item by item and may either approve the budget as proposed by the district manager or modify the same in part or in whole. The board shall indicate its approval of the budget by resolution, which resolution shall provide for a hearing on the budget as approved. Notice of the hearing on the budget shall be published in a newspaper of general circulation in the area of the district once a week for 2 consecutive weeks, except that the first publication shall be no less than 15 days prior to the date of the hearing. The notice shall further contain a designation of the day, time, and place of the public hearing. At the time and place designated in the notice, the board shall hear all objections to the budget as proposed and may make such changes as the board deems necessary. At the conclusion of the budget hearing, the board shall, by resolution, adopt the budget as finally approved by the board.

The budget shall be adopted prior to October 1 of each year.

(c) At least 60 days prior to adoption, the board of supervisors of the district shall submit to the City Commission of the City of North Port, for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year, and the commission may submit written comments to the board of supervisors solely for the assistance and information of the board of supervisors of the district in adopting its annual district budget.

(d) The board of supervisors of the district shall submit annually a public facilities report to the City Commission of the City of North Port pursuant to Florida Statutes. The commission may use and rely on the district's public facilities report in the preparation or revision of the City of North Port comprehensive plan.

(5) DISCLOSURE OF PUBLIC INFORMATION; WEB-BASED PUBLIC ACCESS.—The district shall take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing residents and all prospective residents of the district. The district shall furnish each developer of a residential development within the district with sufficient copies of that information to provide each prospective initial purchaser of property in that development

with a copy; and any developer of a residential development within the district, when required by law to provide a public offering statement, shall include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement. The district shall file the disclosure documents required by this subsection and any amendments thereto in the property records of each county in which the district is located. By the end of the first full fiscal year of the district's creation, the district shall maintain an official Internet website in accordance with s. 189.069, Florida Statutes.

(6) GENERAL POWERS.—The district shall have, and the board may exercise, the following general powers:

(a) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of, real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(b) To apply for coverage of its employees under the Florida Retirement System in the same manner as if such employees were state employees.

(c) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to public

bidding or competitive negotiation requirements as set forth in general law applicable to independent special districts.

(d) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(e) To adopt and enforce rules and orders pursuant to chapter 120, Florida Statutes, prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of records; and the form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt and enforce administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.

(f) To maintain an office at such place or places as the board of supervisors designates in Sarasota County and within the district when facilities are available.

(g) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements,

dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for the purposes authorized by this act.

(h) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out the purposes authorized by this act.

(i) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as provided herein; to levy such taxes and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.

(j) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

(k) To exercise all powers of eminent domain now or hereafter conferred on counties in this state, provided, however, that such power of eminent domain may not be exercised outside the territorial limits of the district unless the district receives prior approval by vote of a resolution of the governing body of the county if the taking will occur in an

unincorporated area in that county, or the governing body of the city if the taking will occur in an incorporated area. The district shall not have the power to exercise eminent domain over municipal, county, state, or federal property. The powers hereinabove granted to the district shall be so construed to enable the district to fulfill the objects and purposes of the district as set forth in this act.

(l) To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(m) To assess and to impose upon lands in the district ad valorem taxes as provided by this act.

(n) If and when authorized by general law, to determine, order, levy, impose, collect, and enforce maintenance taxes.

(o) To determine, order, levy, impose, collect, and enforce assessments pursuant to this act and chapter 170, Florida Statutes, as amended from time to time, pursuant to authority granted in s. 197.3631, Florida Statutes, or pursuant to other provisions of general law now or hereinafter enacted which provide or authorize a supplemental means to order, levy, impose, or collect special assessments. Such special assessments, in the discretion of the district, may be collected and enforced pursuant to ss. 197.3632 and 197.3635, Florida Statutes, and chapters 170 and 173, Florida Statutes, as they

may be amended from time to time, or as provided by this act, or by other means authorized by general law now or hereinafter enacted. The district may levy such special assessments for the purposes enumerated in this act and to pay special assessments imposed by the City of North Port on lands within the district.

(p) To exercise such special powers and other express powers as may be authorized and granted by this act in the charter of the district, including powers as provided in any interlocal agreement entered into pursuant to chapter 163, Florida Statutes, or which shall be required or permitted to be undertaken by the district pursuant to any development order, including any detailed specific area plan development order, or any interlocal service agreement with the City of North Port or other unit of government for fair-share capital construction funding for any certain capital facilities or systems required of a developer pursuant to any applicable development order or agreement.

(q) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any other powers or duties or the special and limited purpose of the district authorized by this act.

This subsection shall be construed liberally in order to carry out effectively the special and limited purpose of this act.

(7) SPECIAL POWERS.—The district shall have, and the board

may exercise, the following special powers to implement its lawful and special purpose and to provide, pursuant to that purpose, systems, facilities, services, improvements, projects, works, and infrastructure, each of which constitutes a lawful public purpose when exercised pursuant to this charter, subject to, and not inconsistent with, general law regarding utility providers' territorial and service agreements, the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein, and to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, finance, fund, and maintain improvements, systems, facilities, services, works, projects, and infrastructure. Any or all of the following special powers are granted by this act in order to implement the special and limited purpose of the district but do not constitute obligations to undertake such improvements, systems, facilities, services, works, projects, or infrastructure:

(a) To provide water management and control for the lands within the district, including irrigation systems and facilities, and to connect some or any of such facilities with roads and bridges. In the event that the board assumes the responsibility for providing water management and control for the district which is to be financed by benefit special assessments, the board shall adopt plans and assessments

pursuant to law or may proceed to adopt water management and control plans, assess for benefits, and apportion and levy special assessments, as follows:

1. The board shall cause to be made by the district's engineer, or such other engineer or engineers as the board may employ for that purpose, complete and comprehensive water management and control plans for the lands located within the district that will be improved in any part or in whole by any system of facilities that may be outlined and adopted, and the engineer shall make a report in writing to the board with maps and profiles of said surveys and an estimate of the cost of carrying out and completing the plans.

2. Upon the completion of such plans, the board shall hold a hearing thereon to hear objections thereto, shall give notice of the time and place fixed for such hearing by publication once each week for 2 consecutive weeks in a newspaper of general circulation in the general area of the district, and shall permit the inspection of the plan at the office of the district by all persons interested. All objections to the plan shall be filed at or before the time fixed in the notice for the hearing and shall be in writing.

3. After the hearing, the board shall consider the proposed plan and any objections thereto and may modify, reject, or adopt the plan or continue the hearing until a day certain for further consideration of the proposed plan or modifications

thereof.

4. When the board approves a plan, a resolution shall be adopted and a certified copy thereof shall be filed in the office of the secretary and incorporated by him or her into the records of the district.

5. The water management and control plan may be altered in detail from time to time until the engineer's report pursuant to s. 298.301, Florida Statutes, is filed but not in such manner as to affect materially the conditions of its adoption. After the engineer's report has been filed, no alteration of the plan shall be made, except as provided by this act.

6. Within 20 days after the final adoption of the plan by the board, the board shall proceed pursuant to s. 298.301, Florida Statutes.

(b) To provide water supply, sewer, wastewater, and reclaimed water management, reclamation, and reuse, or any combination thereof, and any irrigation systems, facilities, and services and to construct and operate water systems, sewer systems, irrigation systems, and reclaimed water systems such as connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or ways, and to dispose of any water, effluent, residue, or other byproducts of such water system, sewer system, irrigation system, or reclaimed water system and to enter into interlocal

agreements and other agreements with public or private entities for the same.

(c) To provide bridges, culverts, wildlife corridors, or road crossings that may be needed across any drain, ditch, canal, floodway, holding basin, excavation, public highway, tract, grade, fill, or cut and roadways over levees and embankments, and to construct any and all of such works and improvements across, through, or over any public right-of-way, highway, grade, fill, or cut.

(d) To provide district or other roads equal to or exceeding the specifications of the county in which such district or other roads are located, and to provide street lights. This special power includes, but is not limited to, roads, parkways, intersections, bridges, landscaping, hardscaping, irrigation, bicycle lanes, sidewalks, jogging paths, multiuse pathways and trails, street lighting, traffic signals, regulatory or informational signage, road striping, underground conduit, underground cable or fiber or wire installed pursuant to an agreement with or tariff of a retail provider of services, and all other customary elements of a functioning modern road system in general or as tied to the conditions of development approval for the area within and without the district, and parking facilities that are freestanding or that may be related to any innovative strategic intermodal system of transportation pursuant to applicable

federal, state, and local law and ordinance.

(e) To provide buses, trolleys, rail access, mass transit facilities, transit shelters, ridesharing facilities and services, parking improvements, and related signage.

(f) To provide investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.

(g) To provide observation areas, mitigation areas, wetland creation areas, and wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.

(h) Using its general and special powers as set forth in this act, to provide any other project within or without the boundaries of the district when the project is the subject of an agreement between the district and the City Commission of the City of North Port or with any other applicable public or private entity and is not inconsistent with the effective local comprehensive plans.

(i) To provide parks and facilities for indoor and outdoor recreational, cultural, and educational uses.

(j) To provide school buildings and related structures, which may be leased, sold, or donated to the school district,

for use in the educational system when authorized by the district school board.

(k) To provide security, including electronic intrusion-detection systems and patrol vehicles, when authorized by proper governmental agencies, and to contract with the appropriate local general-purpose government agencies for an increased level of such services within the district boundaries. However, this paragraph does not prohibit the district from contracting with a towing operator to remove a vehicle or vessel from a district-owned facility or property if the district follows the authorization and notice and procedural requirements in s. 715.07, Florida Statutes, for an owner or lessee of private property. The district's selection of a towing operator is not subject to public bidding if the towing operator is included in an approved list of town operators maintained by the local government that has jurisdiction over the district's facility or property.

(l) To provide control and elimination of mosquitoes and other arthropods of public health importance.

(m) To enter into impact fee, mobility fee, or other similar credit agreements with the City of North Port or other governmental bodies or a landowner developer and to sell or assign such credits, on such terms as the district deems appropriate.

(n) To provide buildings and structures for district

offices, maintenance facilities, meeting facilities, town centers, stadiums, or any other project authorized or granted by this act.

(o) To establish and create, at noticed meetings, such departments of the board of supervisors of the district, as well as committees, task forces, boards, or commissions, or other agencies under the supervision and control of the district, as from time to time the members of the board may deem necessary or desirable in the performance of the acts or other things necessary to exercise the board's general or special powers to implement an innovative project to carry out the special and limited purpose of the district as provided in this act and to delegate the exercise of its powers to such departments, boards, task forces, committees, or other agencies, and such administrative duties and other powers as the board may deem necessary or desirable, but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the board that shall retain the powers of the board.

(p) To provide electrical, sustainable, or green infrastructure improvements, facilities, and services, including, but not limited to, recycling of natural resources, reduction of energy demands, development and generation of alternative or renewable energy sources and technologies, mitigation of urban heat islands, sequestration, capping or

trading of carbon emissions or carbon emissions credits, LEED or Florida Green Building Coalition certification, and development of facilities and improvements for low-impact development, and to enter into joint ventures, public-private partnerships, and other agreements and to grant such easements as may be necessary to accomplish the foregoing. Nothing herein shall authorize the district to provide electric service to retail customers or otherwise act to impair electric utility franchise agreements.

(q) To provide for any facilities or improvements that may otherwise be provided for by any county or municipality, including, but not limited to, libraries, annexes, substations, and other buildings to house public officials, staff, and employees.

(r) To provide waste collection and disposal.

(s) To provide for the construction and operation of communications systems and related infrastructure for the carriage and distribution of communications services, and to enter into joint ventures, public-private partnerships, and other agreements and to grant such easements as may be necessary to accomplish the foregoing. The term "communications systems" means all facilities, buildings, equipment, items, and methods necessary or desirable in order to provide communications services, including, without limitation, wires, cables, conduits, wireless cell sites, computers, modems, satellite antennae sites, transmission facilities, network facilities, and

appurtenant devices necessary and appropriate to support the provision of communications services. The term "communications services" includes, without limitation, Internet, voice telephone or similar services provided by voice-over-Internet protocol, cable television, data transmission services, electronic security monitoring services, and multichannel video programming distribution services. Nothing herein shall authorize the district to provide communications services to retail customers or otherwise act to impair existing service provider franchise agreements, though the district may contract with such providers for resale purposes.

(t) To provide health care facilities and to enter into public-private partnerships and agreements as may be necessary to accomplish the foregoing.

(u) To coordinate, work with, and, as the board deems appropriate, enter into interlocal agreements with any public or private entity for the provision of an institution or institutions of higher education.

(v) To coordinate, work with, and, as the board deems appropriate, enter into public-private partnerships and agreements as may be necessary or useful to effectuate the purposes of this act.

The enumeration of special powers herein shall not be deemed exclusive or restrictive but shall be deemed to incorporate all

powers, express or implied, necessary or incidental to carrying out such enumerated special powers, including also the general powers provided by this special act charter to the district to implement its purposes. Further, this subsection shall be construed liberally in order to carry out effectively the special and limited purpose of this district under this act.

(8) ISSUANCE OF BOND ANTICIPATION NOTES.—In addition to the other powers provided for in this act, and not in limitation thereof, the district shall have the power, at any time and from time to time after the issuance of any bonds of the district shall have been authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and to issue bond anticipation notes in a principal sum not in excess of the authorized maximum amount of such bond issue. Such notes shall be in such denomination or denominations, bear interest at such rate, not to exceed the maximum rate allowed by general law, mature at such time or times not later than 5 years from the date of issuance, and be in such form and executed in such manner as the board shall prescribe. Such notes may be sold at either public or private sale or, if such notes shall be renewal notes, may be exchanged for notes then outstanding on such terms as the board shall determine. Such notes shall be paid from the proceeds of such bonds when issued. The board may, in its discretion, in lieu of retiring the notes by means of bonds,

retire them by means of current revenues or from any taxes or assessments levied for the payment of such bonds, but, in such event, a like amount of the bonds authorized shall not be issued.

(9) BORROWING.—The district at any time may obtain loans, in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall bear interest as the board determines, not to exceed the maximum rate allowed by general law, and may be payable from and secured by a pledge of such funds, revenues, taxes, and assessments as the board may determine, subject, however, to the provisions contained in any proceeding under which bonds were theretofore issued and are then outstanding. For the purpose of defraying such costs and expenses, the district may issue negotiable notes, warrants, or other evidences of debt to be payable at such times and to bear such interest as the board may determine, not to exceed the maximum rate allowed by general law, and to be sold or discounted at such price or prices not less than 95 percent of par value and on such terms as the board may deem advisable. The board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the district or by covenanting to budget and appropriate from such funds. The

approval of the electors residing in the district shall not be necessary except when required by the State Constitution.

(10) BONDS.—

(a) Sale of bonds.—Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at one time. Bonds may be sold at public or private sale after such advertisement, if any, as the board may deem advisable, but not in any event at less than 90 percent of the par value thereof, together with accrued interest thereon. Bonds may be sold or exchanged for refunding bonds. Special assessment and revenue bonds may be delivered by the district as payment of the purchase price of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price or exchange for any property, real, personal, or mixed, including franchises or services rendered by any contractor, engineer, or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the board in its discretion shall determine. The price or prices for any bonds sold, exchanged, or delivered may be:

1. The money paid for the bonds.

2. The principal amount, plus accrued interest to the date of redemption or exchange, or outstanding obligations exchanged for refunding bonds.

3. In the case of special assessment or revenue bonds, the amount of any indebtedness to contractors or other persons paid

with such bonds, or the fair value of any properties exchanged for the bonds, as determined by the board.

(b) Authorization and form of bonds.—Any general obligation bonds, special assessment bonds, or revenue bonds may be authorized by resolution or resolutions of the board which shall be adopted by a majority of all the members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced and need not be published or posted. The board may, by resolution, authorize the issuance of bonds and fix the aggregate amount of bonds to be issued; the purpose or purposes for which the moneys derived therefrom shall be expended, including, but not limited to, payment of costs as defined in section 2(2)(h); the rate or rates of interest, not to exceed the maximum rate allowed by general law; the denomination of the bonds; whether the bonds are to be issued in one or more series; the date or dates of maturity, which shall not exceed 40 years from their respective dates of issuance; the medium of payment; the place or places within or without the state at which payment shall be made; registration privileges; redemption terms and privileges, whether with or without premium; the manner of execution; the form of the bonds, including any interest coupons to be attached thereto; the manner of execution of bonds and coupons; and any and all other terms, covenants, and conditions thereof and the establishment of revenue or other funds. Such authorizing

resolution or resolutions may further provide for the contracts authorized by s. 159.825(1)(f) and (g), Florida Statutes, regardless of the tax treatment of such bonds being authorized, subject to the finding by the board of a net saving to the district resulting by reason thereof. Such authorizing resolution may further provide that such bonds may be executed in accordance with the Registered Public Obligations Act, except that bonds not issued in registered form shall be valid if manually countersigned by an officer designated by appropriate resolution of the board. The seal of the district may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on such bonds. In case any officer whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until such delivery.

(c) Interim certificates; replacement certificates.—Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the board may determine, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds which become mutilated, lost, or destroyed.

(d) Negotiability of bonds.—Any bond issued under this act or any temporary bond, in the absence of an express recital on the face thereof that it is nonnegotiable, shall be fully negotiable and shall be and constitute a negotiable instrument within the meaning and for all purposes of the law merchant and the laws of the state.

(e) Defeasance.—The board may make such provision with respect to the defeasance of the right, title, and interest of the holders of any of the bonds and obligations of the district in any revenues, funds, or other properties by which such bonds are secured as the board deems appropriate and, without limitation on the foregoing, may provide that when such bonds or obligations become due and payable or shall have been called for redemption and the whole amount of the principal and interest and premium, if any, due and payable upon the bonds or obligations then outstanding shall be held in trust for such purpose, and provision shall also be made for paying all other sums payable in connection with such bonds or other obligations, then and in such event the right, title, and interest of the holders of the bonds in any revenues, funds, or other properties by which such bonds are secured shall thereupon cease, terminate, and become void; and the board may apply any surplus in any sinking fund established in connection with such bonds or obligations and all balances remaining in all other funds or accounts other than moneys held for the redemption or payment of

the bonds or other obligations to any lawful purpose of the district as the board shall determine.

(f) Issuance of additional bonds.—If the proceeds of any bonds are less than the cost of completing the project in connection with which such bonds were issued, the board may authorize the issuance of additional bonds, upon such terms and conditions as the board may provide in the resolution authorizing the issuance thereof, but only in compliance with the resolution or other proceedings authorizing the issuance of the original bonds.

(g) Refunding bonds.—The district shall have the power to issue bonds to provide for the retirement or refunding of any bonds or obligations of the district that at the time of such issuance are or subsequent thereto become due and payable, or that at the time of issuance have been called or are, or will be, subject to call for redemption within 10 years thereafter, or the surrender of which can be procured from the holders thereof at prices satisfactory to the board. Refunding bonds may be issued at any time that in the judgment of the board such issuance will be advantageous to the district. No approval of the qualified electors residing in the district shall be required for the issuance of refunding bonds except in cases in which such approval is required by the State Constitution. The board may by resolution confer upon the holders of such refunding bonds all rights, powers, and remedies to which the

holders would be entitled if they continued to be the owners and had possession of the bonds for the refinancing of which such refunding bonds are issued, including, but not limited to, the preservation of the lien of such bonds on the revenues of any project or on pledged funds, without extinguishment, impairment, or diminution thereof. The provisions of this act pertaining to bonds of the district shall, unless the context otherwise requires, govern the issuance of refunding bonds, the form and other details thereof, the rights of the holders thereof, and the duties of the board with respect thereto.

(h) Revenue bonds.—

1. The district shall have the power to issue revenue bonds from time to time without limitation as to amount. Such revenue bonds may be secured by, or payable from, the gross or net pledge of the revenues to be derived from any project or combination of projects; from the rates, fees, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity of the district; from special assessments; from benefit special assessments; or from any other source or pledged security. Such bonds shall not constitute an indebtedness of the district, and the approval of the qualified electors shall not be required unless such bonds are additionally secured by the full faith and credit and taxing power of the district.

2. Any two or more projects may be combined and

consolidated into a single project and may hereafter be operated and maintained as a single project. The revenue bonds authorized herein may be issued to finance any one or more of such projects, regardless of whether such projects have been combined and consolidated into a single project. If the board deems it advisable, the proceedings authorizing such revenue bonds may provide that the district may thereafter combine the projects then being financed or theretofore financed with other projects to be subsequently financed by the district and that revenue bonds to be thereafter issued by the district shall be on parity with the revenue bonds then being issued, all on such terms, conditions, and limitations as shall have been provided in the proceeding which authorized the original bonds.

(i) General obligation bonds.—

1. Subject to the limitations of this charter, the district shall have the power from time to time to issue general obligation bonds to finance or refinance capital projects or to refund outstanding bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of 35 percent of the assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged. Except for refunding bonds, no general obligation bonds shall be issued unless the bonds are issued to finance or refinance a capital

project and the issuance has been approved at an election held in accordance with the requirements for such election as prescribed by the State Constitution. Such elections shall be called to be held in the district by the Sarasota County Supervisor of Elections upon the request of the board of the district. The expenses of calling and holding an election shall be at the expense of the district, and the district shall reimburse the county for any expenses incurred in calling or holding such election.

2. The district may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds and for any reserve funds provided therefor and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the district, to the extent necessary for the payment thereof, without limitation as to rate or amount.

3. If the board determines to issue general obligation bonds for more than one capital project, the approval of the issuance of the bonds for each and all such projects may be submitted to the electors on one and the same ballot. The failure of the electors to approve the issuance of bonds for any one or more capital projects shall not defeat the approval of bonds for any capital project which has been approved by the electors.

4. In arriving at the amount of general obligation bonds

permitted to be outstanding at any one time pursuant to subparagraph 1., there shall not be included any general obligation bonds that are additionally secured by the pledge of:

a. Any assessments levied in an amount sufficient to pay the principal and interest on the general obligation bonds so additionally secured, which assessments have been equalized and confirmed by resolution of the board pursuant to this act or s. 170.08, Florida Statutes.

b. Water revenues, sewer revenues, or water and sewer revenues of the district to be derived from user fees in an amount sufficient to pay the principal and interest on the general obligation bonds so additionally secured.

c. Any combination of assessments and revenues described in sub-subparagraphs a. and b.

(j) Bonds as legal investment or security.—

1. Notwithstanding any provisions of any other law to the contrary, all bonds issued under this act shall constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and shall be and constitute security which may be deposited by banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory

deposits.

2. Any bonds issued by the district shall be incontestable in the hands of bona fide purchasers or holders for value and shall not be invalid because of any irregularity or defect in the proceedings for the issue and sale thereof.

(k) Covenants.—Any resolution authorizing the issuance of bonds may contain such covenants as the board may deem advisable, and all such covenants shall constitute valid and legally binding and enforceable contracts between the district and the bondholders, regardless of the time of issuance thereof. Such covenants may include, without limitation, covenants concerning the disposition of the bond proceeds; the use and disposition of project revenues; the pledging of revenues, taxes, and assessments; the obligations of the district with respect to the operation of the project and the maintenance of adequate project revenues; the issuance of additional bonds; the appointment, powers, and duties of trustees and receivers; the acquisition of outstanding bonds and obligations; restrictions on the establishing of competing projects or facilities; restrictions on the sale or disposal of the assets and property of the district; the priority of assessment liens; the priority of claims by bondholders on the taxing power of the district; the maintenance of deposits to ensure the payment of revenues by users of district facilities and services; the discontinuance of district services by reason of delinquent payments; acceleration

upon default; the execution of necessary instruments; the procedure for amending or abrogating covenants with the bondholders; and such other covenants as may be deemed necessary or desirable for the security of the bondholders.

(l) Validation proceedings.—The power of the district to issue bonds under this act may be determined, and any of the bonds of the district maturing over a period of more than 5 years shall be validated and confirmed, by court decree, under chapter 75, Florida Statutes, and laws amendatory thereof or supplementary thereto.

(m) Tax exemption.—To the extent allowed by general law, all bonds issued hereunder and interest paid thereon and all fees, charges, and other revenues derived by the district from the projects provided by this act are exempt from all taxes by the state or by any political subdivision, agency, or instrumentality thereof; however, any interest, income, or profits on debt obligations issued hereunder are not exempt from the tax imposed by chapter 220, Florida Statutes. Further, the district is not exempt from chapter 212, Florida Statutes.

(n) Application of s. 189.051, Florida Statutes.—Bonds issued by the district shall meet the criteria set forth in s. 189.051, Florida Statutes.

(o) Act furnishes full authority for issuance of bonds.—This act constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district

provided herein. No procedures or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board, or any board, officer, commission, department, agency, or instrumentality of the district, other than those required by this act, shall be required to perform anything under this act, except that the issuance or sale of bonds pursuant to this act shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this act shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

(p) Pledge by the state to the bondholders of the district.—The state pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees, and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

(q) Default.—A default on the bonds or obligations of the district shall not constitute a debt or obligation of the state or any general-purpose local government of the state. In the event of a default or dissolution of the district, no general-purpose local government shall be required to assume the

property of the district, the debts of the district, or the district's obligations to complete any infrastructure improvements or provide any services to the district. The provisions of s. 189.076(2), Florida Statutes, shall not apply to the district.

(11) TRUST AGREEMENTS.—Any issue of bonds shall be secured by a trust agreement or resolution by and between the district and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any projects of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board may approve, including, without limitation, covenants setting forth the duties of the district in relation to: the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and application of all moneys and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, or operation. It shall be lawful for any bank or trust company within or without the state which may act as a depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such

securities as may be required by the district. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. The board may provide for the payment of proceeds of the sale of the bonds and the revenues of any project to such officer, board, or depository as it may designate for the custody thereof and may provide for the method of disbursement thereof with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of operation of the project to which such resolution or trust agreement pertains.

(12) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL ASSESSMENTS; MAINTENANCE TAXES.—

(a) Ad valorem taxes.—At such time as all members of the board are qualified electors who are elected by qualified electors of the district, the board shall have the power to levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any general obligation bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, shall not exceed 3

mills. The ad valorem tax provided for herein shall be in addition to county and all other ad valorem taxes provided for by law. Such tax shall be assessed, levied, and collected in the same manner and at the same time as county taxes. The levy of ad valorem taxes must be approved by referendum as required by s. 9, Article VII of the State Constitution.

(b) Benefit special assessments.—The board annually shall determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance assessable improvements. These assessments may be due and collected during each year county taxes are due and collected, in which case such annual installment and levy shall be evidenced to and certified to the property appraiser by the board not later than August 31 of each year. Such assessment shall be entered by the property appraiser on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. However, this paragraph shall not prohibit the district in its discretion from using the method prescribed in s. 197.3632, Florida Statutes, or chapter 173, Florida Statutes, as each may be amended from time to time, for collecting and enforcing these assessments. Each annual installment of benefit special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the

assessment for the exercise of the district's powers under subsections (6) and (7) shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land. The board may, if it determines it is in the best interests of the district, set forth in the proceedings initially levying such benefit special assessments or in subsequent proceedings a formula for the determination of an amount, which, when paid by a taxpayer with respect to any tax parcel, shall constitute a prepayment of all future annual installments of such benefit special assessments and that the payment of which amount with respect to such tax parcel shall relieve and discharge such tax parcel of the lien of such benefit special assessments and any subsequent annual installment thereof. The board may provide further that upon delinquency in the payment of any annual installment of benefit special assessments, the prepayment amount of all future annual installments of benefit special assessments as determined in the preceding sentence shall be and become immediately due and payable together with such delinquent annual installment.

(c) Non-ad valorem maintenance taxes.—If and when authorized by general law, to maintain and to preserve the physical facilities and services constituting the works,

improvements, or infrastructure owned by the district pursuant to this act, to repair and restore any one or more of them, when needed, and to defray the current expenses of the district, including any sum which may be required to pay state and county ad valorem taxes on any lands which may have been purchased and which are held by the district under this act, the board of supervisors may, upon the completion of said systems, facilities, services, works, improvements, or infrastructure, in whole or in part, as may be certified to the board by the engineer of the board, levy annually a non-ad valorem and nonmillage tax upon each tract or parcel of land within the district, to be known as a "maintenance tax." This non-ad valorem maintenance tax shall be apportioned upon the basis of the net assessments of benefits assessed as accruing from the original construction and shall be evidenced to and certified by the board of supervisors of the district not later than June 1 of each year to the Sarasota County tax collector and shall be extended on the tax rolls and collected by the tax collector on the merged collection roll of the tax collector in the same manner and at the same time as county ad valorem taxes, and the proceeds therefrom shall be paid to the district. This non-ad valorem maintenance tax shall be a lien until paid on the property against which assessed and enforceable in like manner and of the same dignity as county ad valorem taxes.

(d) Maintenance special assessments.—To maintain and

preserve the facilities and projects of the district, the board may levy a maintenance special assessment. This assessment may be evidenced to and certified to the tax collector by the board of supervisors not later than August 31 of each year and shall be entered by the property appraiser on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds therefrom shall be paid to the district. However, this paragraph shall not prohibit the district in its discretion from using the method prescribed in s. 197.363, s. 197.3631, or s. 197.3632, Florida Statutes, for collecting and enforcing these assessments. These maintenance special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the maintenance special assessment for the exercise of the district's powers under this section shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

(e) Special assessments.—The board may levy and impose any special assessments pursuant to this subsection.

(f) Enforcement of taxes.—The collection and enforcement of all taxes levied by the district shall be at the same time

and in like manner as county taxes, and the provisions of the laws of Florida relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds based thereon; and all other procedures in connection therewith shall be applicable to the district to the same extent as if such statutory provisions were expressly set forth herein. All taxes shall be subject to the same discounts as county taxes.

(g) When unpaid tax is delinquent; penalty.—All taxes provided for in this act shall become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

(h) Status of assessments.—Benefit special assessments, maintenance special assessments, and special assessments are hereby found and determined to be non-ad valorem assessments as defined by s. 197.3632, Florida Statutes. Maintenance taxes are non-ad valorem taxes and are not special assessments.

(i) Assessments constitute liens; collection.—Any and all assessments, including special assessments, benefit special assessments, and maintenance special assessments authorized by this section, and including special assessments as defined by section 2(2)(aa) and granted and authorized by this subsection, and including maintenance taxes if authorized by general law, shall constitute a lien on the property against which assessed

from the date of levy and imposition thereof until paid, coequal with the lien of state, county, municipal, and school board taxes. These assessments may be collected, at the district's discretion, under authority of s. 197.3631, Florida Statutes, as amended from time to time, by the tax collector pursuant to ss. 197.3632 and 197.3635, Florida Statutes, as amended from time to time, or in accordance with other collection measures provided by law. In addition to, and not in limitation of, any powers otherwise set forth herein or in general law, these assessments may also be enforced pursuant to chapter 173, Florida Statutes, as amended from time to time.

(j) Land owned by governmental entity.—Except as otherwise provided by law, no levy of ad valorem taxes or non-ad valorem assessments under this act or chapter 170 or chapter 197, Florida Statutes, as each may be amended from time to time, or otherwise, by a board of the district, on property of a governmental entity that is subject to a ground lease as described in s. 190.003(14), Florida Statutes, shall constitute a lien or encumbrance on the underlying fee interest of such governmental entity.

(13) SPECIAL ASSESSMENTS.—

(a) As an alternative method to the levy and imposition of special assessments pursuant to chapter 170, Florida Statutes, pursuant to the authority of s. 197.3631, Florida Statutes, or pursuant to other provisions of general law, now or hereafter

enacted, which provide a supplemental means or authority to impose, levy, and collect special assessments as otherwise authorized under this act, the board may levy and impose special assessments to finance the exercise of any of its powers permitted under this act using the following uniform procedures:

1. At a noticed meeting, the board of supervisors of the district may consider and review an engineer's report on the costs of the systems, facilities, and services to be provided, a preliminary special assessment methodology, and a preliminary roll based on acreage or platted lands, depending upon whether platting has occurred.

a. The special assessment methodology shall address and discuss, and the board shall consider, whether the systems, facilities, and services being contemplated will result in special benefits peculiar to the property, different in kind and degree than general benefits, as a logical connection between the systems, facilities, and services themselves and the property, and whether the duty to pay the special assessments by the property owners is apportioned in a manner that is fair and equitable and not in excess of the special benefit received. It shall be fair and equitable to designate a fixed proportion of the annual debt service, together with interest thereon, on the aggregate principal amount of bonds issued to finance such systems, facilities, and services which give rise to unique, special, and peculiar benefits to property of the same or

similar characteristics under the special assessment methodology so long as such fixed proportion does not exceed the unique, special, and peculiar benefits enjoyed by such property from such systems, facilities, and services.

b. The engineer's cost report shall identify the nature of the proposed systems, facilities, and services, their location, a cost breakdown plus a total estimated cost, including cost of construction or reconstruction, labor, and materials, lands, property, rights, easements, franchises, or systems, facilities, and services to be acquired, cost of plans and specifications, surveys of estimates of costs and revenues, costs of engineering, legal, and other professional consultation services, and other expenses or costs necessary or incidental to determining the feasibility or practicability of such construction, reconstruction, or acquisition, administrative expenses, relationship to the authority and power of the district in its charter, and such other expenses or costs as may be necessary or incidental to the financing to be authorized by the board of supervisors.

c. The preliminary special assessment roll will be in accordance with the assessment methodology as may be adopted by the board of supervisors; the special assessment roll shall be completed as promptly as possible and shall show the acreage, lots, lands, or plats assessed and the amount of the fairly and reasonably apportioned assessment based on special and peculiar

benefit to the property, lot, parcel, or acreage of land; and, if the special assessment against such lot, parcel, acreage, or portion of land is to be paid in installments, the number of annual installments in which the special assessment is divided shall be entered into and shown upon the special assessment roll.

2. The board of supervisors of the district may determine and declare by an initial special assessment resolution to levy and assess the special assessments with respect to assessable improvements stating the nature of the systems, facilities, and services, improvements, projects, or infrastructure constituting such assessable improvements, the information in the engineer's cost report, the information in the special assessment methodology as determined by the board at the noticed meeting and referencing and incorporating as part of the resolution the engineer's cost report, the preliminary special assessment methodology, and the preliminary special assessment roll as referenced exhibits to the resolution by reference. If the board determines to declare and levy the special assessments by the initial special assessment resolution, the board shall also adopt and declare a notice resolution which shall provide and cause the initial special assessment resolution to be published once a week for a period of 2 weeks in newspapers of general circulation published in the City of North Port, and said board shall by the same resolution fix a time and place at which the

owner or owners of the property to be assessed or any other persons interested therein may appear before said board and be heard as to the propriety and advisability of making such improvements, as to the costs thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved. Thirty days' notice in writing of such time and place shall be given to such property owners. The notice shall include the amount of the special assessment and shall be served by mailing a copy to each assessed property owner at his or her last known address, the names and addresses of such property owners to be obtained from the record of the property appraiser of the county political subdivision in which the land is located or from such other sources as the district manager or engineer deems reliable, and proof of such mailing shall be made by the affidavit of the district manager or by the engineer, said proof to be filed with the district manager, provided that failure to mail said notice or notices shall not invalidate any of the proceedings hereunder. It is provided further that the last publication shall be at least 1 week prior to the date of the hearing on the final special assessment resolution. Said notice shall describe the general areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece, parcel, lot, or acre of property may be ascertained at the office of the

district manager. Such service by publication shall be verified by the affidavit of the publisher and filed with the district manager. Moreover, the initial special assessment resolution with its attached, referenced, and incorporated engineer's cost report, preliminary special assessment methodology, and preliminary special assessment roll, along with the notice resolution, shall be available for public inspection at the office of the district manager and the office of the engineer or any other office designated by the board of supervisors in the notice resolution. Notwithstanding the foregoing, the landowners of all of the property which is proposed to be assessed may give the district written notice of waiver of any notice and publication provided for in this subparagraph, and such notice and publication shall not be required, provided, however, that any meeting of the board of supervisors to consider such resolution shall be a publicly noticed meeting.

3. At the time and place named in the noticed resolution as provided for in subparagraph 2., the board of supervisors of the district shall meet and hear testimony from affected property owners as to the propriety and advisability of making the systems, facilities, services, projects, works, improvements, or infrastructure and funding them with assessments referenced in the initial special assessment resolution on the property. Following the testimony and questions from the members of the board or any professional

advisors to the district of the preparers of the engineer's cost report, the special assessment methodology, and the special assessment roll, the board of supervisors shall make a final decision on whether to levy and assess the particular special assessments. Thereafter, the board of supervisors shall meet as an equalizing board to hear and to consider any and all complaints as to the particular special assessments and shall adjust and equalize the special assessments to ensure proper assessment based on the benefit conferred on the property.

4. When so equalized and approved by resolution or ordinance by the board of supervisors, to be called the final special assessment resolution, a final special assessment roll shall be filed with the clerk of the board and such special assessment shall stand confirmed and remain legal, valid, and binding first liens on the property against which such special assessments are made until paid, equal in dignity to the first liens of ad valorem taxation of county and municipal governments and school boards. However, upon completion of the systems, facilities, services, projects, improvements, works, or infrastructure, the district shall credit to each of the assessments the difference in the special assessment as originally made, approved, levied, assessed, and confirmed and the proportionate part of the actual cost of the improvement to be paid by the particular special assessments as finally determined upon the completion of the improvement; but in no

event shall the final special assessment exceed the amount of the special and peculiar benefits as apportioned fairly and reasonably to the property from the system, facility, or service being provided as originally assessed. Promptly after such confirmation, the special assessment shall be recorded by the clerk of the district in the minutes of the proceedings of the district, and the record of the lien in this set of minutes shall constitute prima facie evidence of its validity. The board of supervisors, in its sole discretion, may by resolution grant a discount equal to all or a part of the payee's proportionate share of the cost of the project consisting of bond financing cost, such as capitalized interest, funded reserves, and bond discounts included in the estimated cost of the project, upon payment in full of any special assessments during such period prior to the time such financing costs are incurred as may be specified by the board of supervisors in such resolution.

5. District special assessments may be made payable in installments over no more than 40 years from the date of the payment of the first installment thereof and may bear interest at fixed or variable rates.

(b) Notwithstanding any provision of this act or chapter 170, Florida Statutes, that portion of s. 170.09, Florida Statutes, that provides that special assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has

been adopted by the governing authority shall not be applicable to any district special assessments, whether imposed, levied, and collected pursuant to this act or other provisions of Florida law, including, but not limited to, chapter 170, Florida Statutes.

(c) In addition, the district is authorized expressly in the exercise of its rulemaking power to adopt a rule or rules which provide for notice, levy, imposition, equalization, and collection of assessments.

(14) ISSUANCE OF CERTIFICATES OF INDEBTEDNESS BASED ON ASSESSMENTS FOR ASSESSABLE IMPROVEMENTS; ASSESSMENT BONDS.—

(a) The board may, after any special assessments or benefit special assessments for assessable improvements are made, determined, and confirmed as provided in this act, issue certificates of indebtedness for the amount so assessed against the abutting property or property otherwise benefited, as the case may be, and separate certificates shall be issued against each part or parcel of land or property assessed, which certificates shall state the general nature of the improvement for which the assessment is made. The certificates shall be payable in annual installments in accordance with the installments of the special assessment for which they are issued. The board may determine the interest to be borne by such certificates, not to exceed the maximum rate allowed by general law, and may sell such certificates at either private or public

sale and determine the form, manner of execution, and other details of such certificates. The certificates shall recite that they are payable only from the special assessments levied and collected from the part or parcel of land or property against which they are issued. The proceeds of such certificates may be pledged for the payment of principal of and interest on any revenue bonds or general obligation bonds issued to finance in whole or in part such assessable improvement, or, if not so pledged, may be used to pay the cost or part of the cost of such assessable improvements.

(b) The district may also issue assessment bonds, revenue bonds, or other obligations payable from a special fund into which such certificates of indebtedness referred to in paragraph (a) may be deposited, or, if such certificates of indebtedness have not been issued, the district may assign to such special fund for the benefit of the holders of such assessment bonds or other obligations, or to a trustee for such bondholders, the assessment liens provided for in this act unless such certificates of indebtedness or assessment liens have been theretofore pledged for any bonds or other obligations authorized hereunder. In the event of the creation of such special fund and the issuance of such assessment bonds or other obligations, the proceeds of such certificates of indebtedness or assessment liens deposited therein shall be used only for the payment of the assessment bonds or other obligations issued as

provided in this section. The district is authorized to covenant with the holders of such assessment bonds, revenue bonds, or other obligations that it will diligently and faithfully enforce and collect all the special assessments, and interest and penalties thereon, for which such certificates of indebtedness or assessment liens have been deposited in or assigned to such fund; to foreclose such assessment liens so assigned to such special fund or represented by the certificates of indebtedness deposited in the special fund, after such assessment liens have become delinquent, and deposit the proceeds derived from such foreclosure, including interest and penalties, in such special fund; and to make any other covenants deemed necessary or advisable in order to properly secure the holders of such assessment bonds or other obligations.

(c) The assessment bonds, revenue bonds, or other obligations issued pursuant to this section shall have such dates of issue and maturity as shall be deemed advisable by the board; however, the maturities of such assessment bonds or other obligations shall not be more than 2 years after the due date of the last installment which will be payable on any of the special assessments for which such assessment liens, or the certificates of indebtedness representing such assessment liens, are assigned to or deposited in such special fund.

(d) Such assessment bonds, revenue bonds, or other obligations issued under this section shall bear such interest

as the board may determine, not to exceed the maximum rate allowed by general law, and shall be executed, shall have such provisions for redemption prior to maturity, shall be sold in the manner, and shall be subject to all of the applicable provisions contained in this act for revenue bonds, except as the same may be inconsistent with this section.

(e) All assessment bonds, revenue bonds, or other obligations issued under this section shall be, shall constitute, and shall have all the qualities and incidents of negotiable instruments under the law merchant and the laws of the state.

(15) TAX LIENS.—All taxes of the district provided for in this act, together with all penalties for default in the payment of the same and all costs in collecting the same, including a reasonable attorney fee fixed by the court and taxed as a cost in the action brought to enforce payment, shall, from January 1 for each year the property is liable to assessment and until paid, constitute a lien of equal dignity with the liens for state and county taxes and other taxes of equal dignity with state and county taxes upon all the lands against which such taxes shall be levied. A sale of any of the real property within the district for state and county or other taxes shall not operate to relieve or release the property so sold from the lien for subsequent district taxes or installments of district taxes, which lien may be enforced against such property as though no

such sale thereof had been made. In addition to, and not in limitation of, the preceding sentence, for purposes of s. 197.552, Florida Statutes, the lien of all special assessments levied by the district shall constitute a lien of record held by a municipal or county governmental unit. The provisions of ss. 194.171, 197.122, 197.333, and 197.432, Florida Statutes, shall be applicable to district taxes with the same force and effect as if such provisions were expressly set forth in this act.

(16) PAYMENT OF TAXES AND REDEMPTION OF TAX LIENS BY THE DISTRICT; SHARING IN PROCEEDS OF TAX SALE.—

(a) The district shall have the power and right to:

1. Pay any delinquent state, county, district, municipal, or other tax or assessment upon lands located wholly or partially within the boundaries of the district.

2. Redeem or purchase any tax sales certificates issued or sold on account of any state, county, district, municipal, or other taxes or assessments upon lands located wholly or partially within the boundaries of the district.

(b) Delinquent taxes paid, or tax sales certificates redeemed or purchased, by the district, together with all penalties for the default in payment of the same and all costs in collecting the same and a reasonable attorney fee, shall constitute a lien in favor of the district of equal dignity with the liens of state and county taxes and other taxes of equal dignity with state and county taxes upon all the real property

against which the taxes were levied. The lien of the district may be foreclosed in the manner provided in this act.

(c) In any sale of land pursuant to s. 197.542, Florida Statutes, as may be amended from time to time, the district may certify to the clerk of the circuit court of the county holding such sale the amount of taxes due to the district upon the lands sought to be sold, and the district shall share in the disbursement of the sales proceeds in accordance with this act and under the laws of the state.

(17) FORECLOSURE OF LIENS.—Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law in like manner as is provided in chapter 170 or chapter 173, Florida Statutes, and amendments thereto and the provisions of those chapters shall be applicable to such proceedings with the same force and effect as if those provisions were expressly set forth in this act. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings under chapter 170 or chapter 173, Florida Statutes, may be performed by such officer or agent of the district as the board of supervisors may designate. Such foreclosure proceedings may be brought at any time after the expiration of 1 year from the date any tax, or installment thereof, becomes delinquent; however, no lien shall be foreclosed against any political subdivision or

agency of the state. Other legal remedies shall remain available.

(18) MANDATORY USE OF CERTAIN DISTRICT FACILITIES.—To the full extent permitted by law, the district shall require all lands, buildings, premises, persons, firms, and corporations within the district to use the facilities of the district.

(19) COMPETITIVE PROCUREMENT; BIDS; NEGOTIATIONS; RELATED PROVISIONS REQUIRED.—

(a) No contract shall be let by the board for any goods, supplies, or materials to be purchased when the amount thereof to be paid by the district shall exceed the amount provided in s. 287.017, Florida Statutes, as amended from time to time, for category four, unless notice of bids shall be advertised once in a newspaper in general circulation in the City of North Port. Any board seeking to construct or improve a public building, structure, or other public works shall comply with the bidding procedures of s. 255.20, Florida Statutes, as amended from time to time, and other applicable general law. In each case, the bid of the lowest responsive and responsible bidder shall be accepted unless all bids are rejected because the bids are too high or the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. Nothing in this subsection shall prevent the board from undertaking and performing the construction, operation, and

maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

(b) The provisions of the Consultants' Competitive Negotiation Act, s. 287.055, Florida Statutes, apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services let by the board.

(c) Contracts for maintenance services for any district facility or project shall be subject to competitive bidding requirements when the amount thereof to be paid by the district exceeds the amount provided in s. 287.017, Florida Statutes, as amended from time to time, for category four. The district shall adopt rules, policies, or procedures establishing competitive bidding procedures for maintenance services. Contracts for other services shall not be subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts. Nothing herein shall preclude the use of requests for proposal instead of invitations to bid as determined by the district to be in its best interest.

(20) RATES, FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION AND MODIFICATIONS; MINIMUM REVENUE REQUIREMENTS.—

(a) The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as "revenues," and to revise the same from time to time, for the systems, facilities, and

services furnished by the district, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district service, facility, or system; and to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent.

(b) No such rates, fees, rentals, or other charges for any of the facilities or services of the district shall be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants, or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Rates, fees, rentals, and other charges shall be adopted under the administrative rulemaking authority of the district, but shall not apply to district leases. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, rentals, and other charges shall have been published in a newspaper of general circulation in the City of North Port at least once and at least 10 days prior to such public hearing. The rulemaking hearing may be adjourned from time to time. After such hearing, such schedule or schedules, either as initially proposed or as modified or amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees, rentals, or other

charges as finally adopted shall be kept on file in an office designated by the board and shall be open at all reasonable times to public inspection. The rates, fees, rentals, or other charges so fixed for any class of users or property served shall be extended to cover any additional users or properties thereafter served which shall fall in the same class, without the necessity of any notice or hearing.

(c) Such rates, fees, rentals, and other charges shall be just and equitable and uniform for users of the same class, and, when appropriate, may be based or computed either upon the amount of service furnished, upon the average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

(d) The rates, fees, rentals, or other charges prescribed shall be such as will produce revenues, together with any other assessments, taxes, revenues, or funds available or pledged for such purpose, at least sufficient to provide for the items hereinafter listed, but not necessarily in the order stated:

1. To provide for all expenses of operation and maintenance of such facility or service.

2. To pay when due all bonds and interest thereon for the payment of which such revenues are, or shall have been, pledged

or encumbered, including reserves for such purpose.

3. To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this act.

(e) The board shall have the power to enter into contracts for the use of the projects of the district and with respect to the services, systems, and facilities furnished or to be furnished by the district.

(21) RECOVERY OF DELINQUENT CHARGES.—In the event that any rates, fees, rentals, charges, or delinquent penalties are not paid when due and are in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney fees and costs, may be recovered by the district in a civil action.

(22) DISCONTINUANCE OF SERVICE.—In the event the fees, rentals, or other charges for district services or facilities are not paid when due, the board shall have the power, under such reasonable rules and regulations as the board may adopt, to discontinue and shut off such services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services, are fully paid; and, for such purposes, the board may enter on any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the district limits. Such delinquent fees, rentals, or other charges,

together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities and reasonable attorney fees and other expenses, may be recovered by the district, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

(23) ENFORCEMENT AND PENALTIES.—The board or any aggrieved person may have recourse to such remedies in law and at equity as may be necessary to ensure compliance with this act, including injunctive relief to enjoin or restrain any person violating this act or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this act. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, land, or water is used, in violation of this act or of any code, order, resolution, or other regulation made under authority conferred by this act or under law, the board or any citizen residing in the district may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or avoid such violation; to prevent the occupancy of such building, structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about such premises, land, or water.

(24) SUITS AGAINST THE DISTRICT.—Any suit or action

brought or maintained against the district for damages arising out of tort, including, without limitation, any claim arising upon account of an act causing an injury or loss of property, personal injury, or death, shall be subject to the limitations provided in s. 768.28, Florida Statutes.

(25) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.—All district property shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property, nor shall any judgment against the district be a charge or lien on its property or revenues; however, nothing contained herein shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the district in connection with any of the bonds or obligations of the district.

(26) TERMINATION, CONTRACTION, OR EXPANSION OF DISTRICT.—

(a) The board of supervisors of the district shall not ask the Legislature to repeal or amend this act to expand or to contract the boundaries of the district or otherwise cause the merger or termination of the district without first obtaining a resolution or official statement from the City of North Port as required by s. 189.031(2)(e)4., Florida Statutes, for creation of an independent special district. The district's consent may be evidenced by a resolution or other official written statement of the district.

(b) The district shall remain in existence until:

1. The district is terminated and dissolved pursuant to amendment to this act by the Legislature.

2. The district has become inactive pursuant to s. 189.062, Florida Statutes.

(27) MERGER WITH COMMUNITY DEVELOPMENT DISTRICTS.—The district may merge with one or more community development districts situated wholly within its boundaries. The district shall be the surviving entity of the merger. Any mergers shall commence upon each such community development district filing a written request for merger with the district. A copy of the written request shall also be filed with the City of North Port. The district, subject to the direction of its board of supervisors, shall enter into a merger agreement which shall provide for the proper allocation of debt, the manner in which such debt shall be retired, the transition of the community development district board, and the transfer of all financial obligations and operating and maintenance responsibilities to the district. The execution of the merger agreement by the district and each community development district constitutes consent of the landowners within each district. The district and each community development district requesting merger shall hold a public hearing within its boundaries to provide information about and take public comment on the proposed merger in the merger agreement. The public hearing shall be held within 45 days before the execution of the merger agreement by all parties

thereto. Notice of the public hearing shall be published at least 14 days before the hearing in a newspaper of general circulation in the City of North Port. At the conclusion of the public hearing, each district shall consider a resolution either approving or disapproving the proposed merger. If the district and each community development district which is a party to the merger agreement adopt a resolution approving the proposed merger, the resolutions and the merger agreement shall be filed with the City of North Port. Upon receipt of the resolutions approving the merger and the merger agreement, the City of North Port shall adopt a nonemergency ordinance dissolving each community development district pursuant to s. 190.046(10), Florida Statutes.

(28) INCLUSION OF TERRITORY.—The inclusion of any or all territory of the district within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the district.

(29) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED DISCLOSURE TO PURCHASER.—Subsequent to the creation of this district under this act, each contract for the initial sale of a parcel of real property and each contract for the initial sale of a residential unit within the district shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type

in the remaining text of the contract: "THE STAR FARMS VILLAGE AT NORTH PORT STEWARDSHIP DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

(30) NOTICE OF CREATION AND ESTABLISHMENT.—Within 30 days after the election of the first board of supervisors creating this district, the district shall cause to be recorded in the grantor-grantee index of the property records in Sarasota County a "Notice of Creation and Establishment of the Star Farms Village at North Port Stewardship District." The notice shall, at a minimum, include the legal description of the property covered by this act.

(31) DISTRICT PROPERTY PUBLIC; FEES.—Any system, facility, service, works, improvement, project, or other infrastructure owned by the district, or funded by federal tax exempt bonding issued by the district, is public, and the district by rule may regulate, and may impose reasonable charges or fees for, the use thereof, but not to the extent that such regulation or imposition of such charges or fees constitutes denial of

reasonable access.

Section 7. If any provision of this act is determined unconstitutional or otherwise determined invalid by a court of law, all the rest and remainder of the act shall remain in full force and effect as the law of this state.

Section 8. This act shall take effect upon becoming a law, except that the provisions of this act which authorize the levy of ad valorem taxation shall take effect only upon express approval by a majority vote of those qualified electors of the Star Farms Village at North Port Stewardship District, as required by Section 9 of Article VII of the State Constitution, voting in a referendum election held at such time as all members of the board are qualified electors who are elected by qualified electors of the district as provided in this act.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1177 Land Development
SPONSOR(S): Duggan
TIED BILLS: **IDEN./SIM. BILLS:** SB 1110

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
2) Ways & Means Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Each county and municipality is required to plan for future development and growth by adopting, implementing, and amending as necessary a comprehensive plan. All elements of a plan or plan amendment must be based on relevant, appropriate data and an analysis by the local government. Each comprehensive plan must include a transportation element addressing traffic circulation, including the types, locations, and extent of existing and proposed major thoroughfares and transportation routes, including bicycle and pedestrian ways.

Certain public facilities and services must be in place and available to serve new development no later than the issuance of a certificate of occupancy or its functional equivalent by a local government. Local governments may extend this concurrency requirement to additional public facilities such as transportation. Local governments electing to repeal transportation concurrency are encouraged to adopt an alternative mobility funding system. One method of funding local government transportation concurrency requirements is through the adoption and imposition of impact fees to fund the infrastructure needed to expand local services to meet the demands of population growth caused by new growth. Local governments may increase impact fees only under limited circumstances, including upon a showing of extraordinary circumstances.

A Development of Regional Impact (DRI) is “any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one county.” Any proposed change to a previously approved DRI must be reviewed by the local government. Notwithstanding any provision of an adopted local comprehensive plan or adopted land development regulations to the contrary, an adopted change to a development order for an approved DRI does not diminish or otherwise alter any credits for a development order exaction or fee.

The bill:

- Revises powers and responsibilities of counties and municipalities under the Community Planning Act;
- Requires local governments implementing transportation concurrency to credit the fair market value of any land dedicated and prohibits fees based on cumulative analysis of trips between project stages and phases;
- Removes exceptions from impact fee statute for water and sewer collection fees;
- Revises application of credits against local impacts for DRIs;
- Revises review requirements for changes to DRIs; and
- Clarifies the application of vested rights in DRIs.

The bill does not appear to have a fiscal impact on state government, but may have an indeterminate impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Comprehensive Planning

Every local government, defined as any county and municipality,[1] is required to plan for future development and growth by adopting, implementing, and amending as necessary a comprehensive plan.[2] All elements of a plan or plan amendment must be based on relevant, appropriate data[3] and an analysis by the local government that may include surveys, studies, aspirational goals, and other data available at the time of adopting the plan or amendment.[4] The data supporting a plan or amendment must be taken from professionally accepted sources[5] and must be based on permanent and seasonal population estimates and projections.[6]

Each comprehensive plan must include a transportation element, the purpose of which is to plan for a multimodal transportation system emphasizing feasible public transportation, addressing mobility issues pertinent to the size and character of the local government, and designed to support all other elements of the comprehensive plan.[7] The transportation element must address traffic circulation, including the types, locations, and extent of existing and proposed major thoroughfares and transportation routes, including bicycle and pedestrian ways.[8] The plan of a local government with a population exceeding 50,000 that is not within the planning area of a metropolitan planning organization (MPO)[9] also must address mass transit, ports, and aviation[10] and related facilities.[11] The transportation planning element for a local government with a population exceeding 50,000 located within the area of a MPO specifically must address the following:

- All alternative modes of travel, including public transportation, pedestrian, and bicycle;
- Aviation, rail, and seaport facilities, access to those facilities, and intermodal transportation;
- Capability to evacuate coastal population prior to a natural disaster;
- Airports, projected airport and aviation development, and land use around airports; and
- Identification of land use densities, building intensities, and transportation management programs to promote public transportation.[12]

[1] S. 163.3164(29), F.S. For the purpose of the act, the Central Florida Tourism Oversight District may exercise the powers of a municipality for the area under its jurisdiction. S. 163.3167(6), F.S. *See also* ch. 2023-5, Laws of Fla. (renaming the Reedy Creek Improvement District to the Central Florida Tourism Oversight District).
[2] Ss. 163.3167(2), 163.3177(2), F.S.
[3] "To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue." S. 163.3177(1)(f), F.S.
[4] S. 163.3177(1)(f), F.S.
[5] S. 163.3177(1)(f)2., F.S. The statute does not further define "professionally accepted sources."
[6] S. 163.3177(1)(f)3., F.S. Population estimates may be those published by the Office of Economic and Demographic Research or may be generated by the local government based upon a professionally acceptable methodology. *Id.*
[7] S. 163.3177(6)(b), F.S.
[8] S. 163.3177(6)(b)1., F.S.
[9] An MPO must be designated as provided in 23 U.S.C. s. 450.310(a) for each urbanized area with a population of more than 50,000. S. 339.175(2), F.S. Florida MPOs are intended specifically to develop plans and programs in metropolitan areas for the development and management of transportation systems and facilities, including pedestrian walkways and bicycle transportation facilities to function as an intermodal transportation system. S. 339.175(1), F.S.
[10] All local governments have the option to include within the transportation element an airport master plan, incorporated into the plan through the comprehensive plan amendment process. S. 163.3177(6)(b)4., F.S.
[11] S. 163.3177(6)(b), F.S.
[12] S. 163.3177(6)(b)2., F.S.

The transportation planning element for a municipality with a population exceeding 50,000, or a county with a population exceeding 75,000, must provide for moving people by mass transit, including:

- Providing efficient, safe, and convenient public transit, including accommodation for the transportation disadvantaged;
- Plans for port, aviation, and related facilities; and
- Plans for circulation of recreational traffic, including bicycle and riding facilities and exercise trails.[13]

In addition to the general requirements for data supporting a comprehensive plan or amendment, the transportation planning element must include one or more maps showing the general location of existing and proposed transportation system features and data, analyses, and associated principles pertaining to:

- Existing transportation system levels of service and system needs and availability of transportation facilities and services;
- Growth trends and travel patterns, as well as interactions between land use and transportation;
- Current and projected intermodal[14] deficiencies and needs;
- Projected transportation system levels of service and system needs; and
- How the local government will correct existing facility deficiencies, meet the needs of the projected transportation system, and advance the transportation purposes of the plan.[15]

Generally, local government transportation and mobility planning should address providing mobility options, such as automobile, bicycle, pedestrian, or mass transit, that minimize environmental impacts, expand transportation options, and increase connectivity between destinations.[16]

Transportation Concurrency

Certain public facilities and services must be in place and available to serve new development no later than the issuance of a certificate of occupancy or its functional equivalent by a local government.[17] Local governments may extend this concurrency requirement to additional public facilities such as transportation.[18] Where concurrency is applied to transportation, the local government comprehensive plan must provide the principles, guidelines, standards, and strategies, including adopted levels of service, to guide its application.[19] The plan must show that the included levels of service may reasonably be met.[20] Local governments utilizing transportation concurrency must use professionally accepted studies to evaluate levels of service and techniques to measure such levels of service when evaluating potential impacts of proposed developments.[21] While local governments implementing a transportation concurrency system are encouraged to develop and use certain tools and guidelines, such as addressing potential negative impacts on urban infill and redevelopment[22] and adopting long-

[13] S. 163.3177(6)(b)3., F.S.
[14] "Intermodal transportation" is not defined in the statute but generally means the transportation by or involving more than one form of carrier in a single journey, particularly for moving cargo. *See* "intermodal," available at https://www.merriam-webster.com/dictionary/intermodal (last visited Jan. 22, 2024); "intermodal transport," available at https://www.ups.com/us/en/supplychain/insights/knowledge/glossary-term/intermodal-transport.page (last visited Jan. 22, 2024). Part of the intent in creating the Florida Strategic Intermodal System is to address the increased demands placed on the entire statewide transportation system by economic and population growth and projected increases in freight movement, international trade, and tourism designing and operating a strategic intermodal system to meet the mobility needs of the state. *See* s. 339.61(2), F.S.
[15] S. 163.3177(6)(b)1., F.S.
[16] Dept. of Commerce, "Transportation Planning," available at https://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/transportation-planning (last visited Jan. 22, 2024), herein Commerce Transportation Planning.
[17] S. 163.1380(2), F.S. The only such services for which concurrency is mandatory are sanitary sewer, solid waste, drainage, and potable water supplies.
[18] S. 163.3180(1), F.S.
[19] Ss. 163.3180(1)(a), 163.3180(5)(a), F.S. *See* Commerce Transportation Planning, *supra* n. 16.
[20] S. 163.3180(1)(b), F.S.
[21] S. 163.3180(5)(b)-(c), F.S.
[22] S. 163.3180(5)(e), F.S.

term multimodal strategies,[23] such local governments must follow specific concurrency requirements including consulting with the Florida Department of Transportation if proposed amendments to the plan affect the Strategic Intermodal System, exempting public transit facilities from concurrency requirements, and allowing a developer to contribute a proportionate share to mitigate transportation impacts for a specific development.[24]

An applicant for a development-of-regional-impact development order, development agreement, rezoning, or other land use development permit satisfies the requirements for transportation concurrency if the applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of transportation improvements required to mitigate the impact of the proposed development and the proffered proportionate share contribution or construction is sufficient to accomplish one or more mobility improvements benefitting a regionally significant transportation facility.[25] The plan for transportation concurrency must provide the basis on which landowners will be assessed a proportionate share,[26] which must include a compliant formula for calculating the proportionate share.[27] The proportionate share may not include additional costs to reduce or eliminate existing transportation deficiencies.[28]

Local governments electing to repeal transportation concurrency are encouraged to adopt an alternative mobility funding system. Such an alternative system may not be used to restrict or deny certain development approval applications provided the developer agrees to pay for the development's transportation impacts using the funding mechanism implemented by the local government. Local government mobility fee systems must comply with all requirements for adopting and implementing impact fees. An alternative funding system that is not mobility fee based may not impose on new development any responsibility for funding existing transportation deficiencies.[29]

Impact Fees

One method of funding local government transportation concurrency requirements is through the adoption and imposition of impact fees on new development. Local governments impose impact fees to fund infrastructure[30] needed to expand local services to meet the demands of population growth caused by new growth.[31] Impact fees must meet the following minimum criteria when adopted:

- The fee must be calculated using the most recent and localized data.[32]
- The local government adopting the impact fee must account for and report impact fee collections and expenditures. If the fee is imposed for a specific infrastructure need, the local government must account for those revenues and expenditures in a separate accounting fund.[33]
- Charges imposed for the collection of impact fees must be limited to the actual costs.[34]

[23] S. 163.3180(f), F.S.
[24] S. 163.3180(5)(h), F.S. *See* Commerce Transportation Planning, *supra* n. 16.
[25] S. 163.3180(5)(h)1.c., F.S.
[26] S. 163.3180(5)(h)1.d., F.S.
[27] S. 163.3180(5(h)2.a.-d., F.S.
[28] S. 163.3180(5)(h)2., F.S. For purposes of s. 163.3180(5), F.S., "transportation deficiency" means a facility or facilities on which the level of service standard adopted in the comprehensive plan is exceeded by the number of existing, projected, or vested trips together with additional trips originating from any source other than the development project under review, and trips forecast by established traffic standards. S. 163.3180(5)(h)4., F.S. Local governments may resolve existing transportation deficiencies within an identified transportation deficiency area by creating a transportation development authority with specific powers to implement a transportation sufficiency plan funded through a formula of tax increment funding. Adopting a transportation sufficiency plan is deemed as meeting transportation level of service standards, and proportionate fair-share mitigation is limited to ensure developments within the transportation deficiency area are not responsible for additional costs to eliminate deficiencies. S. 163.3182, F.S.
[29] S. 163.3180(5)(i), F.S.
[30] "Infrastructure" means the fixed capital expenditure or outlay for the construction, reconstruction, or improvement of public facilities with a life expectancy of five or more years, together with specific other costs required to bring the public facility into service but excluding the costs of repairs or maintenance. The term also includes specific equipment. S. 163.31801(3), F.S.
[31] S. 163.31801(2), F.S. Water and sewer connection fees are not impact fees. S. 163.31801(12), F.S.
[32] S. 163.31801(4)(a), F.S.
[33] S. 163.31801(4)(b), F.S.
[34] S. 163.31801(4)(c), F.S.

- All local governments must give notice of a new or increased impact fee at least 90 days before the new or increased fee takes effect, but need not wait 90 days before decreasing, suspending, or eliminating an impact fee. Unless the result reduces total mitigation costs or impact fees on an applicant, new or increased impact fees may not apply to current or pending applications submitted before the effective date of an ordinance or resolution imposing a new or increased impact fee.[35]
- A local government may not require payment of the impact fee before the date of issuing a building permit for the property that is subject to the fee.[36]
- The impact fee must be reasonably connected to, or have a rational nexus with, the need for additional capital facilities and the increased impact generated by the new residential or commercial construction.[37]
- The impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the revenues generated and the benefits accruing to the new residential or commercial construction.[38]
- The local government must specifically earmark revenues generated by the impact fee to acquire, construct, or improve capital facilities to benefit new users.[39]
- The local government may not use revenues generated by the impact fee to pay existing debt or for previously approved projects unless the expenditure is reasonably connected to, or has a rational nexus with, the increased impact generated by the new residential or commercial construction.[40]

The types of impact fees charged and the timing of their collection after issuing a building permit are within the discretion of the local government or special district authorities choosing to impose the fees.[41] In general, a building permit must be obtained before the construction, erection, modification, repair, or demolition of any building.[42] A development permit pertains to any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land.[43] Local governments providing an exception or waiver of impact fees for the development or construction of affordable housing are not required to use any revenues to offset the impact of such development.[44]

Local governments must credit against impact fee collections any contribution related to public facilities or infrastructure on a dollar-for-dollar basis at fair market value for the general category or class of public facilities or infrastructure for which the contribution was made. If no impact fee is collected for that category of public facility or infrastructure for which the contribution is made, no credit may be applied.[45] Credits for impact fees may be assigned or transferred at any time once established, from one development or parcel to another within the same impact fee zone or district or within an adjoining impact fee zone or district within the same local government jurisdiction.[46]

Local governments may increase impact fees only under limited circumstances. A fee may be increased no more than once every four years, may not be increased retroactively, the increase may not exceed 50 percent of the current impact fee amount, and any increase must be consistent with a statutorily-compliant plan for the imposition, collection, and use of the fees. An increase not exceeding

[35] S. 163.31801(4)(d), F.S.
[36] S. 163.31801(4)(e), F.S.
[37] S. 163.31801(4)(f), F.S.
[38] S. 163.31801(4)(g), F.S.
[39] S. 163.31801(4)(h), F.S.
[40] S. 163.31801(4)(i), F.S.
[41] *See* s. 163.31801(2), F.S.
[42] S. 553.79, F.S.
[43] S. 163.3164(16), F.S.
[44] S. 163.31801(11), F.S.
[45] S. 163.31801(5), F.S.
[46] S. 163.31801(10), F.S. In an action challenging an impact fee or a failure to provide proper credits, the local government has the burden of proof to establish the imposition of the fee or the credit complies with the statute, and the court may not defer to the decision or expertise of the government. S. 163.31801(9), F.S.

25 percent of the current fee amount must be implemented in two equal annual increments, while an increase greater than 25 percent but not exceeding 50 percent of the current amount must be implemented in four equal annual installments. However, a local government may increase a fee more than once in four years or for more than 50 percent of a current impact fee amount if it has:

- Prepared a demonstrated-need study within 12 months before adopting the increase showing extraordinary circumstances necessitating the need for the increase;
- Conducted at least two publicly noticed workshops on the extraordinary circumstances justifying the increase; and
- Approved the increase by at least a two-thirds vote of the governing body.[47]

A local government that increases an impact fee must still provide the holder of any impact fee credit the full benefit of the density and intensity prepaid by the credit balance.[48]

With each annual financial report or audit filed[49] a local government must report specific information on impact fees imposed, including the specific purpose of the fee, the impact fee schedule describing the method of calculating the fee, the amount assessed for each purpose and for each type of dwelling, the total amount of fees charged by type of dwelling, and each exception or waiver to the imposition of impact fees provided for construction of affordable housing.[50] Additionally, the chief financial officer or executive officer (if there is no chief financial officer) must submit with the annual financial report an affidavit attesting that all impact fees were collected and expended by the local government, or on its behalf, in full compliance with the spending period provisions in the local ordinance and that funds expended from each impact fee account were used to acquire, construct, or improve those specific infrastructure needs.[51]

Developments of Regional Impact (DRIs)

A DRI is "any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one county."[52] The DRI statutes were created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting laws.[53] The program provided a process to identify regional impacts stemming from large developments and appropriate provisions to mitigate impacts on state and regional resources.[54]

The process to review or amend a DRI agreement and its implementing development orders went through several revisions[55] until repeal of the requirements for state and regional reviews in 2018.[56] Affected local governments are responsible for the implementation and amendment of existing DRI agreements and development orders.[57] Currently, an amendment to a development order for an approved DRI may not amend to an earlier date the date to which the local government had agreed not to impose downzoning, unit density reduction, or intensity reduction, unless:[58]

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[47] S. 163.31801(6), F.S.
[48] S. 163.31801(7), F.S.
[49] *See* ss. 218.32, 218.39, F.S.
[50] S. 163.31801(13), F.S.
[51] S. 163.31801(8), F.S.
[52] S. 380.06(1), F.S.
[53] The Florida Senate, Committee on Community Affairs, Interim Report 2012-114, September 2011, citing: Thomas G. Pelham, *A Historical Perspective for Evaluating Florida's Evolving Growth Management Process*, in *Growth Management in Florida: Planning for Paradise*, 8 (Timothy S. Chapin, Charles E. Connerly, and Harrison T. Higgins eds. 2005), https://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-114ca.pdf (last visited Jan. 22, 2024)
[54] Ch. 72-317, s. 6, Laws of Fla.
[55] *See* ch. 2015-30, Laws of Fla. (requiring that new DRI-sized developments proposed after July 1, 2015, must be approved by a comprehensive plan amendment in lieu of the state review process provided for in s. 380.06, F.S.) and ch. 2016-148, Laws of Fla. (requiring DRI reviews to follow the state coordinated review process if the development, or an amendment to the development, required an amendment to the comprehensive plan).
[56] Ch. 2018-158, Laws of Fla.
[57] S. 380.06(4)(a) and (7), F.S.
[58] S. 380.06(4)(a), F.S.

- The local government can demonstrate that substantial changes in the conditions underlying the approval of the development order have occurred;
- The development order was based on substantially inaccurate information provided by the developer; or
- The change is clearly established by local government to be essential to the public health, safety, or welfare.

Any proposed change to a previously approved DRI must be reviewed by the local government based on the standards and procedures in its adopted local comprehensive plan and local land development regulations.[59] However, a proposed change reducing the originally approved height, density, or intensity of the development must be reviewed by the local government based on the standards in the local comprehensive plan at the time the development was originally approved. [60] If the proposed change would have been consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change.[61] Any new conditions contained in amendment to the development order must address impact directly created by the proposed change and must be consistent with the local government's adopted comprehensive plan, land development regulations, and transportation concurrency.[62]

Current provisions concerning DRIs do not limit or modify the rights of any person to complete any development that was authorized by:

- Registration of a subdivision pursuant to former chapter 498, F.S.
- Recordation pursuant to local subdivision plat law, or
- A building permit or other authorization to commence development on which there has been reliance and a change of position and which registration or recordation was accomplished, or which permit or authorization was issued, prior to July 1, 1973.[63]

If a developer has obtained vested or other legal rights in reliance on prior regulations that that prevent the local government from changing those regulations in a way adverse to the developer's interest, those rights may not be abridged.

If a development has conveyed, or agreed to convey, property to a state or local government as a prerequisite for a zoning change approval, such change is considered an act of reliance to vest rights, provided the zoning change is actually granted by the government.[64]

Impact Fee Credits

Notwithstanding any provision of an adopted local comprehensive plan or adopted land development regulations to the contrary, an adopted change to a development order for an approved DRI does not diminish or otherwise alter any credits for a development order exaction or fee as against impact fees, mobility fees, or exactions if the credits are based upon the developer's contribution of land, a public facility, or the construction, expansion, or payment for land acquisition or construction or expansion of a public facility or portion of a public facility.[65]

If local government imposes or increases impact fees, mobility fees, or exactions by local ordinance, developers may to petition the local government to modify the affected provisions of the developer's development order to give the developer credit for any contribution required by the development owner toward an impact fee or exaction for the same need.[66]

[59] S. 380.06(7)(a), F.S. These procedures must include notice to the applicant and public about the issuance of development orders.
[60] *Id.*
[61] *Id.*
[62] S. 380.06(7)(b), F.S.
[63] S. 380.06(8), F.S.
[64] S. 380.06(8)(b), F.S.
[65] S. 380.06(5)(a), F.S.
[66] S. 380.06(5)(b), F.S.

This provision does not apply to internal, onsite facilities required by local regulations and any offsite facilities necessary to provide safe and adequate services to the development. [67]

Effect of Proposed Changes

Comprehensive Planning

The bill provides that the powers and responsibilities of counties under the Community Planning Act includes evaluate transportation impacts, apply concurrency, or assess any fee related to transportation improvements. The bill also provides that counties and municipalities, notwithstanding any other provision of general law, exclusively hold the powers and responsibilities assigned to those units of government under the Community Planning Act.

The bill provides that a local government that continues to implement a transportation concurrency system must comply with existing statutory requirements notwithstanding any provision in a development order, an agreement, a local comprehensive plan, or a local land development regulation. The bill revises those requirements by:

- Requiring local governments that implement a transportation concurrency system to credit the fair market value of any land dedicated to a governmental entity for transportation facilities against the total proportionate share payments computed pursuant to general law; and
- Removing the authority for local governments to cumulatively analyze trips from a previous stage or phase of development that did not result in impacts for which mitigation was required or provided when determining requiring mitigation for a subsequent stage or phase of development.

Impact Fees

The bill clarifies that a special district may only levy impact fees if authorized to do so by special act. The bill requires local governments to provide credit against the collection of the impact fee for any contributions related to public facilities or infrastructure, notwithstanding the provisions of any agreement.

The bill removes the exception for water and sewer connection fees.

DRIs

The bill revises the exception for when credits against local impact fees must be maintained when an amendment is made to a development order for an approved DRI agreements to apply to:

- Internal, private facilities required by local regulations; or
- Offsite facilities necessary to provide safe and adequate services solely to the development and not the general public.

The bill removes the requirement that a local government review a proposed change to a DRI based on the local comprehensive plan at the time the development was originally approved. The bill provides that a change to DRI that has the effect of reducing the originally approved height, density, or intensity of the development or that changes only the location, types, or acreage of uses and infrastructure must be administratively approved and is not subject to review by the local government.

The bill provides that any local government review of any proposed change to a DRI and of any development order required to construct developments in the DRI must abide by any prior agreements or other actions vesting the laws and policies governing the development.

[67] S. 380.06(5)(d), F.S.

The bill removes the requirement that any new condition in an amendment to a development order approving or denying an application for a proposed change to a DRI must be consistent with the local government's comprehensive plan and land development regulations.

The bill requires any proposed change to a DRI that includes a dedicated multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles[68] along any internal roadway must be approved if the right-of-way remains sufficient for the ultimate number of lanes of the internal road. The bill requires approval of any proposed change to a DRI substituting a multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles in lieu of an internal road if the change does not result in any road within or adjacent to the DRI falling below the local government's adopted level of service and does not increase the original distribution of trips on any road analyzed as part of the DRI by more than 20 percent. The bill requires local governments to return any interest it may have in the right-of-way to the developer if the developer has dedicated the right-of-way to the local government for proposed internal road ways as part of the approval process for the amendment.

The bill clarifies that comprehensive plans and land development regulations adopted after a DRI has vested do not apply to proposed changes to an approved DRI or to development approvals required to implement the DRI.

The bill provides that the conveyance of property or compensation, or the agreement to convey property or compensation, to the state or local government is an act of reliance to vest rights, removing the requirement that the conveyance be part of a zoning change.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3167, F.S., relating to the scope of the Community Planning Act.

Section 2: Amends s. 163.3180, F.S., relating to concurrency.

Section 3: Amends s. 163.31801, F.S., relating to impact fees.

Section 4: Amends s. 380.06, F.S., relating to developments of regional impact.

Section 5: Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill may have an indeterminate effect on local government revenue due to changes in impact fee credit procedures and the removal of an exception of water and sewer connection fees.

[68] Low-speed vehicle means any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour. S. 320.01(41), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to land development; amending s. 163.3167, F.S.; revising the scope of power and responsibility of municipalities and counties under the Community Planning Act; amending s. 163.3180, F.S.; modifying requirements for local governments implementing a transportation concurrency system; amending s. 163.31801, F.S.; revising legislative intent with respect to the adoption of impact fees by special districts; clarifying circumstances under which a local government or special district must credit certain contributions toward the collection of an impact fee; deleting a provision that exempts water and sewer connection fees from the Florida Impact Fee Act; amending s. 380.06, F.S.; revising exceptions from provisions governing credits against local impact fees; revising procedures regarding local government review of changes to previously approved developments of regional impact; specifying types of changes that are not subject to local government review; authorizing changes to multimodal pathways, or the substitution of such pathways, in previously approved developments of regional impact if certain conditions are met; specifying that certain changes to comprehensive plan policies and land development

regulations do not apply to a development of regional impact that has vested rights; revising acts that are deemed to constitute an act of reliance by a developer to vest rights; providing an effective date.

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

Section 1. Subsection (1) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(1) Notwithstanding any other provision of general law, the several incorporated municipalities and counties ~~shall~~ have exclusive power and responsibility:

(a) To plan for their future development and growth.

(b) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future development and growth.

(c) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof.

(d) To evaluate transportation impacts, apply concurrency, or assess any fee related to transportation improvements.

(e) To establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of this act.

The powers and authority set out in this act may be employed by municipalities and counties individually or jointly by mutual agreement in accord with this act and in such combinations as their common interests may dictate and require.

Section 2. Paragraph (h) of subsection (5) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(5)

(h)1. Notwithstanding any provision in a development order, an agreement, a local comprehensive plan, or a local land development regulation, local governments that continue to implement a transportation concurrency system, whether in the form adopted into the comprehensive plan before the effective date of the Community Planning Act, chapter 2011-139, Laws of Florida, or as subsequently modified, must:

a. Consult with the Department of Transportation when proposed plan amendments affect facilities on the strategic intermodal system.

b. Exempt public transit facilities from concurrency. For the purposes of this sub-subparagraph, public transit facilities include transit stations and terminals; transit station parking; park-and-ride lots; intermodal public transit connection or transfer facilities; fixed bus, guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities, and hangars for the assembly, manufacture,

maintenance, or storage of aircraft. As used in this sub-subparagraph, the terms "terminals" and "transit facilities" do not include seaports or commercial or residential development constructed in conjunction with a public transit facility.

c. Allow an applicant for a development-of-regional-impact development order, development agreement, rezoning, or other land use development permit to satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06, when applicable, if:

(I) The applicant in good faith offers to enter into a binding agreement to pay for or construct its proportionate share of required improvements in a manner consistent with this subsection.

(II) The proportionate-share contribution or construction is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility. A local government may accept contributions from multiple applicants for a planned improvement if it maintains contributions in a separate account designated for that purpose.

d. Provide the basis upon which the landowners will be assessed a proportionate share of the cost addressing the transportation impacts resulting from a proposed development.

e. Credit the fair market value of any land dedicated to a governmental entity for transportation facilities against the

total proportionate share payments computed pursuant to this section.

2. An applicant is ~~shall~~ not ~~be held~~ responsible for the additional cost of reducing or eliminating deficiencies. When an applicant contributes or constructs its proportionate share pursuant to this paragraph, a local government may not require payment or construction of transportation facilities whose costs would be greater than a development's proportionate share of the improvements necessary to mitigate the development's impacts.

a. The proportionate-share contribution shall be calculated based upon the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.

b. In using the proportionate-share formula provided in this subparagraph, the applicant, in its traffic analysis, shall identify those roads or facilities that have a transportation deficiency in accordance with the transportation deficiency as defined in subparagraph 4. The proportionate-share formula provided in this subparagraph shall be applied only to those facilities that are determined to be significantly impacted by

the project traffic under review. If any road is determined to be transportation deficient without the project traffic under review, the costs of correcting that deficiency shall be removed from the project's proportionate-share calculation and the necessary transportation improvements to correct that deficiency shall be considered to be in place for purposes of the proportionate-share calculation. The improvement necessary to correct the transportation deficiency is the funding responsibility of the entity that has maintenance responsibility for the facility. The development's proportionate share shall be calculated only for the needed transportation improvements that are greater than the identified deficiency.

c. When the provisions of subparagraph 1. and this subparagraph have been satisfied for a particular stage or phase of development, all transportation impacts from that stage or phase for which mitigation was required and provided shall be deemed fully mitigated in any transportation analysis for a subsequent stage or phase of development. ~~Trips from a previous stage or phase that did not result in impacts for which mitigation was required or provided may be cumulatively analyzed with trips from a subsequent stage or phase to determine whether an impact requires mitigation for the subsequent stage or phase.~~

d. In projecting the number of trips to be generated by the development under review, any trips assigned to a toll-financed facility shall be eliminated from the analysis.

e. The applicant shall receive a credit on a dollar-for-dollar basis for impact fees, mobility fees, and other transportation concurrency mitigation requirements paid or payable in the future for the project. The credit shall be reduced up to 20 percent by the percentage share that the project's traffic represents of the added capacity of the selected improvement, or by the amount specified by local ordinance, whichever yields the greater credit.

3. This subsection does not require a local government to approve a development that, for reasons other than transportation impacts, is not qualified for approval pursuant to the applicable local comprehensive plan and land development regulations.

4. As used in this subsection, the term "transportation deficiency" means a facility or facilities on which the adopted level-of-service standard is exceeded by the existing, committed, and vested trips, plus additional projected background trips from any source other than the development project under review, and trips that are forecast by established traffic standards, including traffic modeling, consistent with the University of Florida's Bureau of Economic and Business Research medium population projections. Additional projected background trips are to be coincident with the particular stage or phase of development under review.

Section 3. Subsection (2), paragraph (a) of subsection

(5), and subsection (12) of section 163.31801, Florida Statutes, are amended to read:

163.31801 Impact fees; short title; intent; minimum requirements; audits; challenges.—

(2) The Legislature finds that impact fees are an important source of revenue for a local government to use in funding the infrastructure necessitated by new growth. The Legislature further finds that impact fees are an outgrowth of the home rule power of a local government to provide certain services within its jurisdiction. Due to the growth of impact fee collections and local governments' reliance on impact fees, it is the intent of the Legislature to ensure that, when a county or municipality adopts an impact fee by ordinance or a special district, if authorized by its special act, adopts an impact fee by resolution, the governing authority complies with this section.

(5)(a) Notwithstanding any charter provision, comprehensive plan policy, ordinance, development order, development permit, agreement, or resolution to the contrary, the local government or special district must credit against the collection of the impact fee any contribution, whether identified in an ~~a proportionate share~~ agreement or other form of exaction, related to public facilities or infrastructure, including land dedication, site planning and design, or construction. Any contribution must be applied on a dollar-for-

dollar basis at fair market value to reduce any impact fee collected for the general category or class of public facilities or infrastructure for which the contribution was made.

~~(12) This section does not apply to water and sewer connection fees.~~

Section 4. Paragraph (d) of subsection (5) and subsections (7) and (8) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(5) CREDITS AGAINST LOCAL IMPACT FEES.—

(d) This subsection does not apply to internal, private onsite facilities required by local regulations or to any offsite facilities to the extent that such facilities are necessary to provide safe and adequate services solely to the development and not the general public.

(7) CHANGES.—

(a) Notwithstanding any provision to the contrary in any development order, agreement, local comprehensive plan, or local land development regulation, this section applies to all ~~any~~ proposed changes ~~change~~ to a previously approved development of regional impact. ~~shall be reviewed by~~ The local government must base its review ~~based~~ on the standards and procedures in its adopted local comprehensive plan and adopted local land development regulations, including, but not limited to, procedures for notice to the applicant and the public regarding

the issuance of development orders. However, a change to a development of regional impact that has the effect of reducing the originally approved height, density, or intensity of the development or that changes only the location, types, or acreage of uses and infrastructure must be administratively approved and is not subject to review by the local government. The local government review of any proposed change to a previously approved development of regional impact and of any development order required to construct the development set forth in the development of regional impact ~~must be reviewed by the local government based on the standards in the local comprehensive plan at the time the development was originally approved, and if the development would have been consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5). For any proposed change to a previously approved development of regional impact, at least one public hearing must be held on the application for change, and any change must be approved by the local governing body before it becomes effective. The review~~ must abide by any prior agreements or other actions vesting the laws and policies governing the development. Development within the previously approved development of regional impact may continue, as approved, during the review in portions of the development which

are not directly affected by the proposed change.

(b) The local government shall either adopt an amendment to the development order that approves the application, with or without conditions, or deny the application for the proposed change. Any new conditions in the amendment to the development order issued by the local government may address only those impacts directly created by the proposed change, and must be consistent with s. 163.3180(5)~~, the adopted comprehensive plan, and adopted land development regulations~~. Changes to a phase date, buildout date, expiration date, or termination date may also extend any required mitigation associated with a phased construction project so that mitigation takes place in the same timeframe relative to the impacts as approved.

(c) This section is not intended to alter or otherwise limit the extension, previously granted by statute, of a commencement, buildout, phase, termination, or expiration date in any development order for an approved development of regional impact and any corresponding modification of a related permit or agreement. Any such extension is not subject to review or modification in any future amendment to a development order pursuant to the adopted local comprehensive plan and adopted local land development regulations.

(d) Any proposed change to a previously approved development of regional impact showing a dedicated multimodal pathway suitable for bicycles, pedestrians, and low-speed

vehicles, as defined in s. 320.01, along any internal roadway must be approved so long as the right-of-way remains sufficient for the ultimate number of lanes of the internal road. Any proposed change to a previously approved development of regional impact which proposes to substitute a multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles, as defined in s. 320.01, in lieu of an internal road must be approved if the change does not result in any road within or adjacent to the development of regional impact falling below the local government's adopted level of service and does not increase the original distribution of trips on any road analyzed as part of the approved development of regional impact by more than 20 percent. If the developer has already dedicated right-of-way to the local government for the proposed internal roadway as part of the approval of the proposed change, the local government must return any interest it may have in the right-of-way to the developer.

(8) VESTED RIGHTS.—Nothing in this section shall limit or modify the rights of any person to complete any development that was authorized by registration of a subdivision pursuant to former chapter 498, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position and which registration or recordation was accomplished, or which permit or authorization was issued, prior

to July 1, 1973. If a developer has, by his or her actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to the developer's interests, nothing in this chapter authorizes any governmental agency to abridge those rights. Consistent with s. 163.3167(5), comprehensive plan policies and land development regulations adopted after a development of regional impact has vested do not apply to proposed changes to an approved development of regional impact or to development approvals required to implement the approved development of regional impact.

(a) For the purpose of determining the vesting of rights under this subsection, approval pursuant to local subdivision plat law, ordinances, or regulations of a subdivision plat by formal vote of a county or municipal governmental body having jurisdiction after August 1, 1967, and prior to July 1, 1973, is sufficient to vest all property rights for the purposes of this subsection; and no action in reliance on, or change of position concerning, such local governmental approval is required for vesting to take place. Anyone claiming vested rights under this paragraph must notify the department in writing by January 1, 1986. Such notification shall include information adequate to document the rights established by this subsection. When such notification requirements are met, in order for the vested rights authorized pursuant to this paragraph to remain valid

after June 30, 1990, development of the vested plan must be commenced prior to that date upon the property that the state land planning agency has determined to have acquired vested rights following the notification or in a binding letter of interpretation. When the notification requirements have not been met, the vested rights authorized by this paragraph shall expire June 30, 1986, unless development commenced prior to that date.

(b) For the purpose of this act, the conveyance of property or compensation, or the agreement to convey~~,~~ property or compensation, to the county, state, or local government ~~as a prerequisite to zoning change approval~~ shall be construed as an act of reliance to vest rights as determined under this subsection~~, provided such zoning change is actually granted by such government~~.

Section 5. This act shall take effect upon becoming a law.

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee
Representative Duggan offered the following:

Amendment

Remove lines 229-310 and insert:

development or that changes only the location or acreage of uses and infrastructure or exchanges permitted uses must be administratively approved and is not subject to review by the local government. The local government review of any proposed change to a previously approved development of regional impact and of any development order required to construct the development set forth in the development of regional impact ~~must be reviewed by the local government based on the standards in the local comprehensive plan at the time the development was originally approved, and if the development would have been~~

~~consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5). For any proposed change to a previously approved development of regional impact, at least one public hearing must be held on the application for change, and any change must be approved by the local governing body before it becomes effective. The review~~ must abide by any prior agreements or other actions vesting the laws and policies governing the development. Development within the previously approved development of regional impact may continue, as approved, during the review in portions of the development which are not directly affected by the proposed change.

(b) The local government shall either adopt an amendment to the development order that approves the application, with or without conditions, or deny the application for the proposed change. Any new conditions in the amendment to the development order issued by the local government may address only those impacts directly created by the proposed change, and must be consistent with s. 163.3180(5)~~, the adopted comprehensive plan, and adopted land development regulations~~. Changes to a phase date, buildout date, expiration date, or termination date may also extend any required mitigation associated with a phased

construction project so that mitigation takes place in the same timeframe relative to the impacts as approved.

(c) This section is not intended to alter or otherwise limit the extension, previously granted by statute, of a commencement, buildout, phase, termination, or expiration date in any development order for an approved development of regional impact and any corresponding modification of a related permit or agreement. Any such extension is not subject to review or modification in any future amendment to a development order pursuant to the adopted local comprehensive plan and adopted local land development regulations.

(d) Any proposed change to a previously approved development of regional impact showing a dedicated multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles, as defined in s. 320.01, along any internal roadway must be approved so long as the right-of-way remains sufficient for the ultimate number of lanes of the internal road. Any proposed change to a previously approved development of regional impact which proposes to substitute a multimodal pathway suitable for bicycles, pedestrians, and low-speed vehicles, as defined in s. 320.01, in lieu of an internal road must be approved if the change does not result in any road within or adjacent to the development of regional impact falling below the local government's adopted level of service and does not increase the original distribution of trips on any road analyzed

as part of the approved development of regional impact by more than 20 percent. If the developer has already dedicated right-of-way to the local government for the proposed internal roadway as part of the approval of the proposed change, the local government must return any interest it may have in the right-of-way to the developer.

(8) VESTED RIGHTS.—Nothing in this section shall limit or modify the rights of any person to complete any development that was authorized by registration of a subdivision pursuant to former chapter 498, by recordation pursuant to local subdivision plat law, or by a building permit or other authorization to commence development on which there has been reliance and a change of position and which registration or recordation was accomplished, or which permit or authorization was issued, prior to July 1, 1973. If a developer has, by his or her actions in reliance on prior regulations, obtained vested or other legal rights that in law would have prevented a local government from changing those regulations in a way adverse to the developer's interests, nothing in this chapter authorizes any governmental agency to abridge those rights. Consistent with s. 163.3167(5), comprehensive plan policies and land development regulations adopted after a development of regional impact has vested do not apply to proposed changes to an approved development of regional impact or to development orders required to implement the

HB 1221

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1221 Land Use and Development Regulations
SPONSOR(S): McClain
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
2) Agriculture, Conservation & Resiliency Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans. Each county and municipality must maintain a comprehensive plan to guide future development. Local governments may enter into development agreements with developers. A local government may establish by ordinance procedures and requirements for considering and entering into a development agreement with any person having a legal or equitable interest in real property located within its jurisdiction.

The bill:

- Revises definitions within the Community Planning Act;
- Revises the process for rezoning an agricultural enclave;
- Establishes criteria for approval of infill residential developments;
- Revises data sources used in consideration of the comprehensive plan and plan amendments;
- Requires land development regulations adopted by a local government to establish minimum lot sizes consistent with the maximum density authorized by the comprehensive plan and to provide standards for infill residential development;
- Prohibits optional elements of a comprehensive plan from restricting the density or intensity established in the future land use element;
- Revises criteria to include in the future land use element to; and
- Revises the procedure for adoption of small-scale comprehensive plan amendments.

The bill does not appear to have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Comprehensive Plans

The Community Planning Act[1] provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.[2] Each county and municipality must maintain a comprehensive plan to guide future development.[3]

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.[4] A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.[5]

The 10 required elements include capital improvements; future land use plan; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights.[6]

At least once every seven years, each local government must evaluate its comprehensive plan to determine if plan amendments are necessary to reflect changes in state requirements since the last update of the comprehensive plan and notify the state land planning agency as to its determination.[7] If the local government determines amendments to its comprehensive plan are necessary, the local government must prepare and send to the state land planning agency within one year such plan amendment or amendments for review.[8] Local governments are encouraged to evaluate and update their comprehensive plans to reflect changes in local conditions.[9] If a local government fails to submit an evaluation of its comprehensive plan at least once in seven years to the state land planning agency or update its plan as necessary in order to reflect changes in state requirements, the local government may not amend its comprehensive plan until such time the evaluation is submitted.[10]

Comprehensive plans must include at least two planning periods, one covering the first 10-year period occurring after the plan's adoption and one covering a period of at least 20 years.[11] Additional planning periods are permissible and accepted as part of the planning process.

[1] Ch. 163, part II F.S.
[2] S. 163.3167(1), F.S.
[3] S. 163.3167(2), F.S.
[4] S. 163.3194(3), F.S
[5] S. 163.3177(6), F.S.
[6] *Id*.
[7] S. 163.3191(1), F.S. The state land planning agency is the Department of Commerce pursuant to s. 163.3164(44), F.S.
[8] S. 163.3191(2), F.S.
[9] S. 163.3191(3), F.S.
[10] S. 163.3191(4), F.S.
[11] S. 163.3177(5)(a), F.S.

All elements of a plan or plan amendment must be based on relevant, appropriate data[12] and an analysis by the local government.[13] The data supporting a plan or amendment must be taken from professionally accepted sources.[14] The plan must be based on permanent and seasonal population estimates and projections published by the Office of Economic and Demographic Research or generated by the local government based upon a professionally acceptable methodology.[15] The analysis by the local government may include, but is not limited to, surveys, studies, community goals and vision, and other data available at the time of adoption of the comprehensive plan or plan amendment.[16]

Agricultural Lands and Practices

The Agricultural Lands and Practices Act prohibits counties from adopting or enforcing any duplicative ordinance, resolution, regulation, rule, or policy that limits activity of a bona fide farm or farm operation on agricultural land if such activity is already regulated through or by any of the following:

- Best management practices (BMPs);
- Interim measures, or regulations adopted as rules under Ch. 120, F.S., by the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), or a water management district (WMD) as part of a statewide or regional program; or
- The United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency.[17]

If the owner of a parcel of land defined as an agricultural enclave applies for an amendment to a local government comprehensive plan, the amendment is presumed to not constitute urban sprawl if it includes land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel.[18] An agricultural enclave is any unincorporated, undeveloped parcel that:

- Is owned by a single person or entity;
- Has been in continuous use for bona fide agricultural purposes for a period of 5 years prior to the date of any comprehensive plan amendment application;
- Is surrounded on at least 75 percent of its perimeter by:
    - Property that has existing industrial, commercial, or residential development; or
    - Property that the local government has designated, in the local government's comprehensive plan, zoning map, and future land use map, as land that is to be developed for industrial, commercial, or residential purposes, and at least 75 percent of such property is existing industrial, commercial, or residential development;
- Has public services, including water, wastewater, transportation, schools, and recreation facilities, available or such public services are scheduled in the capital improvement element to be provided by the local government or can be provided by an alternative provider of local government infrastructure in order to ensure consistency with applicable concurrency provisions of s. 163.3180; and
- Does not exceed 1,280 acres; however, if the property is surrounded by existing or authorized residential development that will result in a density at buildout of at least 1,000 residents per square mile, then the area shall be determined to be urban and the parcel may not exceed 4,480 acres.[19]

[12] "To be based on data means to react to it in an appropriate way and to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue." S. 163.3177(1)(f), F.S.
[13] S. 163.3177(1)(f), F.S.
[14] S. 163.3177(1)(f)2., F.S.
[15] S. 163.3177(1)(f)3., F.S.
[16] S. 163.3177(1)(f), F.S.
[17] S. 163.3162(3)(a), F.S.
[18] S. 163.3162(4), F.S.
[19] S. 163.3164(4), F.S.

Additionally, if the proposed amendment is for a parcel larger than 640 acres, the amendment must include appropriate new urbanism concepts such as clustering, mixed-use development, the creation of rural village and city centers, and the transfer of development rights in order to discourage urban sprawl while protecting landowner rights.[20]

When an application for an amendment is submitted, the local government and the owner of the parcel have 180 days to negotiate in good faith to reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel.[21] Within 30 days of receiving the application, the local government and parcel owner must agree in writing to a schedule for information submittal, public hearings, negotiations, and final action on the amendment, which may only be altered by mutual consent.

At the conclusion of the negotiation or the 180-day review period, regardless of the outcome, the proposed amendment must be submitted to the state land planning agency for review.[22] The transmitted plan amendment is presumed to not be urban sprawl.

In both stages, the presumption that a plan amendment is not urban sprawl may be rebutted by clear and convincing evidence.[23]

Future Land Use Element

Comprehensive plans must contain an element regarding future land use that designates proposed future general distribution, location, and extent of the uses of land for a number of uses and categories of public and private uses of land.[24] Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities.[25] The proposed distribution, location, and extent of the various categories of land use must be shown on a land use map or map series. Future land use plans and plan amendments are based on surveys, studies, and data regarding the area[26] and the future land use element must include a future land use map or map series.[27]

Small-Scale Comprehensive Plan Amendments

A small-scale comprehensive plan amendment must meet four criteria:[28]

- The proposed amendment involves a use of 50 or fewer acres of land (100 acres in a rural area of opportunity);[29]
- The changes are limited to Future Land Use Map (FLUM) changes, with no text changes to the comprehensive plan except those that relate directly to, and are adopted simultaneously with, the small scale FLUM change;
- The property is not located in an area of critical state concern, unless the project involves the construction of affordable housing units meeting statutory criteria;[30] and
- The amendment must preserve the internal consistency of the overall local comprehensive plan.

[20] S. 163.3162(4), F.S.
[21] S. 163.3162(4)(a), F.S.
[22] S. 163.3162(4)(b), F.S.
[23] S. 163.3162(4), F.S.
[24] S. 163.3177(6)(a), F.S. Applicable uses and categories of public and private uses of land include, but are not limited to, residential, commercial, industrial, agricultural, recreational, conservation, educational, and public facilities. S. 163.3177(6)(a)10., F.S.
[25] S. 163.3177(6)(a)1., F.S.
[26] S. 163.3177(6)(a)2., F.S.
[27] S. 163.3177(6)(a)10., F.S.
[28] S. 163.3187(1)(a)-(d), (4), F.S., *see also* Dept. of Commerce, *Small Scale Amendments Defined; Adoption; Challenge: Effective Date*, http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/small-scale-amendments-defined-adoption-challenge-effective-date (last visited Jan. 22, 2024).
[29] S. 163.3187(3), F.S.
[30] *See* s. 420.0004(3), F.S.

Small-scale comprehensive plan amendments require only a single hearing before the governing body of the county or municipality for approval.[31] Small-scale comprehensive plan amendments do not require review by DEO or other state agencies.[32]

Any affected person may challenge the amendment by filing a petition with the Division of Administrative Hearings.[33] The challenge must be filed within 30 days of the local government's adoption of the amendment. The challenge is heard in the affected jurisdiction by an administrative law judge (ALJ) between 30 to 60 days after the petition is filed. The local government's determination that the small-scale amendment complies with the overall comprehensive plan is subject to the "fairly debatable" standard of review.[34]

If the ALJ finds that the amendment is in compliance with the comprehensive plan, the ALJ sends a recommended order to DEO. Upon receipt of the recommended order, DEO may issue a final order within 30 days or send the matter to the Administration Commission if the department determines the amendment is not in compliance.[35] If the ALJ does not find that the amendment is in compliance, the ALJ must send the recommended order directly to the Administration Commission, which has 90 days to issue a final order upon receipt.

A small-scale comprehensive plan amendment may not become effective until 31 days after adoption by the governing body of the county or municipality.[36] If the amendment is challenged, the amendment may not become effective until DEO or the Administration Commission issues a final order determining the amendment complies with the overall comprehensive plan.

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.[37]

Each county and municipality must adopt and enforce land development regulations consistent with and that implements its adopted comprehensive plan.[38] Local governments are encouraged to use innovative land development regulations[39] and may adopt measures for the purpose of increasing affordable housing using land-use mechanisms.[40]

Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. State law requires a proposed comprehensive plan amendment receive two public hearings, the first held by the local planning board, and subsequently by the governing board.[41] Additionally, land development regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.[42]

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[31] S. 163.3187(2), F.S.
[32] *Compare* s. 163.3187, F.S. (small-scale plan amendments are only reviewed by DEO if the plan is challenged) *with* s. 163.3184(3)-(4), F.S. (expedited state review process and state coordinated review process for comprehensive plan amendments require review by DEO and other state agencies).
[33] S. 163.3187(5)(a), F.S.
[34] *Id*.
[35] S. 163.3187(5)(b), F.S.
[36] S. 163.3187(5)(c), F.S.
[37] *Id.*
[38] S. 163.3202, F.S.
[39] S. 163.3202(3), F.S.
[40] S. 125.01055 and 166.04151, F.S.
[41] S. 163.3174(4)(a) and 163.3184, F.S.
[42] *See* Sections 163.3161(6) and 163.3194(1)(a), F.S.

Amendments to comprehensive plans may be initiated by any interested party, including private land owners and public parties.[43]

Effect of Proposed Changes

The bill removes the requirement that owner of a parcel of land defined as an agricultural enclave must apply for a comprehensive plan amendment and instead provides that the owner of a parcel of land defined as an agricultural enclave must be granted a rezoning regardless of the future land use map designation of the parcel and any conflicting comprehensive plan goals, objectives, or policies if the owner's rezoning request includes land uses, densities, and intensities of use that are consistent with the approved uses, densities, and intensities of use on industrial, commercial, or residential properties that surround the parcel.

The bill prohibits a local government from requiring a comprehensive plan amendment related to the application and may not enact or enforce land development regulations for agricultural enclaves that are more burdensome than for other types of applications for uses with comparable site conditions. Local governments must approve applications that propose single-family residential use at a density that does not exceed the average density allowed by future land use designations on those adjacent parcels that allow a density of at least one dwelling unit per acre. The bill requires the application for rezoning to be heard at the next regularly scheduled public hearing after the application is filed and following proper public notice.

The bill amends the definition of "agricultural enclave" to require a parcel either:

- Be surrounded on at least 75 percent of its perimeter by:
  - Property that has existing industrial, commercial, or residential development; or
  - Property that the local government has designated, in the local government's comprehensive plan, zoning map, and future land use map, as land that is to be developed for industrial, commercial, or residential purposes, and at least 75 percent of such property is existing industrial, commercial, or residential development;
- A parcel of 640 acres or less that is surrounded on at least 50 percent of its perimeter by parcels that the local government has designated in the local government's comprehensive plan and future land use map, as land that is to be developed for industrial, commercial, or residential purposes and surrounded on at least 50 percent of its perimeter by an urban service district, area, or line.

The bill also revises the method of calculation for agricultural parcels that exist along a right-of-way or canals to include parcels across the right-of-way or canal.

The bill provides a definition for "infill residential development." The term is defined as the expansion of an existing residential development on a contiguous vacant parcel of no more than 20 acres in size within a residential future land use category and a residential zoning district that is contiguous on the majority of all sides by residential development. For the purposes of this definition, "contiguous" is defined as the touching, bordering, or adjoining along a boundary. The bill provides that properties separated by a roadway, railroad, canal, or other public easement are considered contiguous if they would be contiguous but for the easement.

The bill also revises the following definitions in the Community Planning Act:

- "Intensity," providing that the term shall be expressed in square feet per unit of land;
- "Urban service area," to mean areas where public facilities and services, including, but not limited to, central water and sewer capacity and roads, are already in place or may be expanded through investment by the local government or the private sector as evidenced by an

[43] *See e.g.,* Osceola County, *Amending the Comprehensive Plan*, https://www.osceola.org/agencies-departments/community-development/offices/planning-office/comprehensive-plan/amending-comprehensive-plan.stml (last visited Jan. 21, 2023).

executed agreement with the local government to provide urban services within the local government's 20-year planning period; and
- "Urban sprawl," to mean an unplanned or uncontrolled development pattern.

The bill requires comprehensive plan elements and amendments to be based on relevant data, removes the consideration of community goals and vision as a separate component of a local government's analysis, and remove a provision that allows local governments to collect and use original data in their analysis. The bill directs comprehensive plans to be based on the greater of the estimates and projections published by the Office of Economic and Demographic Research and the local government.

The bill prohibits optional elements of a comprehensive plan from restricting the density or intensity established in the future land use element portion of a comprehensive plan. The bill requires the future land use element to account for the amount of land necessary to accommodate single-family, two-family, and fee simple townhome development, the amount of land outside of the urban service area (excluding lands designated for conservation, preservation, or other public use), and to encourage the location of schools in all areas necessary to provide adequate school capacity.

The bill requires local land development regulations to contain minimum lot sizes within single-family, two-family and fee-simple, single-family townhouse zoning districts to accommodate the maximum density authorized in the comprehensive plan, net of the area required for other mandatory items, and infill development standards for single-family homes, two-family homes and fee-simple townhouse dwelling units.

The bill provides that applications for infill development must be administrative approved without the need of a comprehensive plan amendment, rezoning, or variance if the proposed infill development has the same or less gross density as the existing development and is generally consistent with the development standards of existing development. The bill provides that development orders issued pursuant to this provision are to be deemed consistent with all local comprehensive plans and land development regulations. This provision applies notwithstanding any ordinance existing on July 1, 2024.

The bill revises the procedure for adoption of small-scale comprehensive plan amendments by increasing the maximum qualifying size of land to be affected from 50 acres to 150 acres.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3162, F.S., relating to agricultural lands and practices.

Section 2: Amends s. 163.3164, F.S., relating to definitions used in the Community Planning Act.

Section 3: Amends s. 163.3177, F.S., relating to required and optional elements of comprehensive plans.

Section 4: Amends s. 163.3187, F.S., relating to the process for adoption of small-scale comprehensive plan amendments.

Section 5: Amends s. 163.3202, F.S., relating to land development regulations.

Section 6: Amends s. 212.055, F.S., relating to discretionary sales surtaxes.

Section 7: Amends s. 479.01, F.S., relating to definitions used in ch. 479, F.S.

Section 8: Provides an effective date of July 1, 2024.

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to land use and development regulations; amending s. 163.3162, F.S.; revising legislative findings; revising mechanisms by which owners of certain agricultural lands apply for and are granted rezonings; revising requirements for use by local governments in reviewing applications for agricultural enclaves; amending s. 163.3164, F.S.; revising and providing definitions relating to the Community Planning Act; amending s. 163.3177, F.S.; revising the types of data that comprehensive plans and plan amendments must be based on; revising means by which an application of a methodology used in data collection or whether a particular methodology is professionally accepted and evaluated; revising the elements that must be included in a comprehensive plan; amending s. 163.3187, F.S.; revising criteria for adopting a small scale development amendment; amending s. 163.3202, F.S.; revising content requirements for local land development regulations; revising mechanisms by which applications for infill development must be administratively approved; amending ss. 212.055, and 479.01, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsections (1) and (4) of section 163.3162, Florida Statutes, are amended to read:

163.3162 Agricultural Lands and Practices.—

(1) LEGISLATIVE FINDINGS AND PURPOSE.—The Legislature finds that agricultural production is a major contributor to the economy of the state; that agricultural lands constitute unique and irreplaceable resources of statewide importance; that the continuation of agricultural activities preserves the landscape and environmental resources of the state, contributes to the increase of tourism, and furthers the economic self-sufficiency of the people of the state; and that the encouragement, development, and improvement of agriculture will result in a general benefit to the health, safety, and welfare of the people of the state. It is the purpose of this act to protect reasonable agricultural activities conducted on farm lands from duplicative regulation and to protect the property rights of agricultural landowners.

(4) CONSISTENCY WITH ~~AMENDMENT TO~~ LOCAL GOVERNMENT COMPREHENSIVE PLAN.—The owner of a parcel of land defined as an agricultural enclave under s. 163.3164 may apply for and shall be granted a rezoning regardless of the future land use map designation of the parcel and any conflicting comprehensive plan goals, objectives, or policies if the owner's rezoning request

~~an amendment to the local government comprehensive plan pursuant to s. 163.3184. Such amendment is presumed not to be urban sprawl as defined in s. 163.3164 if it~~ includes land uses, densities, and intensities of use that are consistent with the approved uses, densities, and intensities of use of the industrial, commercial, or residential areas that surround the parcel. ~~This presumption may be rebutted by clear and convincing evidence.~~ Each application ~~for a comprehensive plan amendment~~ under this subsection for a parcel larger than 640 acres must include appropriate new urbanism concepts such as clustering, mixed-use development, the creation of rural village and city centers, and the transfer of development rights in order to discourage urban sprawl while protecting landowner rights.

(a) A local government may not require a comprehensive plan amendment related to the application and may not enact or enforce land development regulations for agricultural enclaves that are more burdensome than for other types of applications for uses with comparable site conditions. A local government shall not deny the application if it proposes only single family residential use at a density that does not exceed the average density allowed by future land use designations on those adjacent parcels that allow a density of at least one dwelling unit per acre. A local government must schedule the application for hearing at the next regularly scheduled public hearing after the application is filed and following proper public notice. ~~The~~

~~local government and the owner of a parcel of land that is the subject of an application for an amendment shall have 180 days following the date that the local government receives a complete application to negotiate in good faith to reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. Within 30 days after the local government's receipt of such an application, the local government and owner must agree in writing to a schedule for information submittal, public hearings, negotiations, and final action on the amendment, which schedule may thereafter be altered only with the written consent of the local government and the owner. Compliance with the schedule in the written agreement constitutes good faith negotiations for purposes of paragraph (c).~~

~~(b) Upon conclusion of good faith negotiations under paragraph (a), regardless of whether the local government and owner reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel, the amendment must be transmitted to the state land planning agency for review pursuant to s. 163.3184. If the local government fails to transmit the amendment within 180 days after receipt of a complete application, the amendment must be immediately transferred to the state land planning agency for~~

~~such review. A plan amendment transmitted to the state land planning agency submitted under this subsection is presumed not to be urban sprawl as defined in s. 163.3164. This presumption may be rebutted by clear and convincing evidence.~~

~~(c) If the owner fails to negotiate in good faith, a plan amendment submitted under this subsection is not entitled to the rebuttable presumption under this subsection in the negotiation and amendment process.~~

(b) ~~(d)~~ Nothing within this subsection relating to agricultural enclaves shall preempt or replace any protection currently existing for any property located within the boundaries of the following areas:

1. The Wekiva Study Area, as described in s. 369.316; or

2. The Everglades Protection Area, as defined in s. 373.4592(2).

Section 2. Subsections (22) through (52) of section 163.3164, Florida Statutes, are renumbered as subsections (23) through (53), respectively, subsections (4) and (12) and present subsections (22), (51), and (52) of that section are amended, and a new subsection (22) is added to that section, to read:

163.3164 Community Planning Act; definitions.—As used in this act:

(4) "Agricultural enclave" means an unincorporated, undeveloped parcel that:

(a) Is owned by a single person or entity;

(b) Has been in continuous use for bona fide agricultural purposes, as defined by s. 193.461, for a period of 5 years prior to the date of any comprehensive plan amendment application;

(c) Meets the requirements of subparagraph 1. or subparagraph 2.:

1. Is surrounded on at least 75 percent of its perimeter by:

a. ~~1.~~ Parcels that have ~~Property that has~~ existing industrial, commercial, or residential development; or

b. ~~2.~~ Parcels ~~Property~~ that the local government has designated, in the local government's comprehensive plan, zoning map, and future land use map, as land that is to be developed for industrial, commercial, or residential purposes, and at least 75 percent of the parcels have ~~such property is~~ existing industrial, commercial, or residential development;

2. Does not exceed 640 acres and is surrounded on at least 50 percent of its perimeter by parcels that the local government has designated in the local government's comprehensive plan and future land use map, as land that is to be developed for industrial, commercial, or residential purposes; and the parcel is surrounded on at least 50 percent of its perimeter by an urban service district, area, or line;

(d) Has public services, including water, wastewater, transportation, schools, and recreation facilities, available or

such public services are scheduled in the capital improvement element to be provided by the local government or can be provided by an alternative provider of local government infrastructure in order to ensure consistency with applicable concurrency provisions of s. 163.3180; ~~and~~

(e) Does not exceed 1,280 acres; however, if the property is surrounded by existing or authorized residential development that will result in a density at buildout of at least 1,000 residents per square mile, then the area shall be determined to be urban and the parcel may not exceed 4,480 acres; and

(f) Where a right-of-way or canal exists along the perimeter of a parcel, the perimeter calculations shall be based on the parcels across the right-of-way or canal.

(12) "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as dwelling units ~~residents or employees~~ per acre.

(22) "Infill residential development" means the expansion of an existing residential development on a contiguous vacant parcel of no more than 20 acres in size within a residential future land use category and a residential zoning district that is contiguous on the majority of all sides by residential development. The term "contiguous" means touching, bordering, or adjoining along a boundary. Properties that would be contiguous if not separated by a roadway, railroad, canal, or other public easement are considered contiguous.

(23) ~~(22)~~ "Intensity" means an objective measurement of the extent to which land may be developed or used, expressed in square feet per unit of land ~~including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services~~.

(52) ~~(51)~~ "Urban service area" means areas ~~identified in the comprehensive plan~~ where public facilities and services, including, but not limited to, central water and sewer capacity and roads, are already in place or may be expanded through investment by the ~~or are identified in the capital improvements element. The term includes any areas identified in the comprehensive plan as urban service areas, regardless of~~ local government or the private sector as evidenced by an executed agreement with the local government to provide urban services within the local government's 20-year planning period ~~limitation~~.

(53) ~~(52)~~ "Urban sprawl" means an unplanned or uncontrolled ~~a~~ development pattern ~~characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses~~.

Section 3. Paragraph (f) of subsection (1), subsection

(2), and paragraph (a) of subsection (6) of section 163.3177, Florida Statutes, are amended to read:

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

(1) The comprehensive plan shall provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements. These principles and strategies shall guide future decisions in a consistent manner and shall contain programs and activities to ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local government's programs, activities, and land development regulations will be initiated, modified, or continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will be part of the strategy for implementing the comprehensive plan and the principles that describe how the programs, activities, and land development regulations will be carried out. The plan shall establish meaningful and predictable standards for the use and

development of land and provide meaningful guidelines for the content of more detailed land development and use regulations.

(f) All required ~~mandatory~~ and optional elements of the comprehensive plan and plan amendments must ~~shall~~ be based upon relevant ~~and appropriate~~ data and an analysis by the local government that may include, but not be limited to, surveys, studies, ~~community goals and vision,~~ and other data available at the time of adoption of the comprehensive plan or plan amendment. To be based on data means to react to it ~~in an appropriate way and~~ to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.

1. Surveys, studies, and data utilized in the preparation of the comprehensive plan may not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys, data, and supporting documents for proposed plans and plan amendments must ~~shall~~ be made available for public inspection, and copies of such plans must ~~shall~~ be made available to the public upon payment of reasonable charges for reproduction. Support data or summaries shall be ~~are not~~ subject to the compliance review process.~~, but~~ The comprehensive plan, the support data, and the summaries must be clearly based on current ~~appropriate~~ data and analysis, which is relevant to and correlates with the proposed amendment. Support data or summaries may be used to aid in the determination of compliance

and consistency.

2. Data must be taken from professionally accepted sources. The application of a methodology utilized in data collection or whether a particular methodology is professionally accepted may be evaluated. ~~However, the evaluation may not include whether one accepted methodology is better than another. Original data collection by local governments is not required. However, local governments may use original data so long as methodologies are professionally accepted.~~

3. The comprehensive plan must ~~shall~~ be based upon permanent and seasonal population estimates and projections, which must ~~shall~~ either be ~~those~~ published by the Office of Economic and Demographic Research or generated by the local government based upon a professionally acceptable methodology, whichever is greater. The plan must be based on at least the minimum amount of land required to accommodate the medium projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period unless otherwise limited under s. 380.05, including related rules of the Administration Commission. Absent physical limitations on population growth, population projections for each municipality, and the unincorporated area within a county must, at a minimum, be reflective of each area's proportional share of the total county population and the total county population growth.

(2) Coordination of the required and optional ~~several~~ elements of the local comprehensive plan must ~~shall~~ be a major objective of the planning process. The required and optional ~~several~~ elements of the comprehensive plan must ~~shall~~ be consistent. Optional elements of the comprehensive plan may not contain policies that restrict the density or intensity established in the future land use element. Where data is relevant to required and optional ~~several~~ elements, consistent data must ~~shall~~ be used, including population estimates and projections ~~unless alternative data can be justified for a plan amendment through new supporting data and analysis~~. Each map depicting future conditions must reflect the principles, guidelines, and standards within all elements, and each such map must be contained within the comprehensive plan.

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

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public facilities, and other categories of the public and private uses of land. The approximate acreage and the general range of density or intensity of use must ~~shall~~ be provided for the gross land area included in each existing land use category. The

element must ~~shall~~ establish the long-term end toward which land use programs and activities are ultimately directed.

1. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use must ~~shall~~ be shown on a land use map or map series which is ~~shall be~~ supplemented by goals, policies, and measurable objectives.

2. The future land use plan and plan amendments must ~~shall~~ be based upon surveys, studies, and data regarding the area, as applicable, including:

a. The amount of land required to accommodate anticipated growth, including the amount of land necessary to accommodate single-family, two-family, and fee simple townhome development.

b. The projected permanent and seasonal population of the area.

c. The character of undeveloped land.

d. The availability of water supplies, public facilities, and services.

e. The amount of land located outside the urban service area, excluding lands designated for conservation, preservation, or other public use.

f.~~e.~~ The need for redevelopment, including the renewal of blighted areas and the elimination of nonconforming uses which

are inconsistent with the character of the community.

g.~~f.~~ The compatibility of uses on lands adjacent to or closely proximate to military installations.

h.~~g.~~ The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.

i.~~h.~~ The discouragement of urban sprawl.

j.~~i.~~ The need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.

k.~~j.~~ The need to modify land uses and development patterns within antiquated subdivisions.

3. The future land use plan element must ~~shall~~ include criteria to be used to:

a. Achieve the compatibility of lands adjacent or closely proximate to military installations, considering factors identified in s. 163.3175(5).

b. Achieve the compatibility of lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.

c. Encourage preservation of recreational and commercial working waterfronts for water-dependent uses in coastal communities.

d. Encourage the location of schools proximate to urban service ~~residential~~ areas to the extent possible and encourage the location of schools in all areas if necessary to provide adequate school capacity to serve residential development.

e. Coordinate future land uses with the topography and soil conditions, and the availability of facilities and services.

f. Ensure the protection of natural and historic resources.

g. Provide for the compatibility of adjacent land uses.

h. Provide guidelines for the implementation of mixed-use development including the types of uses allowed, the percentage distribution among the mix of uses, or other standards, and the density and intensity of each use.

4. The amount of land designated for future planned uses must ~~shall~~ provide a balance of uses that foster vibrant, viable communities and economic development opportunities and address outdated development patterns, such as antiquated subdivisions. 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. The element must ~~shall~~ accommodate at least the minimum amount of land required to accommodate the medium projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period unless otherwise limited under s. 380.05, including related rules of the Administration Commission.

5. The future land use plan of a county may designate areas for possible future municipal incorporation.

6. The land use maps or map series must ~~shall~~ generally identify and depict historic district boundaries and must ~~shall~~ designate historically significant properties meriting protection.

7. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use.

8. Future land use map amendments must ~~shall~~ be based upon the following analyses:

a. An analysis of the availability of facilities and services.

b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.

c. An analysis of the minimum amount of land needed to achieve the goals and requirements of this section.

9. The future land use element must ~~and any amendment to the future land use element shall~~ discourage the proliferation of urban sprawl by planning for future development as provided in this section.

a. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:

(I) Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.

(II) Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.

(III) Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.

(IV) Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays, estuarine systems, and other significant natural systems.

(V) Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.

(VI) Fails to maximize use of existing public facilities and services.

(VII) Fails to maximize use of future public facilities and services.

(VIII) Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.

(IX) Fails to provide a clear separation between rural and urban uses.

(X) Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.

(XI) Fails to encourage a functional mix of uses.

(XII) Results in poor accessibility among linked or related land uses.

(XIII) Results in the loss of significant amounts of functional open space.

b. The future land use element or plan amendment shall be determined to discourage the proliferation of urban sprawl if it

incorporates a development pattern or urban form that achieves four or more of the following:

(I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

(II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

(III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

(IV) Promotes conservation of water and energy.

(V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

(VI) Preserves open space and natural lands and provides for public open space and recreation needs.

(VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.

(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned development pattern in the vicinity that constitutes sprawl or

if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.

10. The future land use element must ~~shall~~ include a future land use map or map series.

a. The proposed distribution, extent, and location of the following uses must ~~shall~~ be shown on the future land use map or map series:

(I) Residential.

(II) Commercial.

(III) Industrial.

(IV) Agricultural.

(V) Recreational.

(VI) Conservation.

(VII) Educational.

(VIII) Public.

b. The following areas must ~~shall~~ also be shown on the future land use map or map series, if applicable:

(I) Historic district boundaries and designated historically significant properties.

(II) Transportation concurrency management area boundaries or transportation concurrency exception area boundaries.

(III) Multimodal transportation district boundaries.

(IV) Mixed-use categories.

c. The following natural resources or conditions must

~~shall~~ be shown on the future land use map or map series, if applicable:

(I) Existing and planned public potable waterwells, cones of influence, and wellhead protection areas.

(II) Beaches and shores, including estuarine systems.

(III) Rivers, bays, lakes, floodplains, and harbors.

(IV) Wetlands.

(V) Minerals and soils.

(VI) Coastal high hazard areas.

Section 4. Paragraph (a) of subsection (1) of section 163.3187, Florida Statutes, is amended to read:

163.3187 Process for adoption of small scale comprehensive plan amendment.—

(1) A small scale development amendment may be adopted under the following conditions:

(a) The proposed amendment involves a use of 150 ~~50~~ acres or fewer. ~~and:~~

Section 5. Subsection (2) of section 163.3202, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

163.3202 Land development regulations.—

(2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:

(a) Regulate the subdivision of land.

(b) Establish minimum lot sizes within single-family, two-family, and fee simple, single-family townhouse zoning districts to accommodate the maximum density authorized in the comprehensive plan, net of the land area required to be set aside for subdivision roads, sidewalks, stormwater ponds, open space, landscape buffers, and any other mandatory land development regulations that require land to be set aside that could otherwise be used for the development of single-family homes, two-family homes, and fee simple, single-family townhouses.

(c) ~~(b)~~ Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.

(d) ~~(c)~~ Provide for protection of potable water wellfields.

(e) ~~(d)~~ Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.

(f) ~~(e)~~ Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.

(g) ~~(f)~~ Regulate signage.

(h) ~~(g)~~ Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and services necessary to serve the proposed development. A local

government may not issue a development order or permit that results in a reduction in the level of services for the affected public facilities below the level of services provided in the local government's comprehensive plan.

(i) ~~(h)~~ Ensure safe and convenient onsite traffic flow, considering needed vehicle parking.

(j) ~~(i)~~ Maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas that have sufficient infrastructure, as determined by a local governing authority, and are not located within a coastal high-hazard area under s. 163.3178.

(k) ~~(j)~~ Incorporate preexisting development orders identified pursuant to s. 163.3167(3).

(8) Notwithstanding any ordinance existing on July 1, 2024, to the contrary, an application for infill development shall be administratively approved and no comprehensive plan amendment, rezoning, or variance shall be required if the proposed infill development has the same or less gross density as the existing development and is generally consistent with the development standards, including lot size and setbacks, of the existing development. A development order issued for development authorized pursuant to this subsection is deemed consistent with all applicable local government comprehensive plans and land development regulations.

Section 6. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting from limitations imposed by the designation of an area of

critical state concern; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011, and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

1. For the purposes of this paragraph, the term "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement

of public facilities that have a life expectancy of 5 or more years, any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service. For purposes of this sub-subparagraph, the term "public facilities" means facilities as defined in s. 163.3164(40) ~~163.3164(39)~~, s. 163.3221(13), or s. 189.012(5), and includes facilities that are necessary to carry out governmental purposes, including, but not limited to, fire stations, general governmental office buildings, and animal shelters, regardless of whether the facilities are owned by the local taxing authority or another governmental entity.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. 29.008.

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area

for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

f. Instructional technology used solely in a school district's classrooms. As used in this sub-subparagraph, the

term "instructional technology" means an interactive device that assists a teacher in instructing a class or a group of students and includes the necessary hardware and software to operate the interactive device. The term also includes support systems in which an interactive device may mount and is not required to be affixed to the facilities.

2. For the purposes of this paragraph, the term "energy efficiency improvement" means any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. 206.9951; and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into a trust fund within the county's accounts created for the purpose of funding economic development

projects having a general public purpose of improving local economies, including the funding of operational costs and incentives related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

Section 7. Subsection (29) of section 479.01, Florida Statutes, is amended to read:

479.01 Definitions.—As used in this chapter, the term:

(29) "Zoning category" means the designation under the land development regulations or other similar ordinance enacted to regulate the use of land as provided in s. 163.3202(2) ~~s. 163.3202(2)(b)~~, which designation sets forth the allowable uses, restrictions, and limitations on use applicable to properties within the category.

Section 8. This act shall take effect July 1, 2024.

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee
Representative McClain offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 83.8085, Florida Statutes, is created to read:

83.8085 Self-storage facility expansion.—For purposes of any minimum distance requirements imposed by local ordinances or regulations, the expansion of a self-storage facility that is adjacent to and abutting an existing self-storage facility, and that is owned and managed by the same person or entity, may not be considered or deemed a new self-storage facility. The proposed expansion facility shall be deemed an integral part of the existing facility for the purposes of satisfying any minimum

distance requirements established by a local authority. Any expansion of such facilities is subject to the provisions of general law related to the satisfaction of an owner's lien, notice requirements, and publication requirements, as applicable to existing self-service storage facilities.

Section 2. Subsections (22) through (52) of section 163.3164, Florida Statutes, are renumbered as subsections (23) through (53), respectively, subsection (12) and present subsections (22), (51), and (52) of that section are amended, and a new subsection (22) is added to that section, to read:

163.3164 Community Planning Act; definitions.—As used in this act:

(12) "Density" means an objective measurement of the number of people or residential units allowed per unit of land, such as dwelling units ~~residents or employees~~ per acre.

(22) "Infill residential development" means the expansion of an existing residential development on a contiguous vacant parcel of no more than 20 acres in size within a residential future land use category and a residential zoning district that is contiguous on the majority of all sides by residential development. The term "contiguous" means touching, bordering, or adjoining along a boundary. Properties that would be contiguous if not separated by a roadway, railroad, canal, or other public easement are considered contiguous.

(23) ~~(22)~~ "Intensity" means an objective measurement of the

extent to which land may be developed or used, expressed in square feet per unit of land ~~including the consumption or use of the space above, on, or below ground; the measurement of the use of or demand on natural resources; and the measurement of the use of or demand on facilities and services~~.

(52) ~~(51)~~ "Urban service area" means areas ~~identified in the comprehensive plan~~ where public facilities and services, including, but not limited to, central water and sewer capacity and roads, are already in place or may be expanded through investment by the ~~or are identified in the capital improvements element. The term includes any areas identified in the comprehensive plan as urban service areas, regardless of~~ local government or the private sector as evidenced by an executed agreement with the local government to provide urban services within the local government's 20-year planning period ~~limitation~~.

(53) ~~(52)~~ "Urban sprawl" means an unplanned or uncontrolled ~~a~~ development pattern ~~characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses~~.

Section 3. Paragraph (f) of subsection (1), subsection (2), and paragraph (a) of subsection (6) of section 163.3177, Florida Statutes, are amended to read:

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

(1) The comprehensive plan shall provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements. These principles and strategies shall guide future decisions in a consistent manner and shall contain programs and activities to ensure comprehensive plans are implemented. The sections of the comprehensive plan containing the principles and strategies, generally provided as goals, objectives, and policies, shall describe how the local government's programs, activities, and land development regulations will be initiated, modified, or continued to implement the comprehensive plan in a consistent manner. It is not the intent of this part to require the inclusion of implementing regulations in the comprehensive plan but rather to require identification of those programs, activities, and land development regulations that will be part of the strategy for implementing the comprehensive plan and the principles that describe how the programs, activities, and land development regulations will be carried out. The plan shall

establish meaningful and predictable standards for the use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations.

(f) All required ~~mandatory~~ and optional elements of the comprehensive plan and plan amendments must ~~shall~~ be based upon relevant ~~and appropriate~~ data and an analysis by the local government that may include, but not be limited to, surveys, studies, ~~community goals and vision,~~ and other data available at the time of adoption of the comprehensive plan or plan amendment. To be based on data means to react to it ~~in an appropriate way and~~ to the extent necessary indicated by the data available on that particular subject at the time of adoption of the plan or plan amendment at issue.

1. Surveys, studies, and data utilized in the preparation of the comprehensive plan may not be deemed a part of the comprehensive plan unless adopted as a part of it. Copies of such studies, surveys, data, and supporting documents for proposed plans and plan amendments must ~~shall~~ be made available for public inspection, and copies of such plans must ~~shall~~ be made available to the public upon payment of reasonable charges for reproduction. Support data or summaries shall be ~~are not~~ subject to the compliance review process.~~, but~~ The comprehensive plan, the support data, and the summaries must be clearly based on current ~~appropriate~~ data and analysis, which is relevant to and correlates with the proposed amendment. Support data or

summaries may be used to aid in the determination of compliance and consistency.

2. Data must be taken from professionally accepted sources. The application of a methodology utilized in data collection or whether a particular methodology is professionally accepted may be evaluated. ~~However, the evaluation may not include whether one accepted methodology is better than another. Original data collection by local governments is not required. However, local governments may use original data so long as methodologies are professionally accepted.~~

3. The comprehensive plan must ~~shall~~ be based upon permanent and seasonal population estimates and projections, which must ~~shall~~ either be ~~those~~ published by the Office of Economic and Demographic Research or generated by the local government based upon a professionally acceptable methodology, whichever is greater. The plan must be based on at least the minimum amount of land required to accommodate the medium projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period unless otherwise limited under s. 380.05, including related rules of the Administration Commission. Absent physical limitations on population growth, population projections for each municipality, and the unincorporated area within a county must, at a minimum, be reflective of each area's proportional share of the total county population and the total county

population growth.

(2) Coordination of the required and optional ~~several~~ elements of the local comprehensive plan must ~~shall~~ be a major objective of the planning process. The required and optional ~~several~~ elements of the comprehensive plan must ~~shall~~ be consistent. Optional elements of the comprehensive plan may not contain policies that restrict the density or intensity established in the future land use element. Where data is relevant to required and optional ~~several~~ elements, consistent data must ~~shall~~ be used, including population estimates and projections ~~unless alternative data can be justified for a plan amendment through new supporting data and analysis~~. Each map depicting future conditions must reflect the principles, guidelines, and standards within all elements, and each such map must be contained within the comprehensive plan.

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

(a) A future land use plan element designating proposed future general distribution, location, and extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation, conservation, education, public facilities, and other categories of the public and private uses of land. The approximate acreage and the general range of density or intensity of use must ~~shall~~ be provided for the gross

land area included in each existing land use category. The element must ~~shall~~ establish the long-term end toward which land use programs and activities are ultimately directed.

1. Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities. The proposed distribution, location, and extent of the various categories of land use must ~~shall~~ be shown on a land use map or map series which is ~~shall be~~ supplemented by goals, policies, and measurable objectives.

2. The future land use plan and plan amendments must ~~shall~~ be based upon surveys, studies, and data regarding the area, as applicable, including:

a. The amount of land required to accommodate anticipated growth, including the amount of land necessary to accommodate single-family, two-family, and fee simple townhome development.

b. The projected permanent and seasonal population of the area.

c. The character of undeveloped land.

d. The availability of water supplies, public facilities, and services.

e. The amount of land located outside the urban service area, excluding lands designated for conservation, preservation, or other public use.

f.~~e.~~ The need for redevelopment, including the renewal of

blighted areas and the elimination of nonconforming uses which are inconsistent with the character of the community.

g.~~f.~~ The compatibility of uses on lands adjacent to or closely proximate to military installations.

h.~~g.~~ The compatibility of uses on lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.

i.~~h.~~ The discouragement of urban sprawl.

j.~~i.~~ The need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy.

k.~~j.~~ The need to modify land uses and development patterns within antiquated subdivisions.

3. The future land use plan element must ~~shall~~ include criteria to be used to:

a. Achieve the compatibility of lands adjacent or closely proximate to military installations, considering factors identified in s. 163.3175(5).

b. Achieve the compatibility of lands adjacent to an airport as defined in s. 330.35 and consistent with s. 333.02.

c. Encourage preservation of recreational and commercial working waterfronts for water-dependent uses in coastal communities.

d. Encourage the location of schools proximate to urban service ~~residential~~ areas to the extent possible and encourage the location of schools in all areas if necessary to provide

adequate school capacity to serve residential development.

e. Coordinate future land uses with the topography and soil conditions, and the availability of facilities and services.

f. Ensure the protection of natural and historic resources.

g. Provide for the compatibility of adjacent land uses.

h. Provide guidelines for the implementation of mixed-use development including the types of uses allowed, the percentage distribution among the mix of uses, or other standards, and the density and intensity of each use.

4. The amount of land designated for future planned uses must ~~shall~~ provide a balance of uses that foster vibrant, viable communities and economic development opportunities and address outdated development patterns, such as antiquated subdivisions. 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. The element must ~~shall~~ accommodate at least the minimum amount of land required to accommodate the medium projections as published by the Office of Economic and Demographic Research for at least a 10-year planning period unless otherwise limited under s. 380.05, including related rules of the Administration Commission.

5. The future land use plan of a county may designate

areas for possible future municipal incorporation.

6. The land use maps or map series must ~~shall~~ generally identify and depict historic district boundaries and must ~~shall~~ designate historically significant properties meriting protection.

7. The future land use element must clearly identify the land use categories in which public schools are an allowable use. When delineating the land use categories in which public schools are an allowable use, a local government shall include in the categories sufficient land proximate to residential development to meet the projected needs for schools in coordination with public school boards and may establish differing criteria for schools of different type or size. Each local government shall include lands contiguous to existing school sites, to the maximum extent possible, within the land use categories in which public schools are an allowable use.

8. Future land use map amendments must ~~shall~~ be based upon the following analyses:

a. An analysis of the availability of facilities and services.

b. An analysis of the suitability of the plan amendment for its proposed use considering the character of the undeveloped land, soils, topography, natural resources, and historic resources on site.

c. An analysis of the minimum amount of land needed to

achieve the goals and requirements of this section.

9. The future land use element must ~~and any amendment to the future land use element shall~~ discourage the proliferation of urban sprawl by planning for future development as provided in this section.

a. The primary indicators that a plan or plan amendment does not discourage the proliferation of urban sprawl are listed below. The evaluation of the presence of these indicators shall consist of an analysis of the plan or plan amendment within the context of features and characteristics unique to each locality in order to determine whether the plan or plan amendment:

(I) Promotes, allows, or designates for development substantial areas of the jurisdiction to develop as low-intensity, low-density, or single-use development or uses.

(II) Promotes, allows, or designates significant amounts of urban development to occur in rural areas at substantial distances from existing urban areas while not using undeveloped lands that are available and suitable for development.

(III) Promotes, allows, or designates urban development in radial, strip, isolated, or ribbon patterns generally emanating from existing urban developments.

(IV) Fails to adequately protect and conserve natural resources, such as wetlands, floodplains, native vegetation, environmentally sensitive areas, natural groundwater aquifer recharge areas, lakes, rivers, shorelines, beaches, bays,

estuarine systems, and other significant natural systems.

(V) Fails to adequately protect adjacent agricultural areas and activities, including silviculture, active agricultural and silvicultural activities, passive agricultural activities, and dormant, unique, and prime farmlands and soils.

(VI) Fails to maximize use of existing public facilities and services.

(VII) Fails to maximize use of future public facilities and services.

(VIII) Allows for land use patterns or timing which disproportionately increase the cost in time, money, and energy of providing and maintaining facilities and services, including roads, potable water, sanitary sewer, stormwater management, law enforcement, education, health care, fire and emergency response, and general government.

(IX) Fails to provide a clear separation between rural and urban uses.

(X) Discourages or inhibits infill development or the redevelopment of existing neighborhoods and communities.

(XI) Fails to encourage a functional mix of uses.

(XII) Results in poor accessibility among linked or related land uses.

(XIII) Results in the loss of significant amounts of functional open space.

b. The future land use element or plan amendment shall be

determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that achieves four or more of the following:

(I) Directs or locates economic growth and associated land development to geographic areas of the community in a manner that does not have an adverse impact on and protects natural resources and ecosystems.

(II) Promotes the efficient and cost-effective provision or extension of public infrastructure and services.

(III) Promotes walkable and connected communities and provides for compact development and a mix of uses at densities and intensities that will support a range of housing choices and a multimodal transportation system, including pedestrian, bicycle, and transit, if available.

(IV) Promotes conservation of water and energy.

(V) Preserves agricultural areas and activities, including silviculture, and dormant, unique, and prime farmlands and soils.

(VI) Preserves open space and natural lands and provides for public open space and recreation needs.

(VII) Creates a balance of land uses based upon demands of the residential population for the nonresidential needs of an area.

(VIII) Provides uses, densities, and intensities of use and urban form that would remediate an existing or planned

development pattern in the vicinity that constitutes sprawl or if it provides for an innovative development pattern such as transit-oriented developments or new towns as defined in s. 163.3164.

10. The future land use element must ~~shall~~ include a future land use map or map series.

a. The proposed distribution, extent, and location of the following uses must ~~shall~~ be shown on the future land use map or map series:

(I) Residential.

(II) Commercial.

(III) Industrial.

(IV) Agricultural.

(V) Recreational.

(VI) Conservation.

(VII) Educational.

(VIII) Public.

b. The following areas must ~~shall~~ also be shown on the future land use map or map series, if applicable:

(I) Historic district boundaries and designated historically significant properties.

(II) Transportation concurrency management area boundaries or transportation concurrency exception area boundaries.

(III) Multimodal transportation district boundaries.

(IV) Mixed-use categories.

c. The following natural resources or conditions must ~~shall~~ be shown on the future land use map or map series, if applicable:

(I) Existing and planned public potable waterwells, cones of influence, and wellhead protection areas.

(II) Beaches and shores, including estuarine systems.

(III) Rivers, bays, lakes, floodplains, and harbors.

(IV) Wetlands.

(V) Minerals and soils.

(VI) Coastal high hazard areas.

Section 4. Paragraph (a) of subsection (1) of section 163.3187, Florida Statutes, is amended to read:

163.3187 Process for adoption of small scale comprehensive plan amendment.—

(1) A small scale development amendment may be adopted under the following conditions:

(a) The proposed amendment involves a use of 150 ~~50~~ acres or fewer. ~~and:~~

Section 5. Subsection (2) of section 163.3202, Florida Statutes, is amended, and subsection (8) is added to that section, to read:

163.3202 Land development regulations.—

(2) Local land development regulations shall contain specific and detailed provisions necessary or desirable to implement the adopted comprehensive plan and shall at a minimum:

(a) Regulate the subdivision of land.

(b) Establish minimum lot sizes within single-family, two-family, and fee simple, single-family townhouse zoning districts to accommodate the maximum density authorized in the comprehensive plan, net of the land area required to be set aside for subdivision roads, sidewalks, stormwater ponds, open space, landscape buffers, and any other mandatory land development regulations that require land to be set aside that could otherwise be used for the development of single-family homes, two-family homes, and fee simple, single-family townhouses.

(c) ~~(b)~~ Regulate the use of land and water for those land use categories included in the land use element and ensure the compatibility of adjacent uses and provide for open space.

(d) ~~(c)~~ Provide for protection of potable water wellfields.

(e) ~~(d)~~ Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management.

(f) ~~(e)~~ Ensure the protection of environmentally sensitive lands designated in the comprehensive plan.

(g) ~~(f)~~ Regulate signage.

(h) ~~(g)~~ Provide that public facilities and services meet or exceed the standards established in the capital improvements element required by s. 163.3177 and are available when needed for the development, or that development orders and permits are conditioned on the availability of these public facilities and

services necessary to serve the proposed development. A local government may not issue a development order or permit that results in a reduction in the level of services for the affected public facilities below the level of services provided in the local government's comprehensive plan.

(i) ~~(h)~~ Ensure safe and convenient onsite traffic flow, considering needed vehicle parking.

(j) ~~(i)~~ Maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas that have sufficient infrastructure, as determined by a local governing authority, and are not located within a coastal high-hazard area under s. 163.3178.

(k) ~~(j)~~ Incorporate preexisting development orders identified pursuant to s. 163.3167(3).

(8) Notwithstanding any ordinance existing on July 1, 2024, to the contrary, an application for infill development shall be administratively approved and no comprehensive plan amendment, rezoning, or variance shall be required if the proposed infill development has the same or less gross density as the existing development and is generally consistent with the development standards, including lot size and setbacks, of the existing development. A development order issued for development authorized pursuant to this subsection is deemed consistent with all applicable local government comprehensive plans and land

development regulations.

Section 6. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

(d) The proceeds of the surtax authorized by this subsection and any accrued interest shall be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure; to acquire any interest in land for public recreation, conservation, or protection of natural resources or to prevent or satisfy private property rights claims resulting

from limitations imposed by the designation of an area of critical state concern; to provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing such use is approved by referendum; or to finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection. Any use of the proceeds or interest for purposes of landfill closure before July 1, 1993, is ratified. The proceeds and any interest may not be used for the operational expenses of infrastructure, except that a county that has a population of fewer than 75,000 and that is required to close a landfill may use the proceeds or interest for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011, and charter counties may, in addition, use the proceeds or interest to retire or service indebtedness incurred for bonds issued before July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of the proceeds or interest for purposes of retiring or servicing indebtedness incurred for refunding bonds before July 1, 1999, is ratified.

1. For the purposes of this paragraph, the term "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay

associated with the construction, reconstruction, or improvement of public facilities that have a life expectancy of 5 or more years, any related land acquisition, land improvement, design, and engineering costs, and all other professional and related costs required to bring the public facilities into service. For purposes of this sub-subparagraph, the term "public facilities" means facilities as defined in s. 163.3164(40) ~~163.3164(39)~~, s. 163.3221(13), or s. 189.012(5), and includes facilities that are necessary to carry out governmental purposes, including, but not limited to, fire stations, general governmental office buildings, and animal shelters, regardless of whether the facilities are owned by the local taxing authority or another governmental entity.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and the equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities, as defined in s. 29.008.

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a

local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38. Such improvements are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner must enter into a written contract with the local government providing the improvement funding to make the private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

e. Any land acquisition expenditure for a residential housing project in which at least 30 percent of the units are affordable to individuals or families whose total annual household income does not exceed 120 percent of the area median income adjusted for household size, if the land is owned by a local government or by a special district that enters into a written agreement with the local government to provide such housing. The local government or special district may enter into a ground lease with a public or private person or entity for nominal or other consideration for the construction of the residential housing project on land acquired pursuant to this sub-subparagraph.

f. Instructional technology used solely in a school

district's classrooms. As used in this sub-subparagraph, the term "instructional technology" means an interactive device that assists a teacher in instructing a class or a group of students and includes the necessary hardware and software to operate the interactive device. The term also includes support systems in which an interactive device may mount and is not required to be affixed to the facilities.

2. For the purposes of this paragraph, the term "energy efficiency improvement" means any energy conservation and efficiency improvement that reduces consumption through conservation or a more efficient use of electricity, natural gas, propane, or other forms of energy on the property, including, but not limited to, air sealing; installation of insulation; installation of energy-efficient heating, cooling, or ventilation systems; installation of solar panels; building modifications to increase the use of daylight or shade; replacement of windows; installation of energy controls or energy recovery systems; installation of electric vehicle charging equipment; installation of systems for natural gas fuel as defined in s. 206.9951; and installation of efficient lighting equipment.

3. Notwithstanding any other provision of this subsection, a local government infrastructure surtax imposed or extended after July 1, 1998, may allocate up to 15 percent of the surtax proceeds for deposit into a trust fund within the county's

accounts created for the purpose of funding economic development projects having a general public purpose of improving local economies, including the funding of operational costs and incentives related to economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

Section 7. Subsection (29) of section 479.01, Florida Statutes, is amended to read:

479.01 Definitions.—As used in this chapter, the term:

(29) "Zoning category" means the designation under the land development regulations or other similar ordinance enacted to regulate the use of land as provided in s. 163.3202(2) ~~s. 163.3202(2)(b)~~, which designation sets forth the allowable uses, restrictions, and limitations on use applicable to properties within the category.

Section 8. If any provision of this act is held invalid with respect to any person or circumstance, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 9. This act shall take effect July 1, 2024.

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

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to land use and development regulations; creating s. 83.8085, F.S.; providing construction relating to the expansion of self-storage facilities for purposes of certain local ordinances or regulations; amending s. 163.3164, F.S.; revising and providing definitions relating to the Community Planning Act; amending s. 163.3177, F.S.; revising the types of data that comprehensive plans and plan amendments must be based on; revising means by which an application of a methodology used in data collection or whether a particular methodology is professionally accepted and evaluated; revising the elements that must be included in a comprehensive plan; amending s. 163.3187, F.S.; revising criteria for adopting a small scale development amendment; amending s. 163.3202, F.S.; revising content requirements for local land development regulations; revising mechanisms by which applications for infill development must be administratively approved; amending ss. 212.055, and 479.01, F.S.; conforming cross-references; providing severability; providing an effective date.

HB 1365

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1365 Unauthorized Public Camping and Public Sleeping
SPONSOR(S): Garrison and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1530

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Darden	Darden
2) Judiciary Committee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law. Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors. Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law. Local governments exercise these powers by adopting ordinances.

According to the January 2023 Point-In-Time Count, 653,104 people are experiencing homeless across the United States, including 30,756 in Florida. Approximately 40 percent of people experiencing homelessness are unsheltered, meaning their primary nighttime residence is a place not suitable for human habitation, such as a sidewalk, vehicle, abandoned building, or park. Living unsheltered can have significant impacts on a person's health and safety.

The bill prohibits counties and municipalities from authorizing or permitting public sleeping or camping on public property, public buildings, or public rights-of-way without a lawfully issued temporary permit.

The bill provides that counties and municipalities may, at their discretion, designate certain property owned by the county or municipality for public sleeping or public camping if the following conditions are met, as determined by the Department of Children and Families:

- Minimum sanitation levels, which include, but are not limited to, access to clean and operable restrooms and running water;
- Security is present on the site at all times;
- Access to behavioral health services, including, but not limited to, substance abuse and mental health treatment resources, is provided;
- Drugs and alcohol are prohibited within the designated area; and
- The designated area may not be in a location where it adversely and materially affects the value or security of existing residential or commercial properties.

The bill provides that a person or business may bring a civil action in any court of competent jurisdiction against any county or municipality to enjoin a violation of the provisions of the bill. If the civil action is successful, a person or business may recover reasonable expenses including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

The provisions of the bill do not apply during a state of emergency issued by the Governor.

The bill may have a fiscal impact on state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Ordinances

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.[1] Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.[2] Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.[3] A local government enactment may be inconsistent with state law if the:

- State Constitution preempts the subject area;
- Legislature preempts the subject area; or
- Local enactment conflicts with a state statute.

Local governments exercise their powers by adopting ordinances. The adoption or amendment of a regular ordinance, other than an ordinance making certain changes to zoning, may be considered at any regular or special meeting of the local governing body.[4] Notice of the proposed ordinance must be published at least 10 days before the meeting in a newspaper of general circulation in the area; state the date, time, and location of the meeting, the title of the proposed ordinance, and locations where the proposed ordinance may be inspected by the public; and advise that interested parties may appear and speak at the meeting. Municipal ordinances must also be read by title or in full on at least two separate days.[5] Ordinances may only encompass a single subject and may not be revised or amended solely by reference to the title.[6]

Homelessness and Public Camping

According to the January 2023 Point-In-Time Count, 653,104 people are experiencing homeless across the United States, including 30,756 in Florida.[7] Approximately 40 percent of people experiencing homelessness are unsheltered, meaning their primary nighttime residence is a place not suitable for human habitation, such as a sidewalk, vehicle, abandoned building, or park.[8] Living unsheltered can have significant impacts on a person's health and safety. Unsheltered persons experiencing homelessness are at a 270 percent greater risk of mortality compared to those who are sheltered.[9]

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[1] Art. VIII, s. 1(f), Fla. Const.
[2] Art. VIII, s. 1(g), Fla. Const.
[3] Art. VIII, s. 2(b); *see also* s. 166.021(1), F.S.
[4] *See* ss. 125.66(2)(a) and 166.041, F.S. In addition to general notice requirements, a local government must provide written notice by mail to all property owners before adopting a zoning change involving less than 10 contiguous acres. Ss. 125.66(4)(a) and 166.041(3)(c)1., F.S. If a zoning change involves 10 or more contiguous acres, the local government must conduct two public hearings, advertised in a newspaper, before adopting the ordinance. Ss. 125.66(4)(b) and 166.041(3)(c)2., F.S.
[5] S. 166.041(3)(a), F.S.
[6] Ss. 125.67 and 166.041(2), F.S.
[7] *See* Dept. of Housing and Urban Development, Office of Policy Development and Research, *2007 - 2023 Point-in-Time Estimates by State*, available at https://www.huduser.gov/portal/datasets/ahar/2023-ahar-part-1-pit-estimates-of-homelessness-in-the-us.html (last visited Jan. 22, 2024).
[8] Natl. Alliance to End Homelessness, *State of Homelessness: 2023 Edition*, available at https://endhomelessness.org/homelessness-in-america/homelessness-statistics/state-of-homelessness/ (last visited Jan. 22, 2024).
[9] C. Y. Liu, S. J. Chai, and J. P. Watt, *Communicable disease among people experiencing homelessness in California*, *Epidemiology and Infection* 148 (2020), available at https://www.cambridge.org/core/journals/epidemiology-and-infection/article/communicable-disease-among-people-experiencing-homelessness-in-california/01D82460F7E8092791D0C5B1B94C8343 (last visited Jan. 22, 2024).

Camps of persons experiencing homelessness may also present significant public safety and health challenges to local communities. A June 2023 study of the population of persons experiencing homelessness in California found that:

- 79 percent have been incarcerated in jail or prison during their lifetime, with 19 percent having been in jail or prison in the preceding six months;
- 27 percent have been hospitalized for a mental health problem; and
- 31 percent reported regular use of methamphetamines.[10]

Jurisdictions that have placed restrictions on public camping have seen significant declines in the size of the population of persons experiencing homelessness. Voters in Austin, Texas reinstated a previously repealed camping ban by referendum in 2021.[11] According to January 2023 Point-In-Time Count, the persons experiencing homelessness in Austin had declined by five percent compared to 2020, but with 19 percent more persons sheltered and 20 percent fewer who were unsheltered.

Effect of Proposed Changes

The bill prohibits counties and municipalities from authorizing or permit public sleeping or camping on public property, public buildings, or public rights-of-way without a lawfully issued temporary permit.

The bill provides counties and municipalities may, at their discretion, designate certain property owned by the county or municipality for public sleeping or public camping if the following conditions are met, as determined by the Department of Children and Families:

- Minimum sanitation levels, which include, but are not limited to, access to clean and operable restrooms and running water;
- Security is present on the site at all times;
- Access to behavioral health services, including, but not limited to, substance abuse and mental health treatment resources, is provided;
- Drugs and alcohol are prohibited within the designated area; and
- The designated area may not be in a location where it adversely and materially affects the value or security of existing residential or commercial properties.

The bill provides that a person or business may bring a civil action in any court of competent jurisdiction against any county or municipality to enjoin a violation of the provisions of the bill. If the civil action is successful, a person or business may recover reasonable expenses including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

The provisions of the bill do not apply during a state of emergency issued by the Governor.

B. SECTION DIRECTORY:

Section 1: Creates s. 125.0231, F.S., relating to unauthorized public camping and public sleeping.

Section 2: Creates s. 166.453, F.S., relating to unauthorized public camping and public sleeping.

Section 3: Provides that the bill fulfills an important state interest.

Section 4: Provides an effective date of October 1, 2024.

[10] Margot Kushel and Tiana Moore, *Toward A New Understanding: The California Statewide Study of People Experiencing Homelessness*, available at https://homelessness.ucsf.edu/sites/default/files/2023-06/CASPEH_Report_62023.pdf (last visited Jan. 22, 2024).

[11] Katy McAfee and Ben Thompson, *Austin's homeless population dispersing after 2 years of camping ban enforcement*, Community Impact (May 25, 2023), https://communityimpact.com/austin/central-austin/city-county/2023/05/25/austins-homeless-population-dispersing-after-2-years-of-camping-ban-enforcement/ (last visited Jan. 22, 2024).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may have a fiscal impact on the Department of Children and Families to the extent the department would be responsible for determining whether property designated for public sleeping or public camping meets the requirements of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   The bill provides that a court may award reasonable expenses against a local government for adopting an ordinance found by the court to be violation of the bill, which may have a indeterminate negative fiscal impact on local governments

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to unauthorized public camping and public sleeping; creating ss. 125.0231 and 166.0453, F.S.; prohibiting counties and municipalities, respectively, from permitting public sleeping or public camping on public property without a permit; authorizing counties and municipalities to designate certain public property for such uses; providing requirements for such property; providing for enforcement actions; providing an exception for declared emergencies; providing a declaration of important state interest; providing an effective date.

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

Section 1. Section 125.0231, Florida Statutes, is created to read:

125.0231 Unauthorized public camping and public sleeping.—

(1) A county may not authorize or permit public sleeping or public camping on public property, public buildings, or public rights-of-way within the county's jurisdiction without a lawfully issued temporary permit. However, a county may, in its discretion, designate certain county property for public sleeping or public camping subject to the following conditions, the sufficiency of which shall be determined by the Department

of Children and Families:

(a) Minimum sanitation levels, which include, but are not limited to, access to clean and operable restrooms and running water.

(b) Security present on site at all times.

(c) Access to behavioral health services, including, but not limited to, substance abuse and mental health treatment resources.

(d) Drugs and alcohol are prohibited within the designated area.

(e) The designated area may not be in a location where it adversely and materially affects the value or security of existing residential or commercial properties.

(2) A person or business may bring a civil action in any court of competent jurisdiction against any county to enjoin a violation of this section and may recover reasonable expenses incurred in any successful civil action brought pursuant to this section, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition costs.

(3) This section does not apply during a state of emergency issued by the Governor.

Section 2. Section 166.0453, Florida Statutes, is created to read:

166.0453 Unauthorized public camping and public sleeping.—

(1) A municipality may not may not authorize or permit

public sleeping or public camping on public property, public buildings, or public rights-of-way within the county's jurisdiction without a lawfully issued temporary permit. However, a municipality may, in its discretion, designate certain municipal property for public sleeping or public camping subject to the following conditions, the sufficiency of which shall be determined by the Department of Children and Families:

(a) Minimum sanitation levels, which include, but are not limited to, access to clean and operable restrooms and running water.

(b) Security present on site at all times.

(c) Access to behavioral health services, including, but not limited to, substance abuse and mental health treatment resources.

(d) Drugs and alcohol are prohibited within the designated area.

(e) The designated area may not be in a location where it adversely and materially affects the value or security of existing residential or commercial properties.

(2) A person or business may bring a civil action in any court of competent jurisdiction against any municipality to enjoin a violation of this section and may recover reasonable expenses incurred in any successful civil action brought pursuant to this section, including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition

costs.

(3) This section does not apply during a state of emergency issued by the Governor.

Section 3. The Legislature hereby determines and declares that this act fulfills an important state interest.

Section 4. This act shall take effect October 1, 2024.

HB 1407

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1407 Marine Encroachment on Military Operations
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1720

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
2) Infrastructure Strategies Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans. Each county and municipality must maintain a comprehensive plan to guide future development. Comprehensive plan amendments must be reviewed either through the Expedited State Review Process or the State Coordinated Review Process. During the review process, the plan amendments are sent to a number of reviewing agencies, including the commanding officer of an affected military installation.

Current law provides for findings relating to land use around military installations and provide that it is desirable for local governments to cooperate with military installations when developing land use concepts. Sixteen major military installations are identified, due to their mission and activities, as having a greater potential for experiencing compatibility and coordination issues than others. Local governments are required to transmit proposed comprehensive plan amendments, proposed land development regulations, and applications for development orders to the commanding officer of the relevant associated installation.

The bill adds various annexes and a range to the list of major military installations that have a greater potential for experiencing compatibility and coordination issues with local government planning than others. These include the annexes across Boca Chica Key and Key West as well as the Fleming Bay/Patton Water Drop Zone training range used by the Army Special Forces Underwater Operations School that are a part of Naval Air Station Key West.

The bill is not expected to have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Comprehensive Plans

The Community Planning Act[1] provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.[2] Each county and municipality must maintain a comprehensive plan to guide future development.[3]

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.[4] A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.[5] Among the many components of a comprehensive plan is a land use element designating proposed future general distribution, location, and extent of the uses of land. [6] Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities

The future land use plan and plan amendments must be based upon surveys, studies, and data regarding the area, as applicable, including the compatibility of uses on lands adjacent to or in close proximity to military installations.[7]

In 2011, the Legislature bifurcated the process for approving comprehensive plan amendments.[8] Plan amendments are now placed into either the "Expedited State Review Process" or the "State Coordinated Review Process."[9] The two processes operate in much the same way; however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the Department of Commerce (Commerce), rather than communicated directly to the permitting local government by each individual reviewing agency.

Under both processes, a proposed comprehensive plan or plan amendment must receive a public hearing by the local governing body before it may be transmitted to the state for review. First, the local planning board must hold a public hearing at which it makes a recommendation to the local governing body on adoption of the plan or plan amendment.[10] Then the local governing body must hold a public hearing to consider transmittal of the proposed plan or plan amendment.[11]

If a majority of the local governing body members present at the hearing approve such transmittal, the plan or amendment must be transmitted within 10 working days to the following state and local governmental entities, known as "reviewing agencies":

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[1] Part II, ch. 163, F.S.
[2] S. 163.3167(1), F.S.
[3] S. 163.3167(2), F.S.
[4] S. 163.3194(3), F.S
[5] S. 163.3194(3), F.S
[6] S. 163.3177(6)(a), F.S.
[7] S. 163.3177(6)(a)2.f., F.S.
[8] Ch. 2011-139, s. 17, Laws of Fla.
[9] S. 163.3184(3) and (4), F.S.
[10] . S. 163.3184(11), F.S.
[11] S. 163.3184(3)-(4). F.S.

- Commerce, designated as the "state land planning agency";[12]
- The appropriate regional planning council;
- The appropriate water management district;
- The Department of Environmental Protection;
- The Department of State;
- The Department of Transportation;
- The Department of Education, if plan amendments relate to public schools;
- The commanding officer of an affected military installation, if the plan amendments affects a military installation listed in s. 163.3175, F.S.;
- The Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, in the case of county plans and plan amendments; and
- The county in which the municipality is located, in the case of municipal plans and plan amendments.[13]

The reviewing agencies and certain other government entities may provide comments to the local government regarding a plan or plan amendment.[14] State agencies may only comment on important state resources and facilities that will be adversely impacted by a plan amendment if it is adopted. Comments provided by state agencies must state with specificity how a plan amendment will adversely impact an important state resource or facility and must identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts.[15]

Under the expedited process, these comments must be provided directly to the local government no later than 30 days after receipt of the plan amendment.[16] Alternatively, the state coordinated review requires agencies to provide comments to Commerce.[17] Commerce then has a total of 60 days from receipt to provide the local government with a report containing the state's objections, recommendations, and comments.[18]

After the local government receives the comments made by the reviewing agencies, whether directly from the agencies or through the report issued by Commerce, the local governing body must hold a second public hearing to approve or deny the plan or plan amendment.[19] The second public hearing must be conducted within 180 days after the agency comments are received. Generally, if a local government fails to hold the second public hearing within 180 days after receipt of agency comments, the plan amendment is deemed withdrawn.[20]

Exchange of Information between Local Governments and Military Installations

Current law identifies the major military installations that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others, and identifies the local governments proximate to these installations that are required to address compatibility of land development with military installations in their comprehensive plans.[21]

[12] S. 163.3164(44), F.S.
[13] Ss. 163.3184(1)(c) and (3)(b)1., F.S.
[14] S. 163.3184(3)(b)2. and (4)(c), F.S. Commerce has special requirements for providing comments on plans or plan amendments following the state coordinated review process.
[15] *Id.*
[16] S. 163.3184(3)(b)2.
[17] S. 163.3184(4)(c)-(d), F.S.
[18] S. 163.3184(4)(d), F.S.; *See* Dept. of Commerce, *State Coordinated Review Amendment Process*, http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/comp-plan/statecoordinatedreviewprocessflowchart.pdf?sfvrsn=d6a766b0_2 (last visited Jan. 21, 2024).
[19] S.163.3184(11), F.S.
[20] S. 163.3184(3)(c)1. and (4)(e)1., F.S. This 180-day timeframe may be extended by agreement as long as notice is provided to Commerce and any affected person that provided comments on the plan amendment. Also, an exception exists for developments of regional impact.
[21] S. 163.3175(2). F.S.

There are 16 military installations that cooperate with local governments to encourage compatible land use, help prevent incompatible encroachment, and facilitate the continued presence of major military installations in Florida.[22]

Each affected local government must transmit the following proposed comprehensive plan amendments, proposed land development regulations, and applications for development orders to the commanding officer of the relevant associated installation or installations:

- Information relating to proposed changes to the local government's comprehensive plan which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation;
- Information relating to proposed changes to land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation; and
- At the request of the commanding officer, copies of applications for development orders requesting a variance or waiver from height or lighting restrictions or noise attenuation reduction requirements within areas defined in the local government's comprehensive plan as being in a zone of influence of the military installation.[23]

The commanding officer or his or her designee may provide advisory comments to the affected local government on the impact the proposed changes may have on the mission of the military installation.[24] Likewise, the affected local government must take into consideration any comments and accompanying data and analyses provided by the commanding officer as they relate to the strategic mission of the base, public safety, and the economic vitality associated with the base's operations, while also respecting private property rights and not being unduly restrictive on those rights.[25] Additionally, any comments regarding comprehensive plan amendments must be forwarded to the state land planning agency.[26] To facilitate the exchange of information, a representative of a military installation acting on behalf of all military installations within that jurisdiction serves as a nonvoting member of the county's or affected local government's land planning or zoning board.[27]

Effect of Proposed Changes

The bill adds various annexes and a range to the list of major military installations that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues with local government planning than others. Specifically, the bill adds the various annexes across Boca Chica Key and Key West as well as the Fleming Bay/Patton Water Drop Zone training range used by the Army Special Forces Underwater Operations School associated with Naval Air Station Key West, which is currently on the list.

The bill also makes conforming changes to reflect the addition of a range to the list of compatibility and coordination issues with local government planning.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3175, F.S., relating to legislative findings on compatibility of development with military installations.

Section 2: Provides an effective date of July 1, 2024.

[22] *See* s. 163.3175(2)(a)-(p), F.S., (listing affected military installations and their related communities).
[23] S. 163.3175(4), F.S.
[24] S. 163.3175(5), F.S.
[25] S. 163.3175(6), F.S.
[26] *Id.*

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. This bill does not appear to directly affect county or municipal governments.

2. Other:
   None.

B. RULE-MAKING AUTHORITY:
   This bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:
   None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to marine encroachment on military operations; amending s. 163.3175, F.S.; encouraging the sharing of information relating to community grants through specified federal programs to facilitate the compatibility and resiliency of community planning and the activities and mission of specified military installations and ranges; providing an effective date.

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

Section 1. Subsection (2) of section 163.3175, Florida Statutes, is amended to read:

163.3175 Legislative findings on compatibility of development with military installations; exchange of information between local governments and military installations and ranges.—

(2) Certain major military installations and ranges, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others. Consequently, this section and ~~the provisions in~~ s. 163.3177(6)(a), relating to compatibility of land development with military installations, apply to specific affected local governments in proximity to and in association with specific

military installations and ranges, as follows:

(a) Avon Park Air Force Range, associated with Highlands, Okeechobee, Osceola, and Polk Counties and Avon Park, Sebring, and Frostproof.

(b) Camp Blanding, associated with Clay, Bradford, and Putnam Counties.

(c) Eglin Air Force Base and Hurlburt Field, associated with Gulf, Okaloosa, Santa Rosa, and Walton Counties and Cinco Bayou, Crestview, Destin, DeFuniak Springs, Fort Walton Beach, Freeport, Laurel Hill, Mary Esther, Niceville, Shalimar, and Valparaiso.

(d) Homestead Air Reserve Base, associated with Miami-Dade County and Homestead.

(e) Jacksonville Training Range Complex, associated with Lake, Marion, Putnam, and Volusia Counties.

(f) MacDill Air Force Base, associated with Tampa.

(g) Naval Air Station Jacksonville, Marine Corps Support Facility-Blount Island, and outlying landing field Whitehouse, associated with Jacksonville.

(h) Naval Air Station Key West, including various annexes across Boca Chica Key and Key West as well as the Fleming Bay/Patton Water Drop Zone training range used by the Army Special Forces Underwater Operations School, associated with Monroe County and Key West.

(i) Naval Support Activity Orlando, including Bugg Spring

and Naval Ordnance Test Unit, associated with Orange County and Orlando.

(j) Naval Support Activity Panama City, associated with Bay County, Panama City, and Panama City Beach.

(k) Naval Air Station Pensacola, associated with Escambia County.

(l) Naval Air Station Whiting Field and its outlying landing fields, associated with Santa Rosa and Escambia Counties.

(m) Naval Station Mayport, associated with Atlantic Beach and Jacksonville.

(n) Patrick Space Force Base and Cape Canaveral Space Force Station, associated with Brevard County and Satellite Beach.

(o) Tyndall Air Force Base, associated with Bay County and Mexico Beach and Parker.

(p) United States Southern Command, associated with Miami-Dade County and Doral.

Section 2. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1447 Sheriffs In Consolidated Governments
SPONSOR(S): Duggan
TIED BILLS: **IDEN./SIM. BILLS:** SB 1704

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Roy	Darden
2) Judiciary Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Each sheriff must annually prepare and submit to the board of county commissioners a budget for carrying out the powers, duties, and operations of the office for the next fiscal year. The sheriff must submit a sworn certificate along with the proposed budget stating that the proposed expenditures are reasonable and necessary for the proper and efficient operation of the office for the next fiscal year. The proposed budget must contain details concerning the fund and functional categories, as well as object and subobject code levels. Once the budget is approved by board of county commissioners or budget commission, the sheriff may move funds between those categories without the approval of the county commission or budget commission.

The bill clarifies that a sheriff in a consolidated government may transfer funds between the fund and functional categories and objects and subobjects code levels after his or her budget has been approved by the city council. The bill also provides that the independence of sheriffs concerning the purchase of supplies and equipment and the management of personnel applies to sheriffs in consolidated governments.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Office of the Sheriff

There are currently 66 elected sheriffs in Florida's 67 counties.[1] Section 30.15, F.S., provides the duties and powers of sheriffs, including:

- Executing all process of the Supreme Court, circuit courts, county courts, and boards of county commissioners of this state, to be executed in their counties;
- Executing such other writs, processes, warrants, and other papers directed to them, as may come to their hands to be executed in their counties;
- Attending all sessions of the circuit court and county court held in their counties;
- Executing all orders of the boards of county commissioners of their counties;
- Being conservators of the peace in their counties; and
- Suppressing tumults, riots, and unlawful assemblies in their counties with force and strong hand when necessary.[2]

Sheriff Budgets

Each sheriff must annually prepare and submit to the board of county commissioners a budget for carrying out the powers, duties, and operations of the office for the next fiscal year.[3] The sheriff must submit a sworn certificate along with the proposed budget stating that the proposed expenditures are reasonable and necessary for the proper and efficient operation of the office for the next fiscal year.[4]

The proposed budget must show the estimated amounts of all proposed expenditures for operating and equipping the sheriff's office and jail, and must be categorized at the appropriate fund and functional level.[5] The fund or functional level is the broadest category within the sheriff's budget, containing functional categories for general law enforcement, corrections and detention alternative facilities, and court services. Within the appropriate fund and functional category, expenditures are further itemized into objects, which include:

- Personnel services;
- Operating expenses;
- Capital outlay;
- Debt service;
- Grants and aides; and
- Other uses.[6]

If requested by the county, the sheriff must further break down expenses into the subobject level.[7] The county may not amend, modify, increase, or reduce any expenditure at this subobject level.[8]

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[1] The Miami-Dade County Charter abolishes the office of sheriff, transfers its duties and responsibilities to the mayor of Miami-Dade County, and authorizes the mayor to delegate the functions of the sheriff to a "suitable person or persons." Miami-Dade County Charter, s. 9.01. However, Miami-Dade County will have an elected sheriff beginning with the 2024 general election. *See* Art. VIII, ss. 1(d) and 6(g)(2), Fla Const. (prohibiting a county charter from abolishing the offices of county constitutional officers and providing an effective date of January 7, 2025, with elections held during the 2024 primary and general election, for county officers in Miami-Dade County).
[2] S. 30.15(1), F.S.
[3] S. 30.49, F.S.
[4] S. 30.49(2)(b), F.S.
[5] S. 30.49(2), F.S.
[6] S. 30.49(2)(c), F.S.
[7] S. 30.49(3), F.S.
[8] *Id*.

At a public hearing, the board of county commissioners or the budget commission, as appropriate, may amend, modify, increase, or reduce any or all items of expenditures in the proposed budget and must ultimately approve the budget.[9] Once the budget has been approved the board of county commissioners or budget commission, a sheriff may transfer funds between fund and functional categories and object and subobject code levels without approval by the board of county commissioners or budget commission.[10]

Effect of Proposed Changes

The bill clarifies that a sheriff in a consolidated government may transfer funds between the fund and functional categories and objects and subobjects code levels after his or her budget has been approved by the city council.

The bill also provides that the independence of sheriffs concerning the purchase of supplies and equipment and the management of personnel applies to sheriffs in consolidated governments.

B. SECTION DIRECTORY:

Section 1: Amends s. 30.49, F.S., relating to budgets.

Section 2: Amends s. 30.53, F.S., relating to independence of constitutional officials.

Section 3: Provides an effective date of July 1, 2024.

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.

[9] S. 30.49(4), F.S.
[10] S. 30.49(12), F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to sheriffs in consolidated governments; amending s. 30.49, F.S.; authorizing sheriffs in a consolidated government, as well as all other sheriffs, to transfer funds after his or her budget is approved by the board of county commissioners, city council, or budget commission; amending s. 30.53, F.S.; preserving the independence of a sheriff in a consolidated government concerning certain powers; providing an effective date.

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

Section 1. Subsection (12) of section 30.49, Florida Statutes, is amended to read:

30.49 Budgets.—

(12) Notwithstanding any other law, and in order to effectuate, fulfill, and preserve the independence of sheriffs as specified in s. 30.53, a sheriff may transfer funds between the fund and functional categories and object and subobject code levels after his or her budget has been approved by the board of county commissioners, city council, or budget commission. This subsection shall apply to a sheriff in a consolidated government as described in s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State

Constitution.

Section 2. Section 30.53, Florida Statutes, is amended to read:

30.53 Independence of constitutional officials.—The independence of ~~the~~ sheriffs, including a sheriff in a consolidated government as described in s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution, shall be preserved concerning the purchase of supplies and equipment, selection of personnel, and the hiring, firing, and setting of salaries of such personnel; provided that nothing herein contained shall restrict the establishment or operation of any civil service system or civil service board created pursuant to s. 14, Art. III, of the State Constitution, provided, further that nothing contained in ss. 30.48-30.53 shall be construed to alter, modify or change in any manner any civil service system or board, state or local, now in existence or hereafter established.

Section 3. This act shall take effect July 1, 2024.

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee
Representative Duggan offered the following:

Amendment

Remove lines 23-33 and insert:

subsection shall apply to a sheriff in a consolidated government, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution.

Section 2. Section 30.53, Florida Statutes, is amended to read:

30.53 Independence of constitutional officials.—The independence of the sheriffs, including a sheriff in a consolidated government, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, shall be preserved concerning the

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1483 Pinellas County Construction Licensing Board, Pinellas County
SPONSOR(S): Chaney
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Burgess	Darden
2) Regulatory Reform & Economic Development Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Contractors are regulated by ch. 489, F.S., which outlines the law pertaining to contractors in the state of Florida, with construction contracting regulated by the Construction Industry Licensing Board (CILB). Counties and municipalities may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the CILB after July 1, 2024.

The Pinellas County Construction Licensing Board (Board) was created in 1975 as a dependent agency of the Pinellas County Board of County Commissioners (PCBC). The Board regulates certain construction and home improvement contractors practicing in all Pinellas County jurisdictions. The Board also provides countywide certification and registration of contractors and countywide certification of journeymen.

The Board consists of 15 members appointed by the PCBC serving four-year terms. Board members may not serve more than two consecutive terms, but may be reappointed after a two-year hiatus. However, the limitation does not apply to the governmental building official or fire official appointees. All Board members, except any governmental building official, must be residents of Pinellas County.

This bill recodifies prior special acts relating to the Board and updates the Board's charter by:

- Updating definitions concerning types of contracting to those found in general law;
- Providing a list of certain types of contractors that may be defined by rules adopted by the Board;
- Removing registration requirements for contractors, consistent with the prohibition of local contractor licensing that takes effect July 1, 2024;
- Providing for examination for certification for specialty contractors;
- Clarifying the causes for which disciplinary action against a certificate can be brought;
- Reducing the period the Board must retain examinations from five years to two years; and
- Making conforming changes.

The Economic Impact Statement (EIS) estimates the bill will result in a revenue decrease of $449,835 and a cost of $30,000 for external software developers and other changes impacting staff and operations for Fiscal Year (FY) 2024-2025 and a revenue decrease of $449,835 and a cost of $35,000 for FY 2025-2026. The EIS also states other estimated n costs will reduce by $220,000 per year.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Construction Professional Licenses

Contractors are regulated by ch. 489, F.S., which outlines the law pertaining to contractors in the state of Florida. Part I of ch. 489, F.S., covers construction contracting regulated by the Construction Industry Licensing Board (CILB) and pt. II of ch. 489, F.S., covers electrical/alarm system contracting regulated by the Electrical Contractors' Licensing Board. Both boards are housed in the Department of Business and Professional Regulation (DBPR).[1]

Construction contractors are either certified or registered by the CILB.[2] The CILB consists of 18 members who are appointed by the Governor and confirmed by the Senate.[3] The CILB meets to approve or deny applications for licensure, review disciplinary cases, and conduct informal hearings relating to discipline.[4]

An individual is considered a "certified contractor" if they pass the state competency examination and obtain a certificate of competency issued by DBPR.[5] Certified contractors are able to obtain a certificate of competency for a specific license category and are permitted to practice in that category in any jurisdiction in the state. Additionally, a contractor may be considered a "certified specialty contractor" if their scope of work is limited to a particular phase of construction, such as drywall or demolition.[6] Certified specialty contractor licenses are created by the CILB through rulemaking. Certified specialty contractors are permitted to practice in any jurisdiction in the state.

The CILB licenses the following types of contractors:[7]

Statutory Licenses	Specialty Licenses
• Air Conditioning- Classes A, B, and C • Building • General • Internal Pollutant Storage Tank Lining Applicator • Mechanical • Plumbing • Pollutant Storage Systems • Pool/Spa- Commercial, Residential, and Service • Precision Tank Tester • Residential • Roofing • Sheet Metal • Solar	• Drywall • Demolition • Gas Line • Glass and Glazing • Industrial Facilities • Irrigation • Marine • Residential Pool/Spa Servicing • Solar Water Heating • Structure • Swimming Pool Decking • Swimming Pool Excavation • Swimming Pool Finishes • Swimming Pool Layout • Swimming Pool Piping

[1] Ch. 489, Parts I and II, F.S.
[2] S, 489.115, F.S.
[3] S. 489.107, F.S.
[4] Ss. 489.115 and 489.129, F.S.
[5] S. 489.105(8), F.S.
[6] S. 489.105(3)(q), F.S.
[7] S. 489.105(3)(a)-(q), F.S.; R. 61G4-15.015-.040, F.A.C.

• Underground Excavation	• Swimming Pool Structural • Swimming Pool Trim • Tower

Current law provides that local jurisdictions may approve or deny applications for licensure as a registered contractor, review disciplinary cases, and conduct informal hearings relating to discipline of registered contractors licensed in their jurisdiction.[8] Local governments may only collect licensing fees that cover the cost of regulation.[9]

Locally registered contractors that are required to hold a contracting license to practice their profession in accordance with state law must register with DBPR after obtaining a local license. However, persons holding a local construction license whose job scope does not substantially correspond to the job scope of a certified contractor or a certified specialty contractor are not required to register with DBPR.[10]

Electrical contractors, alarm system contractors, and electrical specialty contractors are certified or registered under the Electrical Contractors' Licensing Board (ECLB). Certified contractors can practice statewide and are licensed and regulated by ECLB. Registered contractors are licensed and regulated by a local jurisdiction and may only practice within that locality.[11]

Electrical certified specialty contractors are contractors whose scope of work is limited to a particular phase of electrical contracting, such as electrical signs. The ECLB creates electrical certified specialty contractor licenses through rulemaking. Certified electrical specialty contractors can practice statewide. The ECLB has created the following certified specialty contractor licenses:

- Lighting maintenance specialty contractor;
- Sign specialty electrical contractor;
- Residential electrical contractor;
- Limited energy systems specialty contractor; and
- Utility line electrical contractor.[12]

A county or municipality may not require a license for a person whose job scope does not substantially correspond to a contractor category licensed by the CILB after July 1, 2024.[13] Counties and municipalities are precluded from requiring a license for certain job scopes, including, but not limited to, painting, flooring, cabinetry, interior remodeling, handyman services, driveway or tennis court installation, decorative stone, tile, marble, granite, or terrazzo installation, plastering, stuccoing, caulking, canvas awning installation, and ornamental iron installation.

Counties and municipalities may continue to issue journeyman licenses in the plumbing, pipe fitting, mechanical and HVAC trades, as well as, the electrical and alarm system trades, which is the current practice by counties and municipalities.[14] The licensing of those specific local journeyman licenses is exempt from preemption.

Pinellas County Construction Licensing Board

The Pinellas County Construction Licensing Board (Board) was created by special act in 1975.[15] The Board is a dependent agency of the Pinellas County Board of Commissioners (PCBC). The function of the Board is to regulate certain construction and home improvement contractors practicing in all

[8] Ss. 489.117 and 489.131, F.S.
[9] *See* Office of Economic and Demographic Research, *2022 Local Government Financial Information Handbook*, 9, http://edr.state.fl.us/Content/local-government/reports/lgfih22.pdf (last visited Jan. 22, 2024).
[10] Ss. 489.105 and 489.117(4), F.S.
[11] *See generally* s. 489.505, F.S.
[12] S. 489.505(19), & 489.511(4), F.S; Rule 61G6-7.001, F.A.C.
[13] S. 163.211(2), F.S.
[14] Ss. 489.1455 and 489.5335, F.S.
[15] Ch. 75-489, Laws of Fla.

Pinellas County jurisdictions. The Board also provides countywide certification and registration of contractors and certification of journeymen.

The Board consists of 15 members appointed by the PCBC for four-year terms.[16] Board members may not serve more than two consecutive terms, but may be reappointed after a two-year hiatus.[17] However, the limitation does not apply to the governmental building official or fire official appointees.[18] All Board members must be residents of Pinellas County with the exception of any governmental building officials.[19] The membership of the Board consists of:[20]

- A general contractor;
- An architect;
- A residential contractor;
- An electrical contractor;
- A plumbing contractor;
- A mechanical contractor or Class A air-conditioning contractor;
- A roofing contractor or sheet metal contractor;
- A swimming pool contractor, aluminum specialty contractor, or veneer specialty contractor;
- A Pinellas County building official;
- Two consumer representatives not affiliated with the construction industry;
- A fire official;
- Three building officials, one each from the northern,[21] southern,[22] and beach community[23] portions of the county.

Current law governing the Board contains a detailed list of various types of contractors, including those who fall under the jurisdiction of the CILB and those only subject to local provisions.[24] Contractors are required to register and certify with the Board based on examinations conducted by the committees established by the Board.[25]

The Board may revoke or suspend a certificate if a contractor has been found to:

- Willfully or deliberately disregarded or violated the building code;
- Have aided or abetted any uncertified or unregistered person to evade the special act establishing the Board;
- Knowingly conspired with an uncertified or unregistered person to allow the contractor's certificate to be used by the uncertified or unregistered person with the intend to evade;
- Commit mismanagement or misconduct in the practice of contracting that causes financial harm to a customer;
- Been subject to discipline by a county or municipality;
- Abandon a construction project in which the contractor is engaged or under contract as a contractor;
- Guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the practice of contracting; and
- Proceed on any job without obtaining applicable local building department permits and inspections.[26]

[16] Ch. 75-489, s. 12(1), Laws of Fla, as amended by ch. 2019-184, s. 1, Laws of Fla.
[17] Ch. 75-489, s. 12(3)(a), Laws of Fla., as amended by ch. 2018-179, s. 1, Laws of Fla.
[18] *Id.*
[19] Ch. 75-489, s. 12(1), Laws of Fla, as amended by ch. 2019-184, s. 121, Laws of Fla.
[20] Ch. 75-489, s. 12(3)(a), Laws of Fla., as amended by ch. 2018-179, s. 1(3)(a) of s. 12, Laws of Fla.
[21] Clearwater, Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo.
[22] St. Petersburg, South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park.
[23] Belleair Beach, Belleair Shore, Redington Beach, North Redington Beach, Madeira Beach, Indian Rocks Beach, Indian Shores, Redington Shores, Treasure Island, or St. Pete Beach.
[24] Ch. 75-489, s. 11, Laws of Fla., as amended.
[25] Ch. 75-489, ss. 15-17, Laws of Fla., as amended.
[26] Ch. 75-489, s. 24, Laws of Fla.

Effect of Proposed Changes

This bill recodifies all special acts relating to the Board and makes the following revisions:

- Updates definitions concerning types of contracting to those found in general law;
- Provides a list of certain types of contractors that may be defined by rules adopted by the Board;
- Removes registration requirements, consistent with the provisions of s. 163.211, F.S.;
- Provides for examination for certification for specialty contractors;
- Clarifies the causes for which disciplinary action against a certificate can be brought;
- Reduces the period the Board must retain examinations from five years to two years; and
- Makes conforming changes.

The Economic Impact Statement (EIS) estimates the bill will have a $449,835 revenue decrease and a cost of $30,000 for external software developers and other changes impacting staff and operations for Fiscal Year (FY) 2024-2025 and a $449,835 revenue decrease and a cost of $35,000 for FY 2025-2026. The EIS also states other estimated costs will reduce by $220,000 per year.

B. SECTION DIRECTORY:

Section 1: Provides for codification of all special acts relating to the Board.

Section 2: Provides special acts relating to the Board are amended, codified, reenacted, and repealed as provided by the bill.

Section 3: Provides a charter for the Board.

Section 4: Repeals 75-489, 78-594, 81-466, 85-490, 86-444, 89-504, 93-387, 99-441, 2002-350, 2003-319, 2004-403, 2018-179, and 2019-184, Laws of Florida.

Section 5: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 6, 2023

WHERE? The *Tampa Bay Times*, a daily newspaper of general circulation published in Pinellas County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither requires nor provides authority for agency rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to the Pinellas County Construction Licensing Board, Pinellas County; codifying, reenacting, amending, and repealing special acts relating to the board; providing definitions; revising membership of the board; revising commencement and expiration of terms; removing provisions relating to registration; removing obsolete funding and certification provisions; removing provisions requiring a code compliance bond and proof of certain liability insurance as conditions for certification; repealing chapters 75-489, 78-594, 81-466, 85-490, 86-444, 89-504, 93-387, 99-441, 2002-350, 2003-319, 2004-403, 2018-179, and 2019-184, Laws of Florida; providing an effective date.

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

Section 1. This act constitutes the codification of all special acts relating to the Pinellas County Construction Licensing Board, an agency that regulates certain construction and home improvement contractors practicing in Pinellas County, Florida.

Section 2. Chapters 75-489, 78-594, 81-466, 85-490, 86-444, 89-504, 93-387, 99-441, 2002-350, 2003-319, 2004-403, 2018-

179, and 2019-184, Laws of Florida, are amended, codified, reenacted, and repealed as herein provided. Notwithstanding the codification or reenactment of any provision herein, nothing herein may be construed as preventing the sunset of certain license categories as provided for in chapter 2023-271, Laws of Florida.

Section 3. The charter for the Pinellas County Construction Licensing Board is re-created and reenacted to read:

Section 1. (1) It is hereby declared to be the public policy of the state that, in order to safeguard the life, health, property and public welfare of the citizens of Pinellas County, the business of construction and home improvement is a matter affecting the public interest and any person desiring to engage in the business as herein defined on a countywide basis without the necessity of meeting the competency requirements of each municipality in Pinellas County and the requirements of Pinellas County may establish his or her competency and qualification to be certified as herein provided.

(2) The Legislature recognizes that the construction and home improvement industries may pose a danger of significant harm to the public when incompetent or dishonest contractors provide unsafe, unstable, or short-lived products or services. Therefore, it is necessary in the interest of the public health, safety, and welfare to regulate the construction industry in

Pinellas County.

Section 2. Definitions.—

(1) The definitions found in ss. 489.105(3) and (6) and 489.505(1), (2), (9), and (12), Florida Statutes, as may be amended from time to time, apply to this entire act.

(2) Notwithstanding subsection (1), the definitions of the terms plumbing contractor, master plumber, tile and marble specialty contractor, irrigation system specialty contractor, carpentry specialty contractor, natural gas specialty contractor, painting specialty contractor, marine specialty contractor, flatwork masonry specialty contractor, structural masonry contractor, drywall specialty contractor, air conditioning journeyman, journeyman electric, journeyman plumber, and contracting may be determined by rules established by the Pinellas County Construction Licensing Board.

(3) The term "board" or "PCCLB" means the Pinellas County Construction Licensing Board.

Section 3. Pinellas County Construction Licensing Board; organization, meetings, and powers.—

(1) The PCCLB is created, within the County of Pinellas, consisting of 15 members. All members of the board must be residents of Pinellas County with the exception of any governmental building officials. All members of the board shall be appointed by the Pinellas County Board of County Commissioners, as follows:

(a) Eight members including the following:

1. One general contractor who is licensed to do business in this state and actively engaged in the profession.

2. One architect who is registered to practice in this state and actively engaged in the profession.

3. One residential contractor who is licensed to do business in this state and actively engaged in the profession.

4. One electrical contractor who is licensed to do business in this state and actively engaged in the profession.

5. One plumbing contractor who is licensed to do business in this state and actively engaged in the profession.

6. One mechanical contractor or Class A air-conditioning contractor who is licensed to do business in this state and actively engaged in the profession.

7. One roofing or sheet metal contractor who is licensed to do business in this state and actively engaged in the profession.

8. One swimming pool contractor, specialty structure contractor, or veneer specialty contractor who is licensed to do business in this state and actively engaged in the profession.

(b) A Pinellas County building official.

(c) Two consumer representatives not affiliated with the construction industry.

(d) A fire official.

(e) Three building officials as follows:

1. A North county building official from one of the following municipalities: Clearwater, Tarpon Springs, Dunedin, Oldsmar, Safety Harbor, Belleair, Belleair Bluffs, or Largo.

2. A South county building official from one of the following municipalities: St. Petersburg, South Pasadena, Gulfport, Seminole, Kenneth City, or Pinellas Park.

3. A Beach community building official from one of the following municipalities: Belleair Beach, Belleair Shore, Redington Beach, North Redington Beach, Madeira Beach, Indian Rocks Beach, Indian Shores, Redington Shores, Treasure Island, or St. Pete Beach.

(2)(a) To be eligible for appointment to the first board, each member, other than the building official, the architect, and the consumer member, shall personally hold an unexpired certified license issued by the City of St. Petersburg, the City of Clearwater, the County of Pinellas, or the State of Florida at the time of appointment; be actively engaged in his or her respective business and have been so engaged for a period of at least 5 consecutive years before the date of appointment; and be a citizen and resident of the county.

(b) Each member of the board, other than the building official, the architect, and the consumer member, succeeding the original appointees shall possess the qualifications prescribed in paragraph (a).

(3)(a) A board member may not serve more than two

consecutive terms of 4 years but may be reappointed after a 2-year hiatus. This limitation shall not apply to any of the governmental buildings official or fire official appointees.

(b) The terms of the following members expire in even-numbered years: the general contractor, the architect, the residential contractor, the electrical contractor, the consumer representative, and the North county and Beach Community building officials. The terms of the following members shall commence in odd-numbered years: the mechanical contractor or Class A air conditioning contractor; the fire official; the roofing or sheet metal contractor; the swimming pool contractor, specialty structural contractor, or veneer specialty contractor; the plumbing contractor; the consumer representative; and the South county building official.

(c) As the terms of the members expire, the Board of County Commissioners shall appoint a member to fill the vacancy for a term for 4 years. The board shall elect from its members a chair and a vice chair for term of up to 2 years. All terms of office expire on September 30 of the last year of the term. Vacancies in the membership occurring prior to the end of a member's term for any cause shall be filled by the Pinellas County Board of County Commissioners.

(4) The board shall meet regularly as needed. Special meetings of the board may be held as the board provides in its rules and regulations. A majority of the members of the board

constitutes a quorum.

(5) The board is authorized to adopt rules and regulations in accordance with s. 162.08, Florida Statutes, to carry out the provisions of this act.

(6) Any member of the board or duly appointed hearing officer designated by the board may administer oaths and take testimony about all matters within the jurisdiction of the board, issue subpoenas which shall be supported by affidavit, serve subpoena and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. Chapter 120, Florida Statutes, will govern hearings conducted by or on behalf of the board. The board is designated an "agency" as defined in s. 120.52(1)(c), Florida Statutes, for purposes of utilizing the Division of Administrative Hearings of the Department of Administration.

(7) The board is authorized to employ personnel and incur expenses as necessary to perform its duties and enforce this act and shall sue and be sued in its official name.

(8) The board shall adopt a seal for its use containing the words "Pinellas County Construction Licensing Board."

(9) The board is authorized to waive any examination requirements for PCCLB certification of a contractor or journeyman, except that all required insurance coverage shall not be waived.

(10) The board shall be empowered to issue cease and

desist orders in accordance with s. 489.113, Florida Statutes, to prohibit any person from engaging in the business of contacting who does not hold the required certification for the type of work being performed under this act.

(11) The board shall be empowered to employ investigators or inspectors to enforce the provisions of this act and to issue citations in accordance with s. 489.127(5), Florida Statutes, for violations of this act.

(12) The board is authorized, for good cause shown, to establish such other reasonable classifications of contractors or journeymen in the construction industry as are required or requested by any municipal or county building department in addition to those specifically enumerated herein, including, but not limited to: aluminum contractors, swimming pool contractors, gas contractors, roofing contractors, and carpentry contractors. Certification of such contractors or journeymen shall be on a countywide basis in accordance with the procedure governing other contractors as set forth in this act.

(13) Board staff are employees of Pinellas County, and Pinellas County is responsible for all costs associated therewith. The board is a dependent agency of the Board of County Commissioners. The Board of County Commissioners may adopt rules to implement this act, including, but not limited to, rules relating to board finances and contribution for costs associated with this act to be borne by the county, and may

remove any member of the board at will.

(14)(a) The board shall submit to all local governments in Pinellas County, and make available to the public, a complete report on finances and administrative activities of the board as of the end of each fiscal year.

(b) The board is subject to periodic audits performed by a certified auditor chosen by the Board of County Commissioners.

(15) Each member of the board who is not otherwise required to file a financial disclosure statement pursuant to s. 8, Art. II of the State Constitution or s. 112.3144, Florida Statutes, must file an annual disclosure of financial interests pursuant to s. 112.3145, Florida Statutes.

(16) Notwithstanding any law to the contrary, if the qualified electors of Pinellas County voting in a referendum approve the transfer of all authority of the board to the Board of County Commissioners, the board shall stand dissolved as of the effective date of the referendum.

Section 4. Disposition of fees; expenses; compensation.—All moneys collected by the board shall be received, deposited, expended, and accounted for pursuant to law. The expenses of the board and its officers and of the examinations held by the board, and of other matters in connection with this act, shall be paid from the money collected under this act. Members of the board shall receive per diem and mileage as provided by law.

Section 5. Board jurisdiction and duties.—

(1) Except as herein provided, the board shall have concurrent jurisdiction with municipal examining boards.

(2) The board shall have the duty to promulgate rules and regulations governing the certification of those engaging in county-wide contracting and shall provide for the examination of those so engaged.

(3) The board shall have the duty to promulgate rules and regulations governing the county-wide certification of journeymen and shall provide for the examination of those so engaged.

(4) The board shall have the authority to employ persons to enforce the provisions of Section 13(1) of this act.

(5) The board shall have the duty to promulgate rules and regulations for the administration of a citation program and training of investigators in accordance with s. 489.127(5)(l), Florida Statutes.

Section 6. Examination committees.—

(1) The board shall establish four examination committees to establish the examinations required for certification under this act. One committee shall consist of the board itself to establish and administer the qualifications for certification and the examination for the general contractors, building contractors and residential building contractors, and specialty contractors; one committee shall consist of the Chief Mechanical Inspector from either the City of St. Petersburg, the City of

Clearwater, or the County of Pinellas, and two mechanical contractors residing and engaged in business within the county, all of whom shall be appointed by the board to establish and administer, subject to approval by the board, the qualifications for certification and the examination for mechanical contractors; one committee shall consist of the Chief Electrical Inspector from either the City of St. Petersburg, the City of Clearwater, or the County of Pinellas and two electrical contractors residing and engaged in business within the county, all of whom shall be appointed by the board to establish and administer, subject to approval by the board, the qualifications for certification and the examination for electrical contractors; and one committee shall consist of the Chief Plumbing Inspector from either the City of St. Petersburg, the City of Clearwater or the County of Pinellas, and two plumbing contractors residing and engaged in business within the county, all of whom shall be appointed by the board to establish and administer, subject to approval by the board, the qualifications for certification and the examination for plumbing contractors.

(2) The examination committees for electrical contractors, plumbing contractors, and mechanical contractors shall also give examinations for certificates of competency for journeymen in the electrical, plumbing, and mechanical trades, respectively. For purposes of this act, the term "journeyman" means a person who is the holder of a valid certificate of competency issued by

the board after passing the required examination as provided in this act and who is thereby entitled to perform the manual work of installing plumbing, mechanical, or electrical installations under the general direction of a master in the trade. Each examination committee shall determine the matter to be covered by the examination. The examination shall be of a practical and elementary character sufficiently strict to test the qualifications of the applicant.

(3) The board shall have jurisdiction over all the examinations and regulations pursuant to this act.

Section 7. Certification.—

(1) To obtain a PCCLB certificate, an applicant shall submit an application in writing to the board containing the statement that the applicant desires the issuance of a certificate and the class of certificate desired on a form containing the information prescribed by the board, accompanied by the prescribed fee.

(2)(a) Examinations shall be held at times and places within the county as the board determines, but there shall be at least three examinations a year. Each applicant shall take an objective written examination about his or her fitness for a certificate in the category for which application is made. There shall be a type of examination for all contractor categories that shall apply to the type of work covered by the certificate applied for. The examination shall cover knowledge of basic

principles of contracting and construction applicable to the category for which a certificate is requested. It shall be an open-book examination consisting of multiple-choice, fill-in, true-false, or short-answer questions and may include or consist of diagrams, plans, or sketches in connection with which the applicant is required to demonstrate his or her knowledge of construction by answering questions keyed to the diagrams, plans, or sketches or make a drawing if required by a certificate of competency examination. All examinations shall be prepared by an independent testing agency, subject to approval of the board.

(b) A passing grade on the examination is 70 percent.

(c) Persons desiring to engage in specialty building trades with the county which are not covered by this act and require a municipal or county examination for licensing or certification shall be required to take and pass only one such examination that shall then be recognized in all other municipalities and the county without the necessity for an additional examination.

(3) Examinations for journeymen certificates of competency shall be conducted by an independent agency and shall be held at the times, conducted in the manner, require the passing grade, and shall be otherwise similar to those prescribed in subsection (2).

(4) Upon receipt of the fee and application, the board

shall investigate the financial responsibility, credit, and business reputation of the applicant and of any business organization on behalf of which he or she proposes to engage in contracting, and the education and experience of the applicant. Within 30 days from the date of the examination, the board shall tell the applicant in writing whether he or she has qualified and, if the applicant has qualified, that it is ready to issue a certificate in the category for which application was made, subject to compliance with the requirements of subsection (5).

(5) As a prerequisite to issuance of a contractor's PCCLB certificate, the board shall require the applicant to submit satisfactory evidence that he or she has obtained public liability and property damage insurance for the safety and welfare of the public in amounts to be determined by the board. Thereupon, the PCCLB certificate shall be issued forthwith, but this subsection does not apply to inactive certificates.

(6) If an applicant for an original PCCLB certificate, after having been notified to do so, does not appear for examination within 1 year from the date of filing his or her application, the fee paid by him or her shall be credited to the board as an earned fee. A new application for a PCCLB certificate shall be accompanied by another application fee. Forfeiture of a fee may be waived by the board for good cause.

(7) When a PCCLB certificateholder desires to engage in contracting in any area of the county, including municipalities,

as a prerequisite therefor, he or she shall only be required to exhibit to the local building official evidence of holding a current certificate issued by the board accompanied by the fee for the occupational license and building permit required of other persons. He or she shall not be required to take a municipal examination to prove his or her competency to obtain a municipal license.

(8) When a state certificateholder desires to engage in contracting in any area of the county, including municipalities, as a prerequisite therefor, he or she shall be required to exhibit to the local building official, tax collector, or other person in charge of the issuance of licenses and building permits in the area evidence of holding a current state certificate accompanied by the fee for the occupational license and the building permit required of other persons. A state certificateholder shall not be required to take an examination to prove his or her competency for the county or municipality to obtain a county or municipal license.

(9) The PCCLB certificate shall not be transferable.

(10) Persons not desiring to engage in contracting on a county-wide basis may take any required examination of any municipality within which he or she wishes to limit his or her business, except that he or she must register with the board in addition thereto.

(11) A municipality may require persons desiring to engage

in the business of contracting within its boundaries to comply with the examination requirements provided in this act rather than requiring its own examination, but it shall not require both.

Section 8. Business organizations.—

(1) When a natural person proposes to do business in his or her own name, a PCCLB certification, when granted, shall be issued only to that individual.

(2)(a) If the applicant proposing to engage in contracting is a partnership, corporation, business trust, or other legal entity, the application shall state the name of the partnership and of its partners, or the name of the corporation and of its officers and directors, or the name of the business trust and its trustees, or the name of such other legal entity and its members, and furnish evidence of statutory compliance if a fictitious name is used. The application shall also show that the person applying for the examination is legally qualified to act for the business organization in all matters connected with its contracting business and that he or she has authority to supervise construction undertaken by the business organization. The PCCLB certification shall be in the name of the qualifying individual. If a natural person so qualified on behalf of the business organization ceases to be affiliated with the business organization, he or she shall inform the board as provided in this act. In addition, if the natural person is the only

qualified natural person affiliated with the business organization, the business organization shall notify the board of his or her termination and shall have a period of 60 days from the termination of his or her affiliation with the business organization in which to qualify another natural person under the provisions of this act, failing which the certification of the business organization shall be subject to revocation by the board.

(b) The natural person shall also inform the board in writing when he or she proposes to engage in contracting in his or her own name or in affiliation with another business organization, and he or she or the new business organization shall supply the same information to the board as required for an applicant under this act.

(c) After an investigation of the financial responsibility, credit, and business reputation of the natural person or the new business organization, and upon a favorable determination, the board shall forthwith issue without charge or examination a new PCCLB certificate in the natural person's name.

(3) When a business organization makes application for an occupational license in any municipality, the application shall be made with the tax collector in the name of the business organization, and the license, when issued, shall be issued to the business organization upon payment of the appropriate

licensing fee and exhibition to the tax collector of a valid certificate issued by the board. The business organization's certified representative shall not be required, upon exhibition of this evidence, to take a municipal examination to prove competency to obtain a municipal license.

Section 9. Reciprocal certification.—The board shall have the authority to grant PCCLB certification to any person who holds a certificate or is registered or otherwise similarly licensed by any other municipality or county in the state.

Section 10. Renewal and restoration of certificates.—

(1) PCCLB certificates shall expire annually at midnight on September 30.

(2) Failure to renew the certificate during September shall cause the certificate to become inoperative, and it is unlawful thereafter for any person to engage or offer to engage or hold himself or herself out as engaging in contracting under the PCCLB certificate unless the certificate is restored or reissued.

(3) A certificate that is inoperative because of failure to renew shall be restored on payment of the proper renewal fee if the application for restoration is made by September 30 of the subsequent year. If the application for restoration is not made within the 1-year period, the fee for restoration shall be equal to the original application fee and, in addition, the board may require reexamination of the applicant.

(4) A person who is registered or holds a valid PCCLB certificate from the board may go on inactive status, during which time he or she shall not engage in contracting but may retain his or her certificate on an inactive basis on payment of an annual renewal fee during the inactive period.

Section 11. Fees.—

(1) The board is authorized to establish reasonable fees for PCCLB certification, examination, Board of Adjustment and Appeals hearings, annual renewal fees, and such other fees deemed necessary to accomplish the purposes of this act.

(2) Any funds received by the board from fees which remain uncommitted and unexpended at the end of each biennium shall be paid into the county general revenue fund.

Section 12. Records.—

(1) All information required by the board of any applicant for a PCCLB certificate or journeymen shall be a public record, except that financial information and examination grades are confidential and shall not be discussed with anyone except members of the board and its staff, but the applicant is entitled to see his or her examination papers and grades. An applicant may waive in writing the confidentiality of his or her examination for the purpose of discussion at meetings of the board.

(2) If a PCCLB certificateholder changes his or her name style, address, or employment from that appearing on his or her

current certificate, he or she shall notify the board of the change within 30 days after it occurs.

(3) All examinations shall be retained for a period of 2 years from the date of the examination.

Section 13. Prohibitions; penalties.—

(1) No person shall:

(a) Falsely hold himself or herself out as a certificateholder;

(b) Falsely impersonate a certificateholder;

(c) Present as his or her own the certificate of another;

(d) Give false or forged evidence to the board or a member thereof for the purpose of obtaining a PCCLB certificate;

(e) Use or attempt to use a certificate which has been suspended or revoked;

(f) Engage in the business or act in the capacity of a contractor or advertise himself or herself as available to engage in the business or act in the capacity of a contractor without being duly certified; or

(g) Operate a business organization engaged in contracting after 60 days following the termination of its only qualifying agent without designating another qualifying agent.

(2) Any person who violates any of the provisions of subsection (1) is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

Section 14. Revocation or suspension of certificate.—

(1) On its own motion or the verified written complaint of any person, the board may investigate the action of any contractor certified under this act and hold hearings pursuant to law. When any complaint involves a contractor certified or registered under this act for acts or omissions occurring in any area of the county that has a local board, the board shall forward the complaint to the local board where the alleged violation occurred for its action. Where no local board exists, or when such local board waives its jurisdiction, the board shall take jurisdiction. The board may take appropriate disciplinary action if the contractor is found to be guilty of or has committed any one of the acts or omissions constituting cause for disciplinary action set out herein or adopted as rules or regulations by the board.

(2) The following acts constitute cause for disciplinary action:

(a) Obtaining a certificate by fraud or misrepresentation.

(b) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of contracting or the ability to practice contracting.

(c) Violation of chapter 455, Florida Statutes.

(d) Willfully or deliberately disregarding and violating the applicable building codes or laws of the state, the board,

or any municipality or county of this state.

(e) Performing any act which assists a person or entity in engaging in the prohibited uncertified and unregistered practice of contracting, if the certificateholder knows or has reasonable grounds to know that the person or entity was uncertified.

(f) Knowingly combining or conspiring with an uncertified person by allowing his or her certificate to be used by the uncertified person with the intent to evade the provisions of this act. When a certificateholder allows his or her certificate to be used by one or more business organizations without having any active participation in the operations, management, or control of such business organizations, such act constitutes prima facie evidence of an intent to evade the provisions of this act.

(g) Acting in the capacity of a contractor under any certificate issued hereunder except in the name of the certificateholder as set forth on the issued certificate, or in accordance with the personnel of the certificateholder as set forth in the application for the certificate, or as later changed as provided in this act.

(h) Committing mismanagement or misconduct in the practice of contracting that causes financial harm to a customer. Financial mismanagement or misconduct occurs when:

1. Valid liens have been recorded against the property of a contractor's customer for supplies or services ordered by the

contractor for the customer's job; the contractor has received funds from the customer to pay for the supplies or services; and the contractor has not had the liens removed from the property, by payment or by bond, within 30 days after the date of such liens.

2. The contractor has abandoned a customer's job and the percentage of completion is less than the percentage of the total contract price paid to the contractor as of the time of abandonment, unless the contractor is entitled to retain such funds under the terms of the contract or refunds the excess funds within 30 days after the date the job is abandoned.

3. The contractor's job has been completed, and it is shown that the customer has had to pay more for the contracted job than the original contract price, as adjusted for subsequent change orders, unless such increase in cost was the result of circumstances beyond the control of the contractor, was the result of circumstances caused by the customer, or was otherwise permitted by the terms of the contract between the contactor and the customer.

(i) Being disciplined by any municipality or county for an act or violation of this act, which discipline shall be reviewed by the board before the board takes any disciplinary action of its own.

(j) Failing in any material respect to comply with the provisions of this act.

(k) Abandoning a construction project in which the contractor is engaged or under contract as a contractor. A project is to be considered abandoned after 90 days if the contractor terminates the project without notification to the prospective owner and without just cause.

(l) Signing a statement with respect to a project or contract falsely indicating that the work is bonded; falsely indicating that payment has been made for all subcontracted work, labor, and materials which results in a financial loss to the owner, purchaser, or contractor; or falsely indicating that workers' compensation and public liability insurance are provided.

(m) Being found guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the practice of contracting.

(n) Proceeding on any job without obtaining applicable local building department permits and inspections.

(3) If a contractor disciplined under subsection (1) is a qualifying agent for a business organization and the violation was committed in connection with a construction project undertaken by that business organization, the board may impose an additional administrative fine not to exceed $1,000 against the business organization or against any partner, officer, director, trustee, or member if such person participated in the violation or knew or should have known of the violation and

failed to take reasonable corrective action.

(4) The board may specify by rule the acts or omissions which constitute violations of this section.

(5) The board is authorized to take the following disciplinary action:

(a) Suspend the certificateholder from all operations as a contractor during the period fixed by the board, but the board may permit the certificateholder to complete any contracts then uncompleted.

(b) Revoke a certificate.

(c) Impose an administrative fine or penalty not to exceed $1,000, which shall be recoverable by the board only in an action at law.

(d) Require restitution and impose reasonable investigative and legal costs.

(6) After suspension of the certificate on any grounds set forth in this section, the board may remove the suspension on proof of compliance by the contractor with all conditions prescribed by the board for removal of suspension, or, in the absence of the conditions, as in the sound discretion of the board.

(7) After revocation of a certificate, the certificate shall not be renewed or reissued for at least 1 year after revocation and then only on a showing of rehabilitation of the contractor. The lapse or suspension of a certificate by

operation of law or by order to the board or a court, or its voluntary surrender by a certificateholder, does not deprive the board of jurisdiction to investigate or act in disciplinary proceedings against the certificateholder.

(8) The board may restrain any violation of this act by action in a court of competent jurisdiction.

Section 15. Applicability.—

(1) Nothing in this act limits the power of a municipality or the county to regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections that are designed to secure compliance with and aid in the implementation of state and local building laws or to enforce other local laws for the protection of the public health and safety.

(2) Nothing in this act limits the power of a municipality or county to collect occupational license and inspection fees for engaging in contracting, or examination fees from persons who are registered with the board pursuant to local examination requirements.

(3) Nothing in this act limits the power of the municipalities or counties to adopt any system of permits requiring submission to and approval by the municipality or county of drawings and specifications for work to be performed by contractors before commencement of the work.

(4) Nothing in this act shall be construed to waive any

requirements of any existing local ordinance or resolution of the board of county commissioners regulating the type of work required to be performed by a specialty contractor.

(5) Any official authorized to issue building or other related permits shall ascertain that the applicant contractor is duly certified before issuing the permit. The evidence shall consist only of the exhibition to him or her of current evidence of certification.

(6) Municipalities or cities may continue to provide examinations for their territorial areas, provided that:

(a) To engage in contracting in the territorial area, an applicant must also be registered with the board.

(b) All local contractors' licensing boards or agencies shall transmit annually during August to the board the names of all local licensees, the status of the license, and a report of any disciplinary action taken against the licensee.

(c) A certificate has not been issued by the board.

(7) The right to create local boards in the future by any municipality or the county is preserved.

(8) This act applies to any contractor performing work for the state, county, or any municipality. They are required to determine compliance with this act before giving a commencement order on any of its contracts for construction, improvement, remodeling, or repair.

(9) If an incomplete contract exists at the time of death

of a contractor, the contract may be completed by any person even though not certified. The person shall notify the board within 30 days after the death of the contractor of his or her name and address. For purposes of this subsection, an incomplete contract is one which has been awarded to, or entered into by, the contractor before his or her death or on which he or she was the low bidder and the contract is subsequently awarded to him or her regardless of whether any actual work has commenced under the contract before his or her death.

Section 16. Exemptions.—This act does not apply to:

(1) Contractors who work exclusively on bridges, roads, streets, highways, railroads, or utilities and services incidental thereto.

(2) Any employee of a certificateholder who is a subordinate of such certificateholder if the employee does not hold himself or herself out for hire or engage in contracting except as an employee.

(3) An authorized employee of the United States, Florida, or any municipality or county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state as long as the employee does not hold himself or herself out for hire or otherwise engage in contracting except in accordance with his or her employment.

(4) An officer appointed by a court when he or she is acting within the scope of his or her office as defined by law

or court order. When construction projects that were not underway at the time of appointment of the officer by the court are undertaken, he or she shall employ or contract with a certificateholder.

(5) Public utilities on construction, maintenance, and development work performed by their forces and incidental to their business.

(6) The sale or installation of any finished products, materials, or articles or merchandise which are not actually fabricated into and do not become a permanent fixed part of the structure, except for spas or inground swimming pools with a capacity in excess of 200 gallons, and for above-ground swimming pools with a capacity in excess of 200 gallons that involve excavation, plumbing, chemicals, or wiring of any appliance without a factory-installed electrical cord and plug. This subsection shall not be construed to limit the exemptions provided in subsection (7).

(7) Owners of property building or improving one or two-family residences thereon for the occupancy of such owners and not offered for sale. In all actions brought under this act, proof of the sale or offering for sale of more than one such structure by the owner-builder within 1 year after completion of same is prima facie evidence that such structure was undertaken for purposes of sale. This subsection does not exempt any person who is engaged by such owner or any person other than the owner

who acts in the capacity of a contractor.

(8) Any construction, alteration, improvement, or repair carried on within the limits of any site the title to which is in the United States, or to any construction, alteration, improvement, or repair on any project where federal law supersedes this act.

(9) Any work or operation of a casual, minor, or inconsequential nature in which the aggregate contract price for labor, materials, and all other items is less than $500, but this exemption does not apply:

(a) If the construction, repair, remodeling, or improvement is a part of a larger or major operation whether undertaken by the same or a different contractor or in which a division of the operation is made in contracts of amounts less than $500 for the purpose of evading this act or otherwise.

(b) To a person who advertises as a contractor or otherwise represents or exhibits by any manner or device that he or she is qualified to engage in contracting.

(10)(a) Any construction or operation incidental to the construction or repair of irrigation and drainage ditches;

(b) Regularly constituted irrigation districts or reclamation districts; or

(c) Clearing or other work on the land in rural districts for fire prevention purposes or otherwise, except when performed by a certificateholder or registrant under this act.

(11) A registered architect or engineer acting in his or her professional capacity.

(12) Any person who only furnishes materials or supplies without fabricating them into or consuming them in the performance of the work of the contractor.

(13) Any person as defined and licensed under chapter 527, Florida Statutes, when such person is performing the work authorized by such license.

(14) Any person who is certified under chapter 489, Florida Statutes.

Section 17. It is the intent of the Legislature to provide for uniform building codes and uniform life safety codes for Pinellas County. It is further the intent of the Legislature to provide for continuing uniformity of the aforementioned codes by placing the sole authority for making technical amendments to the codes, applicable within the boundaries of Pinellas County, with the Pinellas County Construction Licensing Board.

Section 18. For the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location, and maintenance of buildings and structures, Pinellas County hereby recognizes as applicable to the county the codes known as:

(1) The Florida Building Code, as may be amended or updated pursuant to general law.

(2) The applicable version of the National Fire Protection

Association Life Safety Code 101 adopted through the provisions of the Florida Fire Prevention Code or adopted pursuant to the powers of the Florida State Fire Marshal as described in Florida Administrative Code s. 4A-60, as either may be subsequently amended.

Copies of all amendments or variations thereto adopted by the board pursuant to the provisions of Section 19 shall be filed with and available for inspection at the office of the board.

Section 19. The board shall have the power to amend the codes from time to time, subject to the requirements of s. 553.73(4), Florida Statutes, and may adopt variations for different areas of the county if the variations are justified under the procedures contained herein and in s. 553.73, Florida Statutes. Before making any amendment or variation, the board shall refer the proposed amendment to the appropriate county-wide Board of Adjustment and Appeals described in Section 22 for study and recommendations. The board shall then hold a public hearing on the proposed amendment or variation and shall reject, adopt, or defer action upon the recommendation of the Board of Adjustment and Appeals. A two-thirds vote of the board is required to reject any recommendation of the Board of Adjustment and Appeals. The board may adopt amendments to the codes that are necessary as a condition precedent to any federal or state-sponsored program, and the governing body of any municipality or

the county may adopt amendments to the administrative chapter of the Florida Building Code. For the purposes of s. 553.73, Florida Statutes, and chapter 98-287, Laws of Florida, as amended by chapter 98-419, Laws of Florida, and chapter 2001-186, Laws of Florida, and as may be subsequently amended, the Pinellas County Construction Licensing Board shall be the sole local governing body authorized to make technical amendments to the Florida Building Code or the version of the National Fire Protection Association Life Safety Code 101 as described in Section 18 and is deemed to be the county-wide compliance review board for Pinellas County as required by s. 553.73(4)(f), Florida Statutes. The PCCLB shall likewise be the local administrative board for the provision of interpretations upon request of local building officials and for the resolution of conflicts of interpretations between local building officials and local fire code enforcement officials. The resolution of these disputes shall be in accordance with applicable general law. The decision of the board interpreting a code, resolving a conflict of interpretation, or adopting an amendment following a recommendation by the applicable Board of Adjustment and Appeals shall be the final local determination of the matter which is subject to the appeal to the Florida Building Commission pursuant to s. 553.73, Florida Statutes, or the State Fire Marshal pursuant to chapter 633, Florida Statutes.

Section 20. Except as provided in this law for amendments

and variations, the codes shall be exclusively controlling in the construction of all buildings and structures within Pinellas County, and no municipality or the county shall adopt any technical amendments, ordinances, rules, or regulations for the construction, alteration, removal, demolition, equipment, use, occupancy, location, and maintenance of buildings and structures that conflict with the codes as amended.

Section 21. Inspection and enforcement of the codes shall be effected by the county, the municipalities in Pinellas County, or the authorized designees of either.

Section 22. (1) The board shall create four Boards of Adjustment and Appeals as follows:

(a) A plumbing, mechanical, and gas Board of Adjustment and Appeals consisting of one mechanical engineer, two plumbing contractors, two natural gas contractors, and two mechanical or Class A air conditioning contractors. This Board of Adjustment and Appeals shall have the powers and duties specified in subsection (2) for appeals relating to plumbing, mechanical, and gas provisions of the Florida Building Code.

(b) An electrical Board of Adjustment and Appeals consisting of one electrical engineer, two electrical contractors, and one member of the building industry at large. This Board of Adjustment and Appeals shall have the powers and duties provided in subsection (2) for appeals relating to the electrical code.

(c) A Board of Adjustment and Appeals for the Florida Building Code provisions not falling within the jurisdiction of the board created by subsection (a) or subsection (b).

(d) A life safety and fire code Board of Adjustment and Appeals consisting of two active fire marshals, two active building officials, and a fifth member to be selected from the joint recommendation of the fire marshals and building officials comprising such Board of Adjustment and Appeals.

(2) Any appeal which may be brought before either the Board of Adjustment and Appeals for the Florida Building Code or the Board of Adjustment and Appeals for the Life Safety and Fire Code shall be referred to the latter. The Board of Adjustment and Appeals for the Life Safety and Fire Code shall determine whether it has jurisdiction over said appeal. Upon a determination that said board has no jurisdiction, the appeal shall be considered by the Board of Adjustment and Appeals for the Florida Building Code. The Boards of Adjustment and Appeals shall meet as frequently as is required but not less often than once every 3 months. Members of the boards shall serve without compensation. Any person aggrieved by a ruling of a building director or a fire marshal or other fire official of any municipality or of the county, or any building director or fire marshal or other fire official desiring interpretation of a code, may file a written appeal to the proper Board of Adjustment and Appeals. However, if the municipality in which

the dispute occurred has established a Board of Adjustment and Appeals, the aggrieved party must first appeal to the municipal board. After a decision is rendered by the municipal board, the aggrieved party shall have 15 days to file the appeal provided for in this subsection. The decision of the boards shall be furnished to the appealing party in writing within 15 days after the meeting at which the appeal was considered. The decisions of the boards are subject to appeal pursuant to s. 553.73, Florida Statutes.

Section 23. Each Board of Adjustment and Appeals shall have authority to interpret its respective code adopted for the county. Interpretations of the codes shall be based upon specific findings of fact and may be made when any provision of the code is ambiguous as applied to an activity subject to the code or to allow alternate material and types of construction if found to be in conformity with the intent of said code. The codes shall be interpreted liberally to provide safe, economic, and sound buildings and structures in the county. Code interpretations of any Board of Adjustment and Appeals made under this section shall be final administrative actions and shall not be subject to review by the board. Final decisions of the board or any Board of Adjustment and Appeals shall be based upon substantial competent evidence and shall be subject to review by the Florida Building Commission or the Florida State Fire Marshal.

Section 4. Chapters 75-489, 78-594, 81-466, 85-490, 86-444, 89-504, 93-387, 99-441, 2002-350, 2003-319, 2004-403, 2018-179, and 2019-184, Laws of Florida, are repealed.

Section 5. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1487 Pinellas Suncoast Transit Authority, Pinellas County
SPONSOR(S): Chaney
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
2) Transportation & Modals Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter.

Any two or more contiguous counties, municipalities, other political subdivisions, or combinations, are authorized to constitute, compose, and operate a regional transportation authority. Among other powers, regional transportation authorities have the ability to purchase, own, or operate, or provide for the operation of, transportation facilities, contract for transit services, and exercise power of eminent domain limited to right-of-way.

The Pinellas Suncoast Transit Authority (PSTA) was created by special act in 1982 with the intent to provide Pinellas County with a cohesive public transit system. PSTA operates a fleet of 191 buses and 20 trolleys that serve 41 fixed routes including two express routes to Hillsborough County. PSTA is governed by a 15-member board (Board) that consists of one appointee each by the Pinellas County Commission and the City Council of the City of St. Petersburg, both of whom are not elected officials, and 13 appointees chosen by local governments in Pinellas County from their own membership.

The bill revises the PSTA's charter by:

- Removing the Authority's ability to operate a street railway, elevated railway, subway;
- Reduces the size of the Board from 15 members to 11 members and revises appointment procedures;
- Requires the Board to follow specific procedures when executing the power of eminent domain;
- Removes PSTA's authority to regulate other public transit entities within its boundaries;
- Establishes requirements for window coverings and advertisements on PSTA assets;
- Requires PSTA to adhere to budgetary guidelines;
- Establishes procedures and limits the use of lane elimination, lane repurposing, lane diet, and bus lane allocations; and
- Requires semiannual reporting by the Authority to the Pinellas County Board of County Commissioners.

The Economic Impact Statement states that the bill is not expected to have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.[1] Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.[2] A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.[3] Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.[4]

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as "dependent" if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district's governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.[5]

A district is classified as "independent" if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of a single municipality.[6]

Regional Transportation Authorities

Under Florida law, any two or more contiguous counties, municipalities, other political subdivisions, or combinations thereof, are authorized to convene a charter committee for the purpose of developing a charter under which a regional transportation authority (RTA) may be constituted, composed, and operated.[7]No county, municipality, or other political subdivision may be a member of more than one regional transportation authority.[8]

RTAs have the ability to purchase, own, or operate, or provide for the operation of, transportation facilities; to contract for transit services; to exercise power of eminent domain for right-of-way and contiguous transportation facility acquisition; to conduct studies; and to contract with other governmental agencies, private companies, and individuals.[9] An RTA may not purchase, own, or

[1] *See Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).
[2] *See* ss. 189.02(1), 189.031(3), and 190.005(1), F.S. *See generally* s. 189.012(6), F.S.
[3] Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227 (last visited January 18, 2024).
[4] The method of financing a district must be stated in its charter. Ss. 189.02(4)(g) and 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. *See, e.g.,* ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). *See also, e.g.,* ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), and 388.221, F.S. (mosquito control), and ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).
[5] S. 189.012(2), F.S.
[6] S. 189.012(3), F.S.
[7] S, 163.567(1), F.S.
[8] *Id*. This authority should not be confused with ch. 343, F.S., which creates other regional transportation authorities, including the South Florida Regional Transportation Authority and the Central Florida Transportation Authority.
[9] S. 163.568(1), F.S.

operate a public transportation system that would compete with existing private transportation companies, or implement a new transportation system of the same mode where comparable service is operating without first purchasing through negotiation.[10]

Regional transportation authorities also have the power to develop transportation plans and to coordinate planning and programs with those of appropriate local and state agencies.[11] All transportation plans are subject to review and approval by the Department of Transportation (DOT) and by the regional planning agency, if any, for consistency with programs or planning for the area and region.

Pinellas Suncoast Transit Authority

The Pinellas Suncoast Transit Authority (PSTA) was created by special act in 1982.[12] The charter of the authority was recodified in 2000.[13] PSTA was created by the merger of the St. Petersburg Municipal Transit System and the Central Pinellas Transit Authority to provide Pinellas County with a cohesive public transit system.[14] PSTA operates a fleet of 191 buses and 20 trolleys that serve 41 fixed routes including two express routes to Hillsborough County.[15]

PSAT is governed by a 15-member board (Board) that consists of one appointee each by the Pinellas County Board of County Commissioners and the St. Petersburg City Council, both of whom are not elected officials, and 13 appointees chosen from the following local governing bodies from their membership:

- Four members appointed by Pinellas County;
- Two members appointed by the City of St. Petersburg;
- One member appointed by the City of Clearwater;
- One member appointed by the City of Dunedin;
- One member appointed by the City of Largo;
- One member appointed by the City of Pinellas Park;
- One member appointed by the combined municipal governing bodies of the Cities of Oldsmar, Safety Harbor, and Tarpon Springs;
- One member appointed by the combined municipal governing bodies of the Cities of Belleair, Belleair Bluffs, Gulfport, Kenneth City, Seminole, and South Pasadena; and
- One member appointed by the combined municipal governing bodies of the Cities of Belleair Beach, Belleair Shores, Indian Rocks Beach, Indian Shores, Madeira Beach North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island.[16]

During the 2022 fiscal year, PSTA directly operated vehicles that traveled a total of 8.8 million miles, providing approximately 631,271 hours of service, and 8.5 million passenger trips.[17] PSTA contracts with partners that provide public transit services on the authority's behalf. With partner participation, PSTA provided an estimated 10.8 million miles, 772,653 hours of service, and 8.9 million passenger trips in the 2022 fiscal year.

The PSTA is authorized to levy an ad valorem tax of up to 0.75 mills.[18] According to the district's audited financial statement, the PSTA "heavily dependent on a millage levy" and levies the maximum

[10] *Id*.
[11] S. 163.568(2)(i), F.S.
[12] Ch. 82-368, Laws of Fla.
[13] Ch. 2000-424, Laws of Fla. Ch. 2000-424, s. 2, Laws of Fla., amended by chs. 2002-341 and 2006-327, Laws of Fla., contain the charter of the district (hereinafter District Charter).
[14] Pinellas Suncoast Transit Authority, *FY 2022 Annual Comprehensive Financial Report*, 3, https://www.psta.net/media/6490/fy-22-annual-financial-report-04-27-2023-final.pdf (last visited Jan. 19, 2024).
[15] *Id*.
[16] District Charter, s. 3(2)(a).
[17] *Supra* note 14 at 3.
[18] District Charter, s. 8.

rate provided in the charter.[19] The PSTA's adopted budget for the 2024 fiscal year, projects revenues of $114,539,670, including $77,816,710 in taxes, and expenditures of $114,511,920.[20]

Effect of Proposed Changes

The bill revises a number of provisions within PSTA's charter. The bill revises the definition of "public transit," removing the district's ability to operate street railways, elevated railways, and subways as means of conveyance.

The bill reducing the size of the governing body of the Authority from 15 members to 11 members appointed as follows:

- Four members of the Pinellas County Board of County Commissioners;
- One member of the St. Petersburg City Council;
- One member of the Clearwater City Council;
- One member appointed by the combined municipal governing bodies of Tarpon Springs, Safety Harbor, Oldsmar, Dunedin, Belleair, Belleair Beach, and Belleair Bluffs from among their membership, rotating among the cities in descending order based on population;
- One member appointed by the combined municipal governing bodies of Largo, Seminole, South Pasadena, Gulfport, Kenneth City, and Pinellas Park from among their membership, rotating among the cities in descending order based on population;
- One member appointed by the combined municipal governing bodies of Belleair Shore, Indian Rocks Beach, Indian Shores, North Redington Beach, Redington Beach, Redington Shores, Madeira Beach, Treasure Island, and St. Pete Beach from among their membership, rotating among the cities in descending order based on population;
- One member appointed by the Senate President and Speaker of the House of Representatives from the combined municipal governing bodies of Tarpon Springs, Safety Harbor, Oldsmar, Dunedin, Belleair, Belleair Beach, and Belleair Bluffs, rotating between cities; and
- One member appointed by the Senate President and Speaker of the House of Representatives from the combined municipal governing bodies of Largo, Seminole, South Pasadena, Gulfport, Kenneth City, and Pinellas Park, rotating between cities.

The bill limits the district's power of eminent domain by providing that it may only be exercised by a two-thirds vote of the board at a public meeting held with public notice provided at least 30 days in advance and requiring reporting to the Pinellas Board of County Commissioners semiannually in a public meeting with public notice provided at least 30days in advance.

The bill removes provisions providing the PSTA the authority to regulate other public transit providers within its boundaries.

The bill establishes requirements for window coverings and advertisements on PSTA modes of transit. The bill requires any new window covering or advertisement to adhere to legal requirements regarding the tinting of rear windows.[21] The bill prohibits PSTA from engaging in non-paid advertising, promotion, or messaging on its assets, except for acknowledgements of veterans or any acknowledgement of statutory recognized holidays.[22]

The bill requires PSTA to adhere to best budgetary guidelines as outlined by, but not limited to, guidelines provided by the Florida Government Finance Officers Association and the Government Finance Officers Association.

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[19] *Supra* note 15 at 7.
[20] Pinellas Suncoast Transit Authority, *Adopted FY 2024 Budget*, 13, https://www.psta.net/media/6689/fy-2024-adopted-budget-updated-20231114.pdf (last visited Jan. 19, 2024).
[21] *See* s. 316.2954, F.S.
[22] New Year's Day, the birthday of Martin Luther King, Jr. (observed on the third Monday in January), Memorial Day, Independence Day, Labor Day, Veteran's Day (November 11), Thanksgiving Day, the Friday after Thanksgiving, and Christmas Day. S. 110.117, F.S.

The bill requires that any lane elimination, lane repurposing, lane diet, or bus lane allocation request, recommendation, or application relating to a public transit project to be approved by a two-thirds vote of the Board in a public meeting held with a 30-day notice. The Board then must present the proposal to the Pinellas Board of County Commissioners before conducting a second two-thirds vote for final approval. The bill prohibits the PSTA from conducting a lane elimination, lane repurposing, lane diet, or bus lane allocation for the purpose of eliminating, reallocating, or repurpose public lanes for usage by the authority. The bill provides that these requirements do not apply to any local or municipally-owned roadway but does include plans for lane elimination, lane repurposing, lane diet, or bus lane allocation calling for the loss of an existing lane to become a bus use only lane or a Business Access and Transit lane.

The bill requires the PSTA to submit reports to the Pinellas Board of County Commissioners on a semiannual basis containing:

- Any gifts accepted in exchange for contracts;
- Any contract over $500,000;
- Any sale, lease, or transfer of any property or interest over $500,000; and
- Ridership performance and metrics.

The bill provides that the Pinellas County Board of County Commissioners are permitted to call for an in-person presentation of the reports at least once a year.

The Economic Impact Statement filed with the bill states that the bill is not expected to have a fiscal impact.

B. SECTION DIRECTORY:

Section 1: Amends Ch. 2000-424, s. 2, Laws of Fla., as amended by chs. 2002-341 and 2006-327, Laws of Fla., relating to the Pinellas Suncoast Transit Authority.

Section 2: Provides an effective date of July 1, 2024.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? December 6, 2023.

WHERE? The *Tampa Bay Times*, a newspaper of general circulation within Pinellas County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to Pinellas Suncoast Transit Authority, Pinellas County; amending chapter 2000-424, Laws of Florida, as amended; revising the definition of the term "public transit"; revising membership of the governing body of the authority; revising powers of the authority; establishing requirements for advertising placed on authority property; providing for best budget practices; establishing procedures for lane elimination; prohibiting certain offices, boards, employees, or other actors whose purpose is to eliminate or reallocate public lanes; requiring semiannual reporting of certain provisions to the Pinellas Board of County Commissioners; specifying severability; providing an effective date.

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

Section 1. Subsection (6) of section 2, paragraph (a) of subsection (2) of section 3, and section 4 of section 2 of chapter 2000-424, Laws of Florida, as amended by chapters 2002-341 and 2006-327, Laws of Florida, are amended, and sections 14 through 18 are added to section 2 of that chapter, to read:

Section 2. Definitions.—As used in this act, unless the content clearly indicates otherwise, the following terms shall

have the meanings set forth below:

(6) "Public transit" means transportation of passengers for hire by means, without limitation, of a ~~street railway, elevated railway, subway,~~ motor vehicle, bus, or other means of conveyance operating as a common carrier within the public transit area as provided, and charter service originating therein.

Section 3. Pinellas Suncoast Transit Authority; status and governing body.—

(2)(a) The governing body of the authority shall consist of 11 ~~15~~ members, serving and selected as provided in this paragraph.

1. Four members shall be appointed by the Pinellas County Board of County Commissioners from their membership. This appointee shall be an elected official.

2. One member shall be appointed by the City Council of the City of St. Petersburg from their membership. This appointee shall be an elected official.

3. One member shall be appointed by the City Council of the City of Clearwater from their membership. This appointee shall be an elected official.

4. One member shall be appointed by the combined municipal governing bodies of Tarpon Springs, Safety Harbor, Oldsmar, Dunedin, Belleair, Belleair Beach, and Belleair Bluffs. This appointee shall be an elected official. The order of rotation

shall be determined by population size in descending order.

5. One member shall be appointed by the combined municipal governing bodies of Largo, Seminole, South Pasadena, Gulfport, Kenneth City, and Pinellas Park. This appointee shall be an elected official. The order of rotation shall be determined by population size in descending order.

6. One member shall be appointed by the combined municipal governing bodies of Belleair Shore, Indian Rocks Beach, Indian Shores, North Redington Beach, Redington Beach, Redington Shores, Madeira Beach, Treasure Island, and St. Pete Beach. This appointee shall be an elected official. The order of rotation shall be determined by population size in descending order.

7. One member shall be appointed by the Senate President and the Speaker of the House of Representatives from the combined municipal governing bodies of Tarpon Springs, Safety Harbor, Oldsmar, Dunedin, Belleair, Belleair Beach, and Belleair Bluffs. This appointee shall be a citizen appointee. This appointment shall rotate between municipalities.

8. One member shall be appointed by the Senate President and the Speaker of the House of Representatives from the combined municipal governing bodies of Largo, Seminole, South Pasadena, Gulfport, Kenneth City, and Pinellas Park. This appointee shall be a citizen appointee. This appointment shall rotate between municipalities.

~~1. One member shall be appointed by the City Council of~~

~~the City of Clearwater from its membership.~~

~~2. One member shall be appointed by the City Commission of the City of Dunedin from its membership.~~

~~3. One member shall be appointed by the City Commission of the City of Largo from its membership.~~

~~4. One member shall be appointed by the City Council of the City of Pinellas Park from its membership.~~

~~5. Two members shall be appointed by the City Council of the City of St. Petersburg from its membership.~~

~~6. One member shall be appointed by the combined municipal governing bodies of the Cities of Oldsmar, Safety Harbor, and Tarpon Springs from their membership.~~

~~7. One member shall be appointed by the combined municipal governing bodies of the Cities of Belleair, Belleair Bluffs, Gulfport, Kenneth City, Seminole, and South Pasadena from their membership.~~

~~8. One member shall be appointed by the combined municipal governing bodies of the Cities of Belleair Beach, Belleair Shores, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island from their membership.~~

~~9. Four members shall be appointed by the Pinellas County Commission from its membership.~~

~~10. One member shall be appointed by the Pinellas County Commission, and this member may not be an elected official.~~

~~11. One member shall be appointed by the City Council of the City of St. Petersburg, and this member may not be an elected official.~~

Section 4. Purposes and powers.—

(1) The authority created and established by the provisions of this act is hereby granted and shall have the right and power to purchase, own, and/or operate transit facilities;~~,~~ to contract for transit services;~~,~~ to exercise power of eminent domain if approved by a two-thirds vote of the Pinellas Suncoast Transit Authority Board in a public meeting with a 30-day public notice and shall be reported to the Pinellas Board of County Commissioners semiannually in public meetings with a 30-day public notice;~~,~~ to conduct studies;~~,~~ and to contract with other governmental agencies, private companies, and individuals.

(2) The authority is hereby granted, and shall have and may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, and complain and defend in all courts.

(b) To adopt, use, and alter at will a corporate seal.

(c) To acquire, purchase, hold, lease as a lessee, and use any franchise, property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for

carrying out the purposes of the authority, and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it. Any sale, lease, or transfer of any property or interest shall be upon competitive bid except that the authority may sell, lease, or transfer any real property or interest therein to another governmental entity without competitive bid and may sell, lease, or transfer surplus personal property, tangible or intangible, in accordance with chapter 274, Florida Statutes.

(d) To fix, alter, charge, and establish rates, fares, and other charges for the services and facilities of the Pinellas Suncoast Transit System, which rates, fees, and charges shall be equitable and just and sufficient to meet the operating requirements of the system along with other revenue that may be available.

~~(e) To regulate other operators of public transit in the Pinellas Suncoast Transit Area as to franchises, permits, fares, and other charges to establish rules and regulations pertaining to these matters for distribution to the operators and public transit facilities in said area.~~

(e) ~~(f)~~ To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(f) ~~(g)~~ To enter into management contracts with any person or persons for the management of a transit system owned or

controlled by the authority for such period or periods of time, and under such compensation and other terms and conditions as shall be deemed advisable by the authority.

(g) ~~(h)~~ Without limitation, to borrow money and accept gifts or grants or loans of money or other property and to enter into contracts, leases, or other transactions with any federal agency, the state, any agency of the state, the County of Pinellas, or with any other public body of the state.

(h) ~~(i)~~ To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this part or any other law.

(i) ~~(j)~~ To prescribe and promulgate rules and regulations as it deems necessary for the purposes of this act.

Section 14. Window coverings and advertisements.—

(1) Any new window covering or advertisement must adhere to requirements provided in section 316.2954, Florida Statutes.

(2) The authority shall not engage in any non-paid advertising, promotion, or messaging on their assets; however, this subsection does not apply to any acknowledgement of veterans as defined in section 1.01, Florida Statutes, or any acknowledgement of a holiday listed in section 110.117, Florida Statutes.

Section 15. Best budget practices.—The authority must abide by the best budgetary guidelines as outlined by, but not

limited to, the Florida Government Finance Officers Association and the Government Finance Officers Association.

Section 16. Lane elimination, lane repurposing, lane diet, or bus lane allocation requests, recommendations, or applications.—

(1) Any lane elimination, lane repurposing, lane diet, or bus lane allocation request, recommendation, or application relating to a public transit project must be approved by a two-thirds vote of the Pinellas Suncoast Transit Authority Board in a public meeting with a 30-day public notice and then presented to the Pinellas Board of County Commissioners prior to a final two-thirds vote of the Pinellas Suncoast Transit Authority.

(2) The authority shall not have a lane elimination, lane repurposing, lane diet, or bus lane allocation office, board, employee, or any other actor whose purpose is to eliminate, reallocate, or repurpose public lanes for the usage of the authority.

(3) This section does not apply to any local or municipally owned roadway.

(4) This section shall include any new service of any design or name that would include plans for lane elimination, lane repurposing, lane diet, or bus lane allocation calling for the loss of an existing lane of a vehicular roadway to bus only use or Business Access and Transit (BAT) lanes.

Section 17. Semiannual reporting.—

(1) The Pinellas Suncoast Transit Authority shall semiannually report the following to the Pinellas Board of County Commissioners:

(a) Any gifts accepted in exchange for contracts.

(b) Any contract over $500,000.

(c) Any sale, lease, or transfer of any property or interest over $500,000.

(d) Ridership performance and metrics.

(2) The Pinellas Board of County Commissioners may call for in-person presentations of these reports at a minimum of once a year.

Section 18. Severability clause.—

(1) This act is not intended, nor may it be construed, to conflict with existing, relevant state or federal law.

(2) If any provision of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 2. This act shall take effect July 1, 2024.

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee

Representative Chaney offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (6) of section 2, paragraph (a) of subsection (2) of section 3, and section 4 of section 2 of chapter 2000-424, Laws of Florida, as amended by chapters 2002-341 and 2006-327, Laws of Florida, are amended, and sections 14 through 18 are added to section 2 of that chapter, to read:

Section 2. Definitions.—As used in this act, unless the content clearly indicates otherwise, the following terms shall have the meanings set forth below:

(6) "Public transit" means transportation of passengers for hire by means, without limitation, of a ~~street railway,~~

~~elevated railway, subway,~~ motor vehicle, bus, or other means of conveyance ~~operating as a common carrier within the public transit area as provided, and charter service originating therein~~.

Section 3. Pinellas Suncoast Transit Authority; status and governing body.—

(2)(a) The governing body of the authority shall consist of 11 ~~15~~ members, serving and selected as provided in this paragraph.

1. Four members shall be appointed by the Pinellas County Board of County Commissioners from their membership.

2. One member shall be appointed by the City Council of the City of St. Petersburg from their membership.

3. One member shall be appointed by the City Council of the City of Clearwater from their membership.

4. Two members shall be appointed by the municipal governing bodies of Tarpon Springs, Safety Harbor, Oldsmar, Dunedin, Belleair, Belleair Beach, and Belleair Bluffs on a rotating basis. The order of rotation shall be determined by population size in descending order.

5. Two members shall be appointed by the municipal governing bodies of Largo, Seminole, South Pasadena, Gulfport, Kenneth City, and Pinellas Park on a rotating basis. The order of rotation shall be determined by population size in descending order.

6. One member shall be appointed by the municipal governing bodies of Belleair Shore, Indian Rocks Beach, Indian Shores, North Redington Beach, Redington Beach, Redington Shores, Madeira Beach, Treasure Island, and St. Pete Beach on a rotating basis. The order of rotation shall be determined by population size in descending order.

~~1. One member shall be appointed by the City Council of the City of Clearwater from its membership.~~

~~2. One member shall be appointed by the City Commission of the City of Dunedin from its membership.~~

~~3. One member shall be appointed by the City Commission of the City of Largo from its membership.~~

~~4. One member shall be appointed by the City Council of the City of Pinellas Park from its membership.~~

~~5. Two members shall be appointed by the City Council of the City of St. Petersburg from its membership.~~

~~6. One member shall be appointed by the combined municipal governing bodies of the Cities of Oldsmar, Safety Harbor, and Tarpon Springs from their membership.~~

~~7. One member shall be appointed by the combined municipal governing bodies of the Cities of Belleair, Belleair Bluffs, Gulfport, Kenneth City, Seminole, and South Pasadena from their membership.~~

~~8. One member shall be appointed by the combined municipal governing bodies of the Cities of Belleair Beach, Belleair~~

~~Shores, Indian Rocks Beach, Indian Shores, Madeira Beach, North Redington Beach, Redington Beach, Redington Shores, St. Pete Beach, and Treasure Island from their membership.~~

~~9. Four members shall be appointed by the Pinellas County Commission from its membership.~~

~~10. One member shall be appointed by the Pinellas County Commission, and this member may not be an elected official.~~

~~11. One member shall be appointed by the City Council of the City of St. Petersburg, and this member may not be an elected official.~~

Section 4. Purposes and powers.—

(1) The authority created and established by the provisions of this act is hereby granted and shall have the right and power to purchase, own, and/or operate transit facilities;~~,~~ to contract for transit services;~~,~~ to exercise power of eminent domain if approved by a two-thirds vote of the Pinellas Suncoast Transit Authority Board in a public meeting with a 30-day public notice and shall be reported to the Pinellas Board of County Commissioners semiannually in public meetings with a 30-day public notice;~~,~~ to conduct studies;~~,~~ and to contract with other governmental agencies, private companies, and individuals.

(2) The authority is hereby granted, and shall have and may exercise all powers necessary, appurtenant, convenient, or

incidental to the carrying out of the aforesaid purposes, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, and complain and defend in all courts.

(b) To adopt, use, and alter at will a corporate seal.

(c) To acquire, purchase, hold, lease as a lessee, and use any franchise, property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority, and to sell, lease as lessor, transfer, and dispose of any property or interest therein at any time acquired by it. Any sale, lease, or transfer of any property or interest shall be upon competitive bid except that the authority may sell, lease, or transfer any real property or interest therein to another governmental entity without competitive bid and may sell, lease, or transfer surplus personal property, tangible or intangible, in accordance with chapter 274, Florida Statutes.

(d) To fix, alter, charge, and establish rates, fares, and other charges for the services and facilities of the Pinellas Suncoast Transit System, which rates, fees, and charges shall be equitable and just and sufficient to meet the operating requirements of the system along with other revenue that may be available.

~~(e) To regulate other operators of public transit in the Pinellas Suncoast Transit Area as to franchises, permits, fares,~~

~~and other charges to establish rules and regulations pertaining to these matters for distribution to the operators and public transit facilities in said area.~~

(e)~~(f)~~ To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(f)~~(g)~~ To enter into management contracts with any person or persons for the management of a transit system owned or controlled by the authority for such period or periods of time, and under such compensation and other terms and conditions as shall be deemed advisable by the authority.

(g)~~(h)~~ Without limitation, to borrow money and accept gifts or grants or loans of money or other property and to enter into contracts, leases, or other transactions with any federal agency, the state, any agency of the state, the County of Pinellas, or with any other public body of the state.

(h)~~(i)~~ To do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority in order to carry out the powers granted to it by this part or any other law.

(i)~~(j)~~ To prescribe and promulgate rules and regulations as it deems necessary for the purposes of this act.

Section 14. Window coverings and advertisements.—

(1) Any new window covering or advertisement must adhere to requirements provided in section 316.2954, Florida Statutes.

(2) The authority shall not engage in any non-paid advertising, promotion, or messaging on their assets; however, this subsection does not apply to any acknowledgement of veterans as defined in section 1.01, Florida Statutes, or any acknowledgement of a holiday listed in section 110.117, Florida Statutes.

Section 15. Best budget practices.—The authority must abide by the best budgetary guidelines as outlined by, but not limited to, the Florida Government Finance Officers Association and the Government Finance Officers Association.

Section 16. Lane elimination, lane repurposing, lane diet, or bus lane allocation requests, recommendations, or applications.—

(1) Any lane elimination, lane repurposing, lane diet, or bus lane allocation request, recommendation, or application relating to a public transit project or any change in the current use of functionality of a roadway must be approved by a two-thirds vote of the Pinellas Suncoast Transit Authority Board in a public meeting with a 30-day public notice and then presented to the Pinellas Board of County Commissioners prior to a final two-thirds vote of the Pinellas Suncoast Transit Authority.

(2) The authority shall not have a lane elimination, lane repurposing, lane diet, or bus lane allocation office, board, employee, or any other actor whose purpose is to eliminate,

reallocate, or repurpose public lanes for the usage of the authority.

(3) This section does not apply to any local or municipally owned roadway.

(4) This section shall include any new service of any design or name that would include plans for lane elimination, lane repurposing, lane diet, or bus lane allocation calling for the loss of an existing lane of a vehicular roadway to bus only use or Business Access and Transit (BAT) lanes.

Section 17. Semiannual reporting.—

(1) The Pinellas Suncoast Transit Authority shall semiannually report the following to the Pinellas Board of County Commissioners:

(a) Any gifts accepted in exchange for contracts.

(b) Any contract over $500,000.

(c) Any sale, lease, or transfer of any property or interest over $500,000.

(d) Ridership performance and metrics.

(2) The Pinellas Board of County Commissioners may call for in-person presentations of these reports at a minimum of once a year.

Section 18. Severability clause.—

(1) This act is not intended, nor may it be construed, to conflict with existing, relevant state or federal law.

(2) If any provision of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 2. This act shall take effect July 1, 2024.

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

Remove everything before the enacting clause and insert:
An act relating to Pinellas Suncoast Transit Authority, Pinellas County; amending chapter 2000-424, Laws of Florida, as amended; revising the definition of the term "public transit"; revising membership of the governing body of the authority; revising powers of the authority; establishing requirements for advertising placed on authority property; providing for best budget practices; establishing procedures for lane elimination and changes in roadway use or functionality; prohibiting certain offices, boards, employees, or other actors whose purpose is to eliminate or reallocate public lanes; requiring semiannual reporting of certain provisions to the Pinellas Board of County Commissioners; specifying severability; providing an effective date.

HB 1551

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1551 Florida State Guard
SPONSOR(S): Giallombardo
TIED BILLS: **IDEN./SIM. BILLS:** SB 1694

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
2) Infrastructure & Tourism Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Led by the Governor as commander-in-chief, the Florida National Guard consists of organized, armed, equipped, and federally recognized commissioned officers, warrant officers, and enlisted personnel who are citizens of the United States or who have declared their intention to become citizens of the United States.

The Florida State Guard (FSG) was created in 2022 as a component of the organized guard of the state separate and apart from the Florida National Guard, and is a volunteer force that assists federal, state, and local government agencies and civil relief organizations during impending or actual emergencies in Florida.

The bill revises provisions relating to the FSG by:

- Removing provisions authorizing FSG for use exclusively within the state;
- Adding definitions to differentiate enlisted personnel from officers;
- Revising fingerprinting requirements for applicants;
- Removes FLNG equivalency requirements for applicant standards and training programs for members;
- Allowing the Governor to activate the FSG in additional situations; and
- Providing an attorney for members of the FSG subject to civil or criminal action or proceeding for any act occurring in that volunteer's scope of duty.

The bill may have a fiscal impact on state government, but does not appear to have an impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

National Guard

The National Defense Act of 1916[1] established the National Guard Bureau as a separate unit of the militia division of the federal government.[2] In 1948, the Secretary of Defense of the United States Department of Defense issued an order designating the National Guard Bureau as a joint bureau of the Departments of the Army and Air Force.[3] Under current federal law, the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff and the Secretaries of the Army and the Air Force, allocates the unit structure and strength authorizations for the National Guard in each state.[4]

The National Guard is unique among militia in that it serves the country in both the local community and overseas. The dual mission of a Guard member means that each member serves through both the National Guard of the state and through the United States Army or the United States Air Force.[5]

Florida National Guard

The Florida National Guard (FLNG) consists of organized, armed, equipped, and federally recognized commissioned officers, warrant officers, and enlisted personnel who are citizens of the United States or who have declared their intention to become citizens of the United States. The FLNG has separate Army and Air Force components that are subject to the Departments of the Army and the Air Force, respectively.[6] The Governor is the commander in chief of all militia of the state[7] and is responsible for appointing a federally recognized officer of the FLNG to be the Adjutant General, who serves as the Commanding General of the state's organized militia.[8]

Defense Forces

Federal law authorizes each state, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands to create and maintain organized units other than their respective National Guard units. These separate units, called "defense forces," are for use exclusively within the jurisdiction as considered necessary by the Governor or chief executive of such jurisdiction but may not be called, ordered, or drafted into federal service.[9] Membership in such an organized service does not exempt any individual from service in the armed forces of the United States[10] but a member of the reserve component of the armed forces[11] may not be a member of a local defense force.[12] Currently, 23 states

[1] National Defense Act of 1916, H.R. 12766 (Public, No. 85) (June 3, 1916).
[2] National Archives, *Guide to Federal Records, Records of the National Guard Bureau (NGB)*, https://www.archives.gov/research/guide-fed-records/groups/168.html (last visited Jan. 19, 2024).
[3] *Id.*
[4] 10 U.S.C. s. 10503.
[5] National Guard, *National Guard Fact Sheet, Army National Guard* (FY2005), May 3, 2006, https://www.nationalguard.mil/About-the-Guard/Army-National-Guard/Resources/News/ARNG-Media/FileId/137011/ (last visited Jan. 19, 2024).
[6] S. 250.07, F.S.
[7] Art. IV, s. 1(a), Fla. Const.
[8] S. 250.10, F.S. 32 U.S.C. S. 314(a) requires an adjutant general in each state and requires the adjutant general to perform the duties prescribed by the laws of the state of appointment.
[9] 32 U.S.C. s. 109(c).
[10] 32 U.S.C. s. 109(d).
[11] The reserve component of the armed forces includes the Army National Guard and the Air National Guard in addition to the Army, Navy, Marine Corps, Air Force, and Coast Guard Reserves. *See* 10 U.S.C. s. 10101.
[12] 32 U.S.C. s. 109(e).

and the Commonwealth of Puerto Rico have organized defense forces separate from their National Guard units.[13]

Florida State Guard

The Florida State Guard (FSG) was created in 2022[14] as a component of the organized guard of the state, separate and apart from the FLNG. The FSG is a state-funded volunteer force that partners with the Florida National Guard (FLNG) and other disaster response agencies to ensure communities are provided with humanitarian assistance and rapid response during manmade and natural disasters.[15]

The FSG is under the command and control of the governor and is authorized for exclusive use within the state when activated by the Governor[16] or for use in other states for specific purposes.[17] The FSG may not be called, ordered, or drafted into the armed forces of the United States and is authorized to have a maximum number of 1,500 volunteer personnel.[18]

The Division of the State Guard (division) within the Department of Military Affairs is responsible for the organization, recruitment, training, equipping, management, and functions of the FSG. The division is led by a director (director) who is appointed by and serves at the pleasure of the governor.[19] Subject approval by the Governor, the director determines the number of volunteer personnel within the FSG.[20] Members of the FSG must:

- Be citizens of the United States and residents of Florida;
- Have no felony conviction and submit fingerprints as required by state and federal law for purposes of conducting a criminal background check;
- Not be an active duty servicemember, a member of the armed forces reserves, or a member of the FLNG; and
- Have been separated under terms no less than a general discharge under honorable conditions if the applicant is a former member of the armed forces or of any military or naval organization of a state.[21]

The director determines the minimum standards for the age, physical and health condition, and physical fitness of applicants[22] and a program for training for members of the FSG.[23] The standards and training program determined by the director may be no less than the standards and training requirements required by the FLNG. Members of the FSG are reimbursed for per diem and travel expenses incurred to attend required training or in the course of active service.[24] While activated or in training, FSG members are not liable for any lawful act done in the performance of his or her FSG duties while acting in good faith within the scope of such duties. In addition, while activated or in training, are considered volunteers for the state and are entitled to workers' compensation protections pursuant to chapter 440, F.S., and are guaranteed the same protections as members of the FLNG.[25]

The FSG may be activated by order of the governor:

[13] Alaska, California, Connecticut, Florida, Georgia, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Mexico, New York, Ohio, Oregon, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, and Washington.
[14] The FSG was created via the Implementing Act of the General Appropriations Act for the 2022-23 fiscal year, Ch. 2022-157, s. 80, Laws of Fla., and is codified in statutes as s. 251.001, F.S., the Florida State Guard Act.
[15] Florida State Guard, *History*, https://www.floridastateguard.org/history (last visited Jan. 19, 2024).
[16] S. 251.001(2), F.S.
[17] The FSG is authorized to support other states under the Emergency Management Assistance Compact (EMAC) as provided for in part III of ch. 252, F.S. S. 251.001(8)(a)4., F.S.
[18] S. 251.001(2), F.S.
[19] S. 251.001(3), F.S.
[20] S. 251.001(5)(a), F.S.
[21] S. 251.001(5)(c), F.S.
[22] S. 251.001(5)(d), F.S.
[23] S. 251.001(7), F.S.
[24] S. 251.001(9), F.S.
[25] S. 251.001(10), F.S.

- During any period when any part of the FLNG is in active federal service and the governor has declared a state of emergency;
- To preserve the public peace, execute the laws of the state, enhance domestic security, respond to terrorist threats or attacks, protect and defend the people of the state from threats to public safety, respond to an emergency[26] or imminent danger thereof, or respond to any need for emergency aid to civil authorities;
- To augment any existing state or local agency; or
- To provide support to other states under EMAC. [27]

The FSG is deactivated at the expiration of the order or by a separate order by the governor deactivating the FSG.[28]

The director is also responsible for organizing a specialized unit within the FSG in which members are vested with authority to bear arms, detect, and apprehend while activated.[29] Members of the specialized unit must meet the minimum qualifications for employment or appointment as a law enforcement officer defined in law[30] and are certified as law enforcement officers.[31] The specialized unit is authorized to have the same law enforcement authority as the law enforcement agency the specialized group is working with when activated.[32]

Effect of Proposed Changes

The bill removes language from the creation section of the Florida State Guard Act that provides the FSG may only be used exclusively within the state, clarifying the ability of FSG to provide support to other states under the Emergency Management Assistance Compact.

The bill adds and defines the terms, “enlisted volunteer,” “officer,” and “volunteer” in order to differentiate enlisted personnel from officers and makes conforming changes throughout the act.

The bill revises fingerprinting requirements by requiring applicants must submit a complete set of fingerprints to the division or to the vendor, entity, or agency authorized by the Department of Law Enforcement (FDLE) to accept electronic fingerprint submissions. The bill provides the entity receiving the fingerprints must forward the fingerprints to FDLE for processing. After processing, FDLE must submit the fingerprints to the Federal Bureau of Investigation (FBI) for a national criminal history record check. The bill requires fees for fingerprint processing are to be borne by the FSG and fingerprints submitted must be retained by FDLE along with the enrollment in the FBI’s national retained fingerprint arrest notification program. The bill requires any arrest record identified to the reported to the FSG.

The bill removes the requirement that FSG standards and the training program for members must be equivalent to the standards and training programs of the FLNG.

The bill expands the ability of the Governor to activate the FSG by allowing activation:
- During a declared state of emergency when the FLNG is not in active federal service;
- During periods of civil unrest; and
- At any other time deemed necessary and appropriate.

[26] Section 252.34(4), F.S., defines the term “emergency” to mean any occurrence, or threat thereof, whether natural, technological, or manmade, in war or in peace, which results or may result in substantial injury or harm to the population or substantial damage to or loss of property.
[27] S. 251.001(8)(a), F.S.
[28] S. 251.001(8)(b), F.S.
[29] S. 251.001(6), F.S.
[30] Such qualifications are provided in s. 943.13, F.S.
[31] Members must be certified as law enforcement officers as defined by s. 943.10(1), F.S.
[32] S. 251.001(6), F.S.

Activation in the above circumstances must be given in a written communication from the Governor to the director.

The bill authorizes the director to call volunteers to duty for training and administrative tasks, subject to annual appropriation, when not activated by order of the Governor.

The bill allows for discretionary reimbursement of per diem and travel expenses, instead of requiring the FSG to do so.

The bill provides that members of the FSG employed by state and local governments are eligible for a leave of absence of up to 240 hours per year without loss of vacation leave, pay, time, or efficiency rating for training purposes.

The bill provides that in any action or proceeding brought in any court by any person or by the state against a volunteer for an act occurring within the scope of the volunteer's duty, such volunteer may request to be defended at the expense of the state by a qualified attorney designated by the Department of Legal Affairs. The volunteer retains the right to employ his or her own private counsel. The bill provides that a volunteer engaged in such a defense may still be ordered to state active duty with full active duty compensation. If the plaintiff dismisses his or her suit, or a verdict or judgment in favor of the defendant is entered, the bill provides that the court must award costs and reasonable attorney fees incurred by the state and the defendant in the defense of such action or proceeding.

B. SECTION DIRECTORY:

Section 1: Amends s. 251.001, F.S., relating to the Florida State Guard Act.

Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the bill analysis conducted by FDLE,[33] the private sector charges $37.25 per each state and national criminal history check. Of this amount, $13.25 is for the national portion and $24 is for the state portion. The first year of state retention is included in the cost and then becomes $6

[33] *Id.*

annually per set of fingerprints. There are no fees required by the Federal Bureau of Investigation for federal finger print retention.

D. FISCAL COMMENTS:

According to the bill analysis conducted by FDLE,[34] the bill will generate $24 in revenue per each state and national criminal history record check. The first year of state retention of fingerprints is included in the cost of the background check then becomes $6 annually per set of fingerprints. There are no fees required for federal fingerprint retention thus no revenue will be generated by federal fingerprint retention. Fees received will be deposited into FDLE's Operating Trust Fund, but will result in no net increase in state revenues since the background checks are paid for the FSG.

The bill may also increase expenditures by the Department of Legal Affairs to the extent the department is required to provide qualified attorneys for FSG volunteers facing civil or criminal proceedings arising out of their scope of duty.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to directly affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

[34] Fla. Dept. of Law Enforcement, *2024 FDLE Legislative Bill Analysis SB 1694*, Jan. 11, 2024, (on file with the Local Administration, Federal Affairs, & Special Districts Subcommittee).

A bill to be entitled

An act relating to the Florida State Guard; amending s. 251.001, F.S.; removing the requirement that the Florida State Guard be used exclusively within the state; providing definitions; requiring the Governor to commission officers of the Florida State Guard; revising requirements for the submission of fingerprints for a criminal history record check; requiring fees therefor to be borne by the Florida State Guard; requiring the Department of Law Enforcement to retain fingerprints in accordance with certain provisions; requiring an arrest record to be reported to the Division of the State Guard within the Department of Military Affairs; revising provisions relating to minimal standards for age, physical health and condition, and physical fitness; revising training requirements; authorizing the director to call volunteers to duty for training and administrative tasks under certain circumstances; revising requirements for activation of the Florida State Guard; authorizing, rather than requiring, compensation for per diem and travel expenses; applying provisions relating to officers' and employees' leaves of absence for reserve or guard training to volunteers of the Florida State Guard;

providing procedures and requirements for an action or proceeding against a volunteer of the Florida State Guard; providing an effective date.

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

Section 1. Section 251.001, Florida Statutes, is amended to read:

251.001 Florida State Guard Act.—

(1) SHORT TITLE AND SCOPE.—This chapter may be cited as the "Florida State Guard Act." This chapter shall be supplemental to provisions relating to the organized militia in chapter 250 other than the Florida National Guard.

(2) CREATION AND AUTHORIZATION.—The Florida State Guard is created to protect and defend the people of Florida from all threats to public safety and to augment all existing state and local agencies. The Florida State Guard is created as authorized under federal law for use ~~exclusively~~ within the state, activated only by the Governor, and is at all times under the final command and control of the Governor as commander in chief of all military and guard forces of the state. The Florida State Guard shall be used ~~exclusively~~ within the state, or to provide support to other states, for the purposes stated in this section and may not be called, ordered, or drafted into the armed forces of the United States. The authorized maximum number of volunteer

personnel that may be commissioned, enrolled, or employed as volunteers ~~members~~ of the Florida State Guard is 1,500.

(3) DIVISION OF THE STATE GUARD.—The Division of the State Guard is created within the Department of Military Affairs and shall be headed by a director who shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by the Senate. The director must have served at least 5 years as a servicemember of the United States Armed Forces, United States Reserve Forces, or Florida National Guard. The division shall be a separate budget entity, and the director shall be its agency head for all purposes. The Department of Military Affairs shall provide administrative support and service to the division to the extent requested by the director. The division shall not be subject to control, supervision, or direction by the Department of Military Affairs in any manner, including, but not limited to, personnel, purchasing, transactions involving real or personal property, and budgetary matters. The division is responsible for the organization, recruitment, training, equipping, management, and functions of the Florida State Guard. The director may establish a command, operational, and administrative services structure to assist, manage, and support the Florida State Guard in operating the program and delivering services.

(4) DEFINITIONS.—As used in this section:

(a) The terms "active duty," "armed forces," and "National

Guard" have the same meanings as in s. 250.01.

(b) The term "department" means the Department of Military Affairs.

(c) The term "director" means the director of the Division of the State Guard.

(d) The term "division" means the Division of the State Guard within the Department of Military Affairs.

(e) The term "enlisted volunteer" means a person who has been approved by the director to serve in the Florida State Guard.

(f) The term "officer" means an enlisted volunteer who, due to special trust and confidence, is commissioned by the Governor as an officer of the Florida State Guard.

(g) The term "volunteer" means an officer or an enlisted volunteer.

(5) PERSONNEL.—

(a) Subject to approval by the Governor, the director shall determine the number of volunteers ~~volunteer personnel~~ necessary to meet the staffing and operational requirements of the Florida State Guard~~,~~ and determine the volunteer structure and number of volunteers ~~volunteer personnel~~ within each component unit of such structure.

(b) The Governor shall commission all officers ~~volunteer personnel~~ of the Florida State Guard.

(c) Each applicant for the Florida State Guard shall meet

the following qualifications:

1. The applicant must be a citizen of the United States and a resident of the state.

2. The applicant may not have a felony conviction. Each applicant must ~~shall~~ submit a complete set of fingerprints to the division or to the vendor, entity, or agency authorized by s. 943.053(13) to accept electronic fingerprints. The division, vendor, entity, or agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and thereafter the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. Fees for state and federal fingerprint processing and retention shall be borne by the Florida State Guard. The state cost for fingerprint processing shall be as provided in s. 943.053(3)(e). Fingerprints submitted to the Department of Law Enforcement pursuant to this paragraph shall be retained by the Department of Law Enforcement as provided in s. 943.05(2)(g) and (h) along with the enrollment in the Federal Bureau of Investigation's national retained fingerprint arrest notification program. Any arrest record identified shall be reported to the division ~~and all information required by state and federal law to process fingerprints for purposes of conducting a criminal background check~~.

3. The applicant may not be an active duty servicemember,

a member of the armed forces reserves, or a member of the Florida National Guard.

4. If the applicant is a former member of the armed forces or of any military or naval organization of this state or another state, the applicant must have been separated under terms no less than a general discharge under honorable conditions.

(d) The director shall establish minimum standards for the age, physical and health condition, and physical fitness of applicants based upon the component unit of the Florida State Guard structure in which the applicant is being considered for placement. ~~However, an applicant being considered for placement in a component unit that serves in an active duty capacity within the Florida State Guard must be subject to standards that are no less than the standards required for recruitment, enrollment, and retention in the Florida National Guard.~~

(e) The director shall develop and implement a code of regulations for the administration and discipline of volunteers ~~members~~ of the Florida State Guard that provides ~~shall provide~~ no less protection and imposes ~~impose~~ no more severe sanctions than as provided in s. 250.35, except that the director may ~~shall~~ not ~~have authority to~~ impose any term of incarceration.

(6) SPECIALIZED UNIT.—The director shall organize a specialized unit within the Florida State Guard. All volunteers ~~members~~ of the specialized unit are vested with the authority to

bear arms, detect, and apprehend while activated. In addition to the requirements set forth in paragraph (5)(c), only those volunteers ~~members~~ of the specialized unit who meet the requirements in s. 943.13 and are certified as law enforcement officers as defined in s. 943.10(1) may ~~are authorized to~~ have the same law enforcement authority as the law enforcement agency in conjunction with which they are working when activated.

(7) TRAINING AND EQUIPMENT.—The director shall develop and implement a program for training for volunteers ~~members~~ of the Florida State Guard.

(a) ~~All training programs for the Florida State Guard shall be at least equivalent to the training requirements for members of the Florida National Guard under applicable federal law at the time the training is conducted.~~ As required by the director, all volunteers ~~members~~ of the Florida State Guard shall complete initial training within 180 days after their appointment or enrollment and periodic ongoing training.

(b) The director may provide for staff to prepare and conduct training required in this section. The staff may include members of the Florida National Guard whose duty assignments may include conducting training under this section but who may not be considered volunteers ~~members~~ of the Florida State Guard.

(c) The division shall provide all equipment necessary for the training and service of volunteers ~~members~~ of the Florida State Guard and shall arrange and contract for the use of

sufficient and adequate facilities for training, organizing, and all other purposes of the Florida State Guard. Section 250.44 applies to the allocation, delegation, use of, and accounting for all equipment furnished under this section.

(d) The director may call volunteers of the Florida State Guard to duty for purposes of training and administrative tasks, subject to annual appropriation, when not activated by order of the Governor.

(8) ACTIVATION AND DEACTIVATION OF THE FLORIDA STATE GUARD.—

(a) The Florida State Guard, by component units or in total, may be activated by order of the Governor:

1. During ~~any period when any part of the Florida National Guard is in active federal service and the Governor has declared~~ a declared state of emergency, period of civil unrest, or any other time deemed necessary and appropriate. Such order must be a written communication from the Governor to the director;

2. To preserve the public peace, execute the laws of the state, enhance domestic security, respond to terrorist threats or attacks, protect and defend the people of Florida from threats to public safety, respond to an emergency as defined in s. 252.34 or imminent danger thereof, or respond to any need for emergency aid to civil authorities as specified in s. 252.38;

3. To augment any existing state or local agency; or

4. To provide support to other states under the Emergency

Management Assistance Compact as provided for in part III of chapter 252.

(b) The Florida State Guard shall be deactivated by the expiration of the order of activation or by a separate order by the Governor deactivating the Florida State Guard.

(9) REIMBURSEMENT AND COMPENSATION.—

(a) The division may ~~shall~~ reimburse volunteers ~~members~~ of the Florida State Guard for per diem and travel expenses incurred to attend required training or in the course of active service as provided in s. 112.061.

(b) Volunteers ~~Members~~ of the Florida State Guard may be compensated for time spent training or in the course of active service at rates established by the director, subject to appropriation.

(c) A volunteer ~~member~~ of the Florida State Guard may not make any purchase or enter into any contract or agreement for purchases or services as a charge against the state without the authority of the director.

(10) EMPLOYMENT PROTECTION, SUSPENSION OF PROCEEDINGS, LIABILITY, AND WORKERS' COMPENSATION.—

(a) The protections for members of the Florida National Guard provided in ss. 115.07, 250.48-250.483, and 250.5201-250.5205 ~~ss. 250.48-250.483 and 250.5201-250.5205~~ apply to each volunteer ~~member~~ of the Florida State Guard engaged in required training or active service.

(b) Volunteers ~~Members~~ of the Florida State Guard ordered into active service or engaged in required training are not liable for any lawful act done in performance of their duties under this section while acting in good faith within the scope of those duties.

(c) In any action or proceeding of any nature, civil or criminal, commenced in any court by any person or by the state against any volunteer of the Florida State Guard for any act occurring in that volunteer's scope of duty, the defendant in such action or proceeding, upon his or her request, may be defended at the expense of the state by a qualified attorney designated by the Department of Legal Affairs. However, this paragraph does not prohibit such defendant from employing his or her own private counsel at the defendant's own expense.

(d) A defendant may be ordered to state active duty with full active duty compensation for the time his or her presence is required in defense of such actions or proceedings.

(e) In any such action or proceeding, if the plaintiff dismisses his or her suit, or a verdict or judgment in favor of the defendant is entered, the court shall award costs and reasonable attorney fees incurred by the state and the defendant in the defense of such action or proceeding.

(f) ~~(c)~~ While activated or in training, volunteers ~~members~~ of the Florida State Guard are considered volunteers for the state, as defined in s. 440.02(18)(d)6., and are entitled to

workers' compensation protections pursuant to chapter 440.

(11) RULEMAKING AUTHORITY.—The director, as head of the division, shall adopt rules to implement this section.

Section 2. This act shall take effect July 1, 2024.

HB 1571

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1571 Florida Keys Aqueduct Authority, Monroe County
SPONSOR(S): Mooney
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee		Roy	Darden
2) Water Quality, Supply & Treatment Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter.

The Florida Keys Aqueduct Authority (Authority) original created in 1937 and operates under a chapter adopted in 1976, The primary purpose of the Authority is to obtain, supply, and distribute an adequate water supply and collect, treat, and dispose of wastewater for the Florida Keys. The Authority is governed by a five-member board appointed by the Governor.

The Authority is responsible for managing and maintaining water and sewer systems within the boundaries of the district. The Authority may issue bonds and other obligations to pay for projects, but are prohibited from combining water and sewer systems for the purposes of financing.

The bill removes the prohibition on combining a water system with a sewer system for the purpose of financing.

The Economic Impact Statement states that the bill is not expected to have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.[1] Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.[2] A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.[3] Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.[4]

Special districts may be classified as dependent or independent based on their relationship with local general-purpose governments. A special district is classified as "dependent" if the governing body of a single county or municipality:

- Serves as governing body of the district;
- Appoints the governing body of the district;
- May remove members of the district's governing body at-will during their unexpired terms; or
- Approves or can veto the budget of the district.[5]

A district is classified as "independent" if it does not meet any of the above criteria or is located in more than one county, unless the district lies entirely within the boundaries of single municipality.[6]

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.[7]

Florida Keys Aqueduct Authority

The Florida Keys Aqueduct Authority (Authority) was originally created the Florida Keys Aqueduct Commission in 1937.[8] The Authority currently operates under a charter adopted in 1976.[9] The primary purpose of the Authority is to obtain, supply, and distribute an adequate water supply and collect, treat, and dispose of wastewater for the Florida Keys.[10] The governing body of the Authority is a five-member board appointed by the Governor s.[11]

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[1] *See Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).
[2] *See* ss. 189.02(1), 189.031(3), and. 190.005(1), F.S. *See generally* s. 189.012(6), F.S.
[3] Local Administration, Federal Affairs & Special Districts Subcommittee, *The Local Government Formation Manual*, 62, available at https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=3227 (last visited Dec. 5, 2023).
[4] The method of financing a district must be stated in its charter. Ss. 189.02(4)(g), 189.031(3), F.S. Independent special districts may be authorized to impose ad valorem taxes as well as non-ad valorem special assessments in the special acts comprising their charters. *See, e.g.,* ch. 2023-335, s. 6 of s. 1, Laws of Fla. (East River Ranch Stewardship District). *See also, e.g.,* ss. 190.021 (community development districts), 191.009 (independent fire control districts), 197.3631 (non-ad valorem assessments), 298.305 (water control districts), 388.221 (mosquito control), ch. 2004-397, s. 27 of s. 3, Laws of Fla. (South Broward Hospital District).
[5] S. 189.012(2), F.S.
[6] S. 189.012(3), F.S.
[7] *See, e.g.*, ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).
[8] Ch. 18530, Laws of Fla. (1937).
[9] Ch. 76-441, Laws of Fla.
[10] Ch. 76-441, s. 1, Laws of Fla., as amended by ch. 98-519, s. 1, Laws of Fla.
[11] Ch. 76-441, s. 4(1), Laws of Fla., as amended by ch. 84-484, s. 2, Laws of Fla.

The powers of Authority include, but are not limited to:

- Owning, acquiring, constructing, reconstructing, equipping, operating, maintaining, extending, and improving water systems;
- Regulating the use of and supply of water, including by rationing, within the Authority's boundaries;
- Issuing bonds or other obligations to pay all or part of the cost of the acquisition or construction, reconstruction, extension, repair, improvement, maintenance, or operation or any project or combination of projects; and
- Purchasing, constructing, or otherwise acquiring a sewage disposal system or systems and to operate such systems in accordance with the Authority's purpose.[12]

The charter authorizes the Authority to impose fees and charges sufficient for obtaining bond to financing sewer system projects.[13] These projects may be combined into a single system for purposes of financing or for operation and administration.[14] However, the Authority is prohibited from combining a water system with any sewer system for purposes of financing.

Effects of Proposed Changes

The bill removes the prohibition on combining a water system with a sewer system for the purpose of financing.

The Economic Impact Statement states that the bill is not expected to have a fiscal impact.

B. SECTION DIRECTORY:

Section 1: Amends ch. 76-441, Laws of Florida, removing the prohibition on combining water systems with sewer systems for the purpose of financing.

Section 2: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? November 16, 2023.

WHERE? The *Weekly Newspapers*, a weekly newspaper published in Monroe County.

B. REFERENDUM(S) REQUIRED? Yes [] No [x]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes [] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes [] No []

[12] Ch. 76-441, s. 9, Laws of Fla.
[13] Ch. 76-441, s. 9(9)(b), Laws of Fla.
[14] Ch. 76-441, s. 9(9)(i), Laws of Fla.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to the Florida Keys Aqueduct Authority, Monroe County; removing a provision prohibiting the combination of a water system with a sewer system within the geographic boundaries of the authority for purposes of financing; providing an effective date.

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

Section 1. Paragraph (i) of subsection (9) of section 9 of chapter 76-441, Laws of Florida, is amended to read:

Section 9. Powers of the Authority.—In addition and not in limitation of the powers of the Authority, it shall have the following powers:

(9)

(i) Any sewer systems within the geographic boundaries of the Authority may be combined into a single consolidated system for purposes of financing or of operation and administration or both. ~~However, no water system may be combined with any sewer system for purposes of financing.~~

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

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		

Committee/Subcommittee hearing bill: Local Administration, Federal Affairs & Special Districts Subcommittee

Representative Mooney offered the following:

Amendment

Remove line 22 and insert:

Section 2. This act shall take effect July 1, 2024.

PCS for HB 505

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 505 Tax Collectors
SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local Administration, Federal Affairs & Special Districts Subcommittee		Roy	Darden

SUMMARY ANALYSIS

The Florida Constitution, requires the powers, duties, compensation and method of payment of state and county officers to be determined by general law. Current law provides a uniform salary schedule to ensure a fair and equitable payment of officers performing equal duties for the state across different counties. The final salary of county constitutional officers is calculated using a formula that includes a base salary, population adjustment, and variables based on wage growth over time.

Qualifying state employees, veterans, servicemembers, and law enforcement officers are eligible to receive a lump-sum monetary benefit for adopting a child within the child welfare system. This benefit, except for law enforcement officers, provides a payment of $10,000 for adopting a child classified as difficult to place and $5,000 for other children. Adoption benefits are awarded on a first-come, first-served basis and subject to appropriation.

Current law prohibits the payment of extra compensation to any public employee in the state for services that have been previously rendered. This provision has been interpreted to include the payment of a bonus to existing employees for services for which they have already performed and been compensated, in the absence of a preexisting employment contract making such bonuses a part of their salary.

The PCS makes the following revisions to current law concerning tax collectors:

- Increases the base salary used in the formula for calculating tax collector salaries by $5,000;
- Allows tax collector employees to be eligible for a lump-sum monetary benefit for adopting a child on the same terms as qualifying state employees, veterans, and servicemembers;
- Allows tax collectors to budget for and pay a hiring or retention bonus to employees, if the expenditure is approved of by the Department of Revenue or the board of county commissioners; and
- Allows district school boards to contract with the county tax collector to authorize a tax collector employee to administer road test on school grounds.

The bill does not appear to impact state government and may have an insignificant negative fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Compensation of County Officials

The Florida Constitution requires the powers, duties, compensation and method of payment of state and county officers to be determined by general law.[1]

Current law provides a uniform salary schedule to ensure a fair and equitable payment of officers performing equal duties for the state across different counties.[2] The statutory salary schedule applies to all designated officers in all counties, except those officials whose salaries are set by a county charter or officials in a chartered consolidated form of government.[3]

The salary schedule classifies counties in six groups based on population.[4] These groups range from population group I, consisting of counties with less than 50,000 residents, to population group VI, consisting of counties with 1,000,000 or more residents.[5] The salary rate of the official is calculated by adding the base salary for the county's population group to the product of the county's group rate and the number of residents in excess of the minimum for the population group.[6] The current rates for all county officers, except the sheriff, are:

Population Group #	County Population Range		Current Law Base Salary
	Minimum	Maximum	
I	-0-	49,999	$21,250
II	50,000	99,999	$24,400
III	100,000	199,999	$27,550
IV	200,000	399,999	$30,175
V	400,000	999,999	$33,325
VI	1,000,000		$36,475

The salary paid to each county constitutional officer is determined by the product of the salary rate calculated from the relevant section of ch. 145, F.S., the annual factor,[7] the cumulative annual factor,[8] and the initial factor.[9] The annual factor and the cumulative annual factor are certified each year by the Department of Management Services.[10] Each constitutional officer is eligible for an additional $2,000 per year if that officer meets the certification requirement applicable to the office.[11]

[1] *See* art. II, s. 5(c), Fla. Const. (requiring compensation of county officers to be fixed by law), art. III, s. 11(a)(21), Fla. Const. (prohibiting special acts and general laws of local application on any subject when prohibited by a general law passed by a three-fifths vote of the membership of each house), and s. 145.16, F.S. (prohibiting special laws and general laws of local application for county commissioners, county constitutional officers, school superintendents, and school board members).
[2] S. 145.011(2), F.S.
[3] S. 145.012, F.S.
[4] *See* ss. 145.011 and 145.11, F.S.
[5] *See* s. 145.11(1), F.S.
[6] *See id.*
[7] S. 145.19(1)(a), F.S. The "annual factor" is 1 plus the lessor of the average percentage increase in the salaries of state career service employees for the current fiscal year or seven percent.
[8] S. 145.19(1)(b), F.S. The "cumulative annual factor" of the product of all annual factors prior to the current fiscal year.
[9] S. 145.19(1)(c), F.S. The "initial factor" is 1.292.
[10] S. 145.19(2), F.S.
[11] *See* s. 145.11(2), F.S. (certification requirements for tax collector established by Dept. of Revenue).

In 2023, the Office of Economic and Demographic Research provided the following sample computation for the Alachua County Clerk of Circuit Court, Property Appraiser, Supervisor of Elections, and Tax Collector:[12]

Sample Computation of Salary	
2022 Countywide Population Estimate	287,872
Group Number (IV) Minimum	200,000
Corresponding Base Salary (i.e., Group IV)	$30,175
Corresponding Group Rate (i.e., Group IV)	0.01575
Initial Factor	1.292
Certified Annual Factor	1.0577
Certified Cumulative Annual Factor	3.9081

Salary = [$30,175 + [(287,872 - 200,000) x 0.01575]] x 1.292 x 1.0577 x 3.9081 = $168,544

Adoption Benefits

A qualifying state employee, veteran, or servicemember who adopts a child within the child welfare system is eligible to receive a lump-sum monetary benefit per child: $10,000 for child who are classified as difficult to place and $5,000 for other children.[13] Law enforcement officers are also eligible for this benefit, except the lump-sums received are $25,000 and $10,000, respectively.

Adoption benefits are awarded on a first-come, first-served basis and subject to appropriation.[14] To obtain the adoption benefit, a qualifying adoptive employee must apply to his or her agency head or to his or her school director.[15] A veteran or servicemember must apply directly to the Department of Children and Families to receive the benefit, while a law enforcement officer must apply to the Florida Department of Law Enforcement. Applications must be on forms approved by the Department of Children and Families and must include a certified copy of the final order of adoption naming the applicant as the adoptive parent.

Employee Bonuses

Current law generally prohibits the payment of extra compensation to any public employee in the state for services that have been previously rendered.[16] Numerous Florida Attorney General opinions have been issued interpreting this prohibition, including one that found a bonus to existing employees for services for which they have already performed and been compensated, in the absence of a preexisting employment contract making such bonuses a part of their salary violated the prohibition.[17]

Instruction in Motor Vehicle Operation

Each school district is responsible for providing a course of study and instruction in the safe and lawful operation of a motor vehicle is available to students in secondary schools.[18] The course may use instructional personnel employed by the school district or contract with a commercial driving school or

[12] Office of Economic and Demographic Research, *Salaries of Elected County Constitutional Officers and School District Officials for Fiscal Year 2023-24*, at 3, at http://edr.state.fl.us/Content/local-government/reports/finsal23.pdf (last visited Jan. 20, 2024).
[13] S. 409.1664(2), F.S.
[14] S. 409.1664(2)(c) and (3), F.S.
[15] S. 409.1664(3), F.S.
[16] *See* s. 215.425(1), F.S. (prohibiting extra compensation and providing a list of exceptions).
[17] Op. Att'y Gen. Fla. 91-51(1991).
[18] S. 1003.48(1), F.S.

instructor certified under chapter 488.[19] The courses are financed by 50 cent annual fee charged to each driver as part of the driver license fee.[20]

Effect of Proposed Changes

The PCS increases the base salary for tax collectors in each population group by $5,000. If this base salary had been in effect during the 2022-23 fiscal year, the total salary of each county tax collector would have increased by approximately $26,703 relative to current law.

The PCS adds tax collector employees to the list of individuals who may qualify for a lump-sum monetary benefit of $10,000 for adopting a difficult to place child in the welfare system, or $5,000 for other children, the same level as currently provided for qualifying state employees, veterans, and servicemembers. The tax collector employee must be domiciled in the state and may only receive the benefit if they adopt the child on or after July 1, 2024. A tax collector employee must apply to the Department of Children and Families to receive the benefit.

The PCS authorizes tax collectors, notwithstanding any other law to the contrary, to budget for and pay a hiring or retention bonus to employees if the expenditure is approved of by the Department of Revenue in the respective tax collector's budget or by the board of county commissioners after the budget is submitted to the Department of Revenue.

Lastly, the PCS allows district school boards to contract with the county tax collector to authorize a tax collector employee to administer road test on school grounds at one or more secondary schools in the district.

B. SECTION DIRECTORY:

Section 1: Amends s. 145.11, F.S., relating to tax collector salaries.

Section 2: Amends s. 409.1664, F.S., relating to adoption benefits.

Section 3: Creates s. 445.09, F.S., relating to bonuses for tax collector employees.

Section 4: Amends s. 1003.48, F.S., relating to instruction in operation of motor vehicles.

Section 5: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[19] S. 1003.48(2), F.S.
[20] S. 1003.48(4), F.s.

1. Revenues:

   None.

2. Expenditures:

   The PCS may have an indeterminate negative fiscal impact on counties due to an increase in the base salary rate for tax collectors and to what extent, if any, the county provides bonuses for tax collector employees.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill increases the salary of tax collectors. However, an exception may apply, as laws having an insignificant fiscal impact are exempt from the requirements of Art. VII, s. 18 of the Florida Constitution.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to tax collectors; amending s. 145.11, F.S.; revising tax collector base salaries; amending s. 409.1664, F.S.; defining the term "tax collector employee"; providing that tax collector employees are eligible to receive certain adoption benefits; specifying monetary benefit amounts to be paid under specified conditions; requiring such employees to apply to the Department of Children and Families to obtain the benefit; authorizing the department to adopt specified rules; creating s. 445.09, F.S.; authorizing county tax collectors to budget for and pay hiring and retention bonuses to employees after submittal to specified entities; amending s. 1003.48, F.S.; authorizing a district school board to contract with a county tax collector to administer road tests on school grounds at one or more secondary schools within the district; providing an effective date.

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

Section 1. Subsection (1) of section 145.11, Florida Statutes, is amended to read:

145.11 Tax collector.—

(1) Each tax collector shall receive as salary the amount

indicated, based on the population of his or her county. In addition, a compensation shall be made for population increments over the minimum for each population group, which shall be determined by multiplying the population in excess of the minimum for the group times the group rate.

Pop. Group	County Pop. Range		Base Salary	Group Rate
	Minimum	Maximum		
I	-0-	49,999	$26,250 ~~$21,250~~	$0.07875
II	50,000	99,999	29,400 ~~24,400~~	0.06300
III	100,000	199,999	32,550 ~~27,550~~	0.02625
IV	200,000	399,999	35,175 ~~30,175~~	0.01575
V	400,000	999,999	38,325 ~~33,325~~	0.00525

VI		41,475	
	1,000,000	~~36,475~~	0.00400

Section 2. Paragraph (f) of subsection (1) of section 409.1664, Florida Statutes, is redesignated as paragraph (g), subsections (2), (3), (4), and (6) are amended, and a new paragraph (f) is added to subsection (1) of that section, to read:

409.1664 Adoption benefits for qualifying adoptive employees of state agencies, veterans, servicemembers, ~~and~~ law enforcement officers, and tax collector employees.—

(1) As used in this section, the term:

(f) "Tax collector employee" means an employee or a deputy tax collector, provided in s. 197.103, of an office of a county tax collector.

(2) A qualifying adoptive employee, veteran, ~~or~~ servicemember, or tax collector employee who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of $10,000 per such child, subject to applicable taxes. A law enforcement officer who adopts a child within the child welfare system who is difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of $25,000 per

such child, subject to applicable taxes. A qualifying adoptive employee, veteran, ~~or~~ servicemember, or tax collector employee who adopts a child within the child welfare system who is not difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of $5,000 per such child, subject to applicable taxes. A law enforcement officer who adopts a child within the child welfare system who is not difficult to place as described in s. 409.166(2)(d)2. is eligible to receive a lump-sum monetary benefit in the amount of $10,000 per each such child, subject to applicable taxes. A qualifying adoptive employee of a charter school or the Florida Virtual School may retroactively apply for the monetary benefit provided in this subsection if such employee was employed by a charter school or the Florida Virtual School when he or she adopted a child within the child welfare system pursuant to chapter 63 on or after July 1, 2015. A veteran, ~~or~~ servicemember, or tax collector employee may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2020. A law enforcement officer may apply for the monetary benefit provided in this subsection if he or she is domiciled in this state and adopts a child within the child welfare system pursuant to chapter 63 on or after July 1, 2022. A tax collector employee may apply for the monetary benefit provided in this

subsection if he or she is domiciled in this state and adopts a child within the child welfare system under chapter 63 on or after July 1, 2024.

(a) Benefits paid to a qualifying adoptive employee who is a part-time employee must be prorated based on the qualifying adoptive employee's full-time equivalency at the time of applying for the benefits.

(b) Monetary benefits awarded under this subsection are limited to one award per adopted child within the child welfare system.

(c) The payment of a lump-sum monetary benefit for adopting a child within the child welfare system under this section is subject to a specific appropriation to the department for such purpose.

(3) A qualifying adoptive employee must apply to his or her agency head, or to his or her school director in the case of a qualifying adoptive employee of a charter school or the Florida Virtual School, to obtain the monetary benefit provided in subsection (2). A veteran, ~~or~~ servicemember, or tax collector employee must apply to the department to obtain the benefit. A law enforcement officer must apply to the Department of Law Enforcement to obtain the benefit. Applications must be on forms approved by the department and must include a certified copy of the final order of adoption naming the applicant as the adoptive parent. Monetary benefits shall be approved on a first-come,

first-served basis based upon the date that each fully completed application is received by the department.

(4) This section does not preclude a qualifying adoptive employee, veteran, servicemember, tax collector employee, or law enforcement officer from receiving adoption assistance for which he or she may qualify under s. 409.166 or any other statute that provides financial incentives for the adoption of children.

(6) The department may adopt rules to administer this section. The rules may provide for an application process such as, but not limited to, an open enrollment period during which qualifying adoptive employees, veterans, servicemembers, tax collector employees, or law enforcement officers may apply for monetary benefits under this section.

Section 3. Section 445.09, Florida Statutes, is created to read:

445.09 Bonuses for tax collector employees.—Notwithstanding any other law to the contrary, a county tax collector may budget for and pay a hiring or retention bonus to an employee if the expenditure is approved by the Department of Revenue in the respective tax collector's budget or approved by the respective board of county commissioners after the budget is submitted to the Department of Revenue as set forth in s. 195.087(2).

Section 4. Subsection (6) is added to section 1003.48, Florida Statutes, to read:

1003.48 Instruction in operation of motor vehicles.—

(6) The district school board may contract with the county tax collector to authorize a tax collector employee, as defined in s. 409.1664(1), to administer road tests on school grounds at one or more secondary schools within the district.

Section 5. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 735 Government Accountability
SPONSOR(S): Local Administration, Federal Affairs & Special Districts Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Local Administration, Federal Affairs & Special Districts Subcommittee		Roy	Darden

SUMMARY ANALYSIS

The Code of Ethics for Public Officers and Employees (Code of Ethics) establishes ethical standards for public officials and is intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law.

Current law requires lobbyists to register to lobby the executive and legislative branches of state government. Lobbyists must annually register for each principal represented and to indicate the entities to be lobbied. Lobbyists who do not follow registration and reporting requirements may be subject to penalties, includes fines and being prohibited from lobbying for a period of time. There are currently no provisions in state law governing lobbying requirements for local governments, although many local governments have adopted their own lobbying requirements.

Public officers, state agency employees, local government attorneys, and candidates for office are prohibited from soliciting or accepting anything of value. including a gift, loan, reward, promise of future employment, favor, or service, based upon an understanding that their vote, official action, or judgment would be influenced.

State agencies and political subdivisions must report any grant or gift over $50,000 from any foreign source and are prohibited from receiving grants from a country that has been designated as a “foreign country of concern” or any entity controlled by such a country.

The PCS:

- Prohibits public officers, state agency employees, local government attorneys, and candidates for office from soliciting or accepting anything of value from a foreign country of concern;
- Establishes requirements for lobbying counties, municipalities, and special districts that mirror requirements for lobbying the executive branch; and
- Prohibits counties, municipalities, and school districts from renewing or extending the employment contracts of certain senior employees during the eight-month period preceding a general election, unless the renewal or extension is approved by a unanimous vote of the governing board.

The bill may have a fiscal impact on state and local governments. *See* Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Code of Ethics for Public Officers and Employees

The Code of Ethics for Public Officers and Employees (Code of Ethics)[1] establishes ethical standards for public officials and is intended to ensure that public officials conduct themselves independently and impartially, not using their offices for private gain other than compensation provided by law.[2] The Code of Ethics pertains to various ethical issues, such as ethics trainings, voting conflicts, full and public disclosure of financial interests, standards of conduct, and the Commission on Ethics (Commission).[3]

Commission on Ethics

The Commission was created by the Legislature in 1974 "to serve as guardian of the standards of conduct" for state and local public officials and employees.[4] The State Constitution and state law designate the Commission as the independent commission provided for in s. 8(f), Art. II of the state constitution.[5] Constitutional duties of the Commission consist of conducting investigations and making public reports on all breach of trust complaints towards public officers or employees not governed by the judicial qualifications commission.[6] In addition to its constitutional duties, the Commission, in part:

- Renders advisory opinions to public officials;[7]
- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws;[8]
- Administers the executive branch lobbying registration and reporting law;[9]
- Maintains financial disclosure filings of constitutional officers and state officers and employees;[10] and
- Administers automatic fines for public officers and employees who fail to timely file required annual financial disclosure.[11]

Lobbyist Registration and Compensation Reporting

Lobbyists must register to lobby the executive branch and the legislative branch in Florida. Executive branch lobbying is regulated by the Code of Ethics and administered by the Commission.[12] Legislative branch lobbying is regulated primarily by Joint Rule of the Florida Legislature and administered by the Office of Legislative Services.[13] Both registration systems require lobbyists to annually register for each

[1] *See* Pt. III, Ch. 112, F.S.; *see also* Art. II, s. 8(h)(1), FLA. CONST.
[2] Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, *available at* http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf (last visited Jan. 22, 2024).
[3] *See* Pt. III, Ch. 112, F.S.
[4] Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, *available at* http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf (last visited Jan. 22, 2024); *See also* S. 112.320, F.S.
[5] Article II, s. 8(i)(3), FLA. CONST.; S. 112.320, F.S.
[6] Article II, s. 8(f), FLA. CONST.
[7] S. 112.322(3)(a), F.S.
[8] S. 112.322(2)(b), F.S.
[9] S. 112.3215 and 112.32155, F.S.
[10] S. 112.3144, F.S.
[11] S. 112.31455, F.S.; *see also* Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, *available at* http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf (last visited Jan. 9, 2024).
[12] S. 112.3215, F.S.
[13] S. 11.045, F.S. and Joint Rule 1.

principal[14] represented and to indicate the entities to be lobbied.[15] In addition, lobbying firms must file quarterly compensation reports.[16] Both the Commission and the Legislature have instituted electronic registration and compensation reporting.[17] Executive branch lobbyists, however, must supply a written oath to complete each registration as well as a signed statement of authority from the principal.[18]

State agency employees and employees of legislative and judicial branch entities acting in the normal course of their duties are exempt from executive branch lobbying registration.[19] However, local government officers and employees must register to lobby the state executive branch.

Compensation reporting is subject to random audits and, in the case of executive branch lobbying firms, certain findings of are reported to the Commission for investigation.[20]

The executive branch lobbyist registration and reporting law provides specific procedures for its enforcement.[21] The Commission reports probable cause findings to the Governor and Cabinet for appropriate action, which can include a fine up to $5,000 and prohibition from lobbying for up to two years.[22] A person accused of violating the lobbyist registration law may also request a hearing within 14 days of the mailing of the probable cause notification.[23]

There are currently no provisions in state law governing lobbying requirements for local governments, although many local governments have adopted their own lobbying requirements.[24]

Gifts and Contracts

Public officers, state agency employees, local government attorneys, and candidates for office are prohibited from soliciting or accepting anything of value. including a gift, loan, reward, promise of future employment, favor, or service, based upon an understanding that their vote, official action, or judgment would be influenced.[25]

Any state agency or political subdivision which receives any gift or grant with a value of $50,000 or more from any foreign source must disclose such gift or grant to the Department of Financial Services within 30 days.[26] Such disclosure must include the date of the gift or grant, the amount of the gift or grant, and the name and country of residence or domicile of the foreign source.[27]

[14] S. 112.3215(1)(i), F.S.
[15] S. 112.3215(3), F.S.; Joint Rule 1.2
[16] S. 112.3215(5)(a)1., F.S.; Joint Rule 1.4
[17] S. 112.32155, F.S.; Joint Rule 1.1(2)(f)
[18] S. 112.3215(3), F.S.
[19] S. 112.3215(1)(h)2., F.S.
[20] S. 112.3215(8)(c), F.S.
[21] S. 112.3215(8) and (9), F.S.
[22] S. 112.3215(9) and (10), F.S.
[23] S. 112.3215(9), F.S.
[24] *See e.g.* Palm Beach County, *Lobbying Regulations*, https://discover.pbcgov.org/legislativeaffairs/pages/lobbying_regulations.aspx (last visited Jan. 22, 2024), Collier County Clerk of Circuit Court, *Lobbying Registration*, https://collierclerk.com/board-records-vab/lobbyist-registration/ (last visited Jan 22. 2024), City of Tallahassee, *Lobbyists*, https://www.talgov.com/doingbusiness/lobbyists (last visited Jan. 22, 2024).
[25] S. 112.313(2), F.S.
[26] S. 286.101(2), F.S.
[27] *Id.*

A state agency, political subdivision, or public school authorized to expend state-appropriated funds or levy ad valorem taxes may not participate in any agreement with or accept any grant from a foreign country of concern, or any entity controlled by a foreign country of concern which:

- Constrains the freedom of contract of such public entity;
- Allows the curriculum or values of a program in the state to be directed or controlled by the foreign country of concern; or
- Promotes an agenda detrimental to the safety or security of the United States or its residents.[28]

Before the execution of any cultural exchange agreement with a foreign country of concern, the substance of the agreement must be shared with federal agencies concerned with protecting national security or enforcing trade sanctions, embargoes, or other restrictions under federal law.[29] If such federal agency provides information suggesting that such agreement promotes an agenda detrimental to the safety or security of the United States or its residents, the public entity may not enter into the agreement.[30]

Effect of Proposed Changes

Foreign Country of Concern

The bill prohibits public officers, state agency employees, local government attorneys, or candidates for office from soliciting or accepting anything of value, including includes gifts, loans, rewards, promises of future employment, favors, or services from a foreign country of concern. .

Local Government Lobbying

The bill establishes requirements for lobbying before counties, municipalities, and special districts. These requirements largely mirror provisions of current law regulating lobbying the executive branch. The bill defines “lobby,” “lobbyist,” and “principal” as those terms are defined for the purposes of lobbying the executive branch.

The bill prohibits a person from lobbying a county, municipality, or special district unless they are a registered lobbyist with that local governmental entity. The registration is due upon the lobbyist’s initial retention and is renewable on a calendar year basis. The lobbyist must provide a statement signed by the principal or representative of the principal, stating the registrant is authorized to represent the principal, and must designates the principal’s main business. The statement must also authorize the registrant pursuant to a classification system approved by the local governmental entity. Changes to the information provided for registration must be disclosed within 15 days after the change occurs by filing a new registration form. The registration form must require each lobbyist to disclose the:

- Lobbyist’s name and business address;
- Name and business address of each principal represented; and
- Existence of any direct or indirect business association, partnership, or financial relationship the lobbyist has with any officer or employee of the local government entity that he or she intends to lobby.

A local governmental entity may accept a completed legislative branch or executive branch lobbyist registration form instead of creating their own. The governmental entity must make lobbyist registrations available to the public and maintain a website with a database of currently registered lobbyists and principals. A lobbyist must send a written statement to the governmental entity canceling the registration for a principal upon termination of the lobbyist’s representation. The governmental entity

[28] S. 288.860(2), F.S. A “foreign country of concern” is defined as People's Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolás Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of those nations. S. 288.860(1). F.S.
[29] S. 288.860(2)(c), F.S.
[30] *Id.*

may establish an annual lobbyist registration fee not to exceed $40 for each principal represented and may only use registration fees to administer lobbyist registration requirements.

Each local governmental entity is required to be diligent in determining if a lobbyist is properly registered and may not knowingly authorized a person who is not registered to lobby the governmental entity.

If a county or municipality has received a sworn complaint alleging a lobbyist or principal failed to register with the governmental entity or knowingly submitted false information, a Commission on Ethics and Public Trust established by the local governmental entity must investigate the lobbyist or principal. If the local government has not established a Commission on Ethics and Public Trust, the complaint must be investigated by the Commission on Ethics. The commission must provide the chief executive officer of the county or municipality with a report of its findings and recommendations arising out of any investigation conducted and the officer may enforce the findings and recommendations. The bill creates a similar provision for special districts, with investigations conducted by the Commission on Ethics and any report and enforcement by the governing body of the special district.

The bill provides that counties and municipalities may adopt ordinances and special districts may adopt rules, to establish procedures to govern the registration of lobbyists, including requirement forms and setting a lobbyist registration fee.

The bill does not supersede any ordinance or charter provision establishing a lobbyist registration program adopted before July 1, 2024, but to the extent of any conflict between those ordinances and the provisions of the bill, the provisions of the bill prevail. The bill specifies that a local governmental entity may adopt additional or more stringent disclosure requirement that the ones provided by the bill as long as those requirements do not conflict with the provisions of the bill.

Local Government Employment Contracts

The bill prohibits the governing body of a county from renewing or extending the employment contract of a county administrator or county attorney during the eight months preceding a general election for county mayor, if applicable, or for members of the governing body of the county unless the governing body approves such renewal or extension by a unanimous vote.

The bill creates similar prohibitions for governing bodies of municipalities, prohibiting the renewal or extension of the employment contract of a chief executive officer or city attorney, and for district school boards, prohibiting the renewal or extension of the employment contract of an appointed superintendent or general counsel.

B. SECTION DIRECTORY:

Section 1: Amends s. 112,313, F.S. relating to standards of conduct for public officers, employees or agencies, and local government attorneys.

Section 2: Creates s. 112.3262, F.S., relating to lobbying before counties, municipalities, and special districts.

Section 3: Amends 125.73, F.S., relating to county administrator.

Section 4: Creates s. 125.75, F.S., relating to contract for the county attorney.

Section 5: Amends s. 166.021, F.S., relating to municipal powers.

Section 6: Amends s. 1001.50, F.S., relating to superintendents employed under Art. IX of the State Constitution.

Section 7: Creates s. 1012.336, F.S., relating to general counsels of district school boards.

Section 8: Amends s. 112.061, F.S., conforming cross-references.

Section 9: Reenacts s. 28.35(1)(b), F.S., incorporating amendments made to s. 112.313, F.S.

Section 10: Reenacts s. 112.3136(1), F.S., incorporating amendments made to s. 112.313, F.S.

Section 11: Reenacts s. 112.3251, F.S., incorporating amendments made to s. 112.313, F.S.

Section 12: Reenacts s. 288.012(6)(d), F.S., incorporating amendments made to s. 112.313, F.S.

Section 13: Reenacts s. 288.8014(4), F.S., incorporating amendments made to s. 112.313, F.S.

Section 14: Reenacts s. 288.9604(3)(a), F.S., incorporating amendments made to s. 112.313, F.S.

Section 15: Reenacts s. 295.21(4)(d), F.S., incorporating amendments made to s. 112.313, F.S.

Section 16: Reenacts s. 406.06(5), F.S., incorporating amendments made to s. 112.313, F.S.

Section 17: Reenacts s. 447.509(1)(d), F.S., incorporating amendments made to s. 112.313, F.S.

Section 18: Reenacts s. 627.311(5)(m), F.S., incorporating amendments made to s. 112.313, F.S.

Section 19: Reenacts s. 1002.33(26)(a), F.S., incorporating amendments made to s. 112.313, F.S.

Section 20: Reenacts s. 1002.333(6)(f), F.S., incorporating amendments made to s. 112.313, F.S.

Section 21: Reenacts s. 1002.83(9), F.S., incorporating amendments made to s. 112.313, F.S.

Section 22: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may increase expenditures by the Commission on Ethics to the extent complaints are received for violations of local government lobbying requirements in jurisdictions that have not established a local Commission on Ethics and Public Trust. The bill may increase expenditures for local governments that do not currently require lobbyist registration, but those local government may also see an increase in revenue due to lobbyist registration fees.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires counties and municipalities to establish a lobbying registration and reporting system. However, an exception may apply as the bill allows counties and municipalities to charge a lobbyist registration fee to defray the costs of operating the lobbying registration system.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to government accountability; amending s. 112.313, F.S.; defining the term "foreign country of concern"; prohibiting specified individuals from soliciting or accepting anything of value from a foreign country of concern; creating s. 112.3262, F.S.; providing definitions; prohibiting a person from lobbying a county, municipality, or special district unless he or she is registered as a lobbyist; establishing registration requirements; requiring that lobbyist registrations be made available to the public; establishing procedures for canceling of a lobbyist's registration; authorizing a county, municipality, or special district to establish a lobbyist registration fee; requiring a county, municipality, or special district to monitor compliance with lobbyist registration requirements; requiring a Commission on Ethics and Public Trust established by a county or municipality or the Commission on Ethics to investigate a lobbyist or principal upon receipt of a sworn complaint containing certain allegations; requiring a Commission on Ethics and Public Trust or the Commission on Ethics, as applicable, to provide the chief executive officer of the county or municipality or the governing body of

the special district with a report on the findings and recommendations arising out of the investigation; authorizing the chief executive officer of the county or municipality or the governing body of the special district to enforce the findings and recommendations; authorizing counties and municipalities to adopt ordinances, and special districts to adopt rules, governing lobbyist registration and fees; providing construction; amending s. 125.73, F.S.; prohibiting the governing body of a county from renewing or extending the employment contract of a county administrator during a specified timeframe; providing an exception; creating s. 125.75, F.S.; prohibiting the governing body of a county from renewing or extending the employment contract of the county attorney during a specified timeframe; providing an exception; amending s. 166.021, F.S.; prohibiting the governing body of a municipality from renewing or extending the employment contract of a chief executive officer of the municipality or the city attorney during a specified timeframe; providing exceptions; amending s. 1001.50, F.S.; prohibiting a district school board from renewing or extending the employment contract of a district school superintendent during a specified timeframe; providing an exception; creating

s. 1012.336, F.S.; prohibiting a district school board from renewing or extending the employment contract of the general counsel of a district school board during a specified timeframe; providing an exception; amending s. 112.061, F.S.; conforming cross-references; reenacting ss. 28.35(1)(b), 112.3136(1), 112.3251, 288.012(6)(d), 288.8014(4), 288.9604(3)(a), 295.21(4)(d), 406.06(5), 447.509(1)(d), 627.311(5)(m), 1002.33(26)(a), 1002.333(6)(f), and 1002.83(9), F.S., relating to members of the executive council of the Florida Clerks of Court Operations Corporation, standards of conduct for officers and employees of entities serving as chief administrative officers of political subdivisions, the ethics code and standards of conduct for citizen support and direct-support organizations, senior managers and members of the board of directors of the direct-support organization of State of Florida international offices, standards of conduct for members of the board of directors of Triumph Gulf Coast, Inc., directors of the Florida Development Finance Corporation, standards of conduct for the board of directors of Florida Is For Veterans, Inc., standards of conduct for district and associate medical examiners, prohibited actions of employee organizations, their members, agents, representatives,

or persons acting on their behalf, standards of conduct for senior managers, officers and members of the board of governors of the Office of Insurance Regulation, standards of conduct and financial disclosure for members of a governing board of a charter school, those operating schools of hope, and standards of conduct for members of an early learning coalition, respectively, to incorporate the amendments made to s. 112.313, F.S., in references thereto; providing an effective date.

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

Section 1. Subsections (1) and (2) of section 112.313, Florida Statutes, are amended to read:

112.313 Standards of conduct for public officers, employees of agencies, and local government attorneys.—

(1) DEFINITIONS ~~DEFINITION~~.—As used in this section, unless the context otherwise requires, the term:

(a) "Foreign country of concern" has the same meaning as in s. 286.101.

(b) "Public officer" includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.

(2) SOLICITATION OR ACCEPTANCE OF GIFTS.—

(a) A ~~No~~ public officer, an employee of an agency, a local government attorney, or a candidate for nomination or election may not ~~shall~~ solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

(b) A public officer, an employee of an agency, a local government attorney, or a candidate for nomination or election may not solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, from a foreign country of concern.

Section 2. Section 112.3262, Florida Statutes, is created to read:

112.3262 Lobbying before special districts, counties, and municipalities; registration and reporting.—

(1) As used in this section, the term:

(a) "Lobby" or "lobbies" means to seek, on behalf of another person or group, to influence a county, municipality, or special district with respect to a decision of that entity in an area of policy or procurement or in an attempt to obtain the goodwill of an official or employee of such entity. The term must be interpreted and applied consistently with the rules of the commission implementing s. 112.3215.

(b) "Lobbyist" has the same meaning as in s. 112.3215(1).

(c) "Principal" has the same meaning as in s. 112.3215(1).

(2) A person may not lobby a county, municipality, or special district unless he or she is registered as a lobbyist with such entity. Such registration is due upon the person's initial retention as a lobbyist and is renewable on a calendar-year basis thereafter. Such person shall, at the time of registration, provide a statement signed by the principal or principal's representative stating that the registrant is authorized to represent the principal. The statement must also identify and designate the principal's main business and authorize the registrant pursuant to a classification system approved by the county, municipality, or special district, as applicable. Any changes in the information provided pursuant to this subsection must be disclosed within 15 days after the change occurs by filing a new registration form. The registration form must require each lobbyist to disclose, under oath, all of the following information:

(a) The lobbyist's name and business address.

(b) The name and business address of each principal represented.

(c) The existence of any direct or indirect business association, partnership, or financial relationship the lobbyist has with any officer or employee of the county, municipality, or special district that he or she lobbies or intends to lobby.

(3) In lieu of creating its own lobbyist registration form, a county, municipality, or special district may accept a completed legislative branch or executive branch lobbyist registration form.

(4) A county, municipality, or special district shall make lobbyist registrations available to the public. If a county, municipality, or special district maintains a website, the website must make available a database of currently registered lobbyists and principals.

(5) A lobbyist shall promptly send a written statement to the county, municipality, or special district, as applicable, canceling the registration for a principal upon termination of the lobbyist's representation of that principal. A county, municipality, or special district may remove the name of a lobbyist from the list of registered lobbyists if the principal notifies the county, municipality, or district that a person is no longer authorized to represent that principal.

(6) A county, municipality, or special district may establish an annual lobbyist registration fee, not to exceed $40, for each principal represented. The county, municipality, or special district may use registration fees only to administer this section.

(7) A county, municipality, or special district must be diligent in ascertaining whether persons required to register pursuant to this section have complied. A county, municipality,

or special district may not knowingly authorize a person who is not registered pursuant to this section to lobby the county, municipality, or special district.

(8)(a) Upon receipt of a sworn complaint alleging that a lobbyist or principal has failed to register with a county or municipality or has knowingly submitted false information in a report or registration required under this section, a Commission on Ethics and Public Trust established by the county or municipality or, if the county or municipality has not established such a commission, the Commission on Ethics shall investigate the lobbyist or principal pursuant to the procedures established under s. 112.324. The commission shall provide the chief executive officer of the county or municipality with a report of its findings and recommendations arising out of any investigation conducted under this subsection. The chief executive officer of the county or municipality may enforce the commission's findings and recommendations.

(b) Upon receipt of a sworn complaint alleging that a lobbyist or principal has failed to register with a special district or has knowingly submitted false information in a report or registration required under this section, the commission shall investigate the lobbyist or principal pursuant to the procedures established under s. 112.324. The commission shall provide the governing body of the special district with a report of its findings and recommendations arising out of any

investigation conducted under this subsection. The governing body of the special district may enforce the commission's findings and recommendations.

(9) Counties and municipalities may adopt ordinances, and special districts may adopt rules, to establish procedures to govern the registration of lobbyists, including the adoption of forms and the establishment of a lobbyist registration fee.

(10) This section does not preempt or supersede any ordinance or charter provision establishing a lobbyist registration program adopted before July 1, 2024, but this section shall prevail to the extent of any conflict. In accordance with s. 112.326, any ordinance or rule adopted pursuant to this section may include additional or more stringent disclosure requirements so long as the requirements do not otherwise conflict with this section.

Section 3. Subsection (5) is added to section 125.73, Florida Statutes, to read:

125.73 County administrator; appointment, qualifications, compensation.—

(5) The governing body of a county may not renew or extend the employment contract of a county administrator during the 8 months immediately preceding a general election for county mayor, if applicable, or for members of the governing body of the county unless the governing body approves such renewal or extension by a unanimous vote.

Section 4. Section 125.75, Florida Statutes, is created to read:

125.75 Contract for the county attorney.—The governing body of a county may not renew or extend the contract of the county attorney during the 8 months immediately preceding a general election for county mayor, if applicable, or for members of the governing body of the county unless the governing body approves such renewal or extension by a unanimous vote.

Section 5. Subsection (9) of section 166.021, Florida Statutes, is renumbered as subsection (10), and a new subsection (9) is added to that section, to read:

166.021 Powers.—

(9)(a) The governing body of a municipality may not renew or extend the employment contract of a chief executive officer of the municipality during the 8 months immediately preceding a general election for the municipal mayor or for members of the governing body of the municipality unless the governing body approves such renewal or extension by a unanimous vote.

(b) The governing body of a municipality may not renew or extend the employment contract of the city attorney during the 8 months immediately preceding a general election for the municipal mayor or for members of the governing body of the municipality unless the governing body approves such renewal or extension by a unanimous vote.

Section 6. Subsection (2) of section 1001.50, Florida

Statutes, is amended to read:

1001.50 Superintendents employed under Art. IX of the State Constitution.—

(2) Each district school board shall enter into an employment contract with the district school superintendent and shall adopt rules relating to his or her appointment; however, if the employment contract contains a provision for severance pay, it must include the provisions required by s. 215.425. The district school board may not renew or extend the employment contract of a superintendent during the 8 months immediately preceding a general election for district school board members unless the district school board approves such renewal or extension by a unanimous vote.

Section 7. Section 1012.336, Florida Statutes, is created to read:

1012.336 Contracts with general counsels of district school boards.—A district school board may not renew or extend the employment contract of the general counsel of a district school board during the 8 months immediately preceding a general election for district school board members unless the district school board approves such renewal or extension by a unanimous vote.

Section 8. Paragraphs (a) and (c) of subsection (14) of section 112.061, Florida Statutes, are amended to read:

112.061 Per diem and travel expenses of public officers,

employees, and authorized persons; statewide travel management system.—

(14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING ORGANIZATIONS.—

(a) The following entities may establish rates that vary from the per diem rate provided in paragraph (6)(a), the subsistence rates provided in paragraph (6)(b), or the mileage rate provided in paragraph (7)(d) if those rates are not less than the statutorily established rates that are in effect for the 2005-2006 fiscal year:

1. The governing body of a county by the enactment of an ordinance or resolution;

2. A county constitutional officer, pursuant to s. 1(d), Art. VIII of the State Constitution, by the establishment of written policy;

3. The governing body of a district school board by the adoption of rules;

4. The governing body of a special district, as defined in s. 189.012, except those special districts that are subject to s. 166.021(10) ~~s. 166.021(9)~~, by the enactment of a resolution; or

5. Any metropolitan planning organization created pursuant to s. 339.175 or any other separate legal or administrative entity created pursuant to s. 339.175 of which a metropolitan

planning organization is a member, by the enactment of a resolution.

(c) Except as otherwise provided in this subsection, counties, county constitutional officers and entities governed by those officers, district school boards, special districts, and metropolitan planning organizations, other than those subject to s. 166.021(10) ~~s. 166.021(9)~~, remain subject to the requirements of this section.

Section 9. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in references thereto, paragraph (b) of subsection (1) of section 28.35, Florida Statutes, is reenacted to read:

28.35 Florida Clerks of Court Operations Corporation.—

(1)

(b)1. The executive council shall be composed of eight clerks of the court elected by the clerks of the courts for a term of 2 years, with two clerks from counties with a population of fewer than 100,000, two clerks from counties with a population of at least 100,000 but fewer than 500,000, two clerks from counties with a population of at least 500,000 but fewer than 1 million, and two clerks from counties with a population of 1 million or more. The executive council shall also include, as ex officio members, a designee of the President of the Senate and a designee of the Speaker of the House of Representatives. The Chief Justice of the Supreme Court shall

designate one additional member to represent the state courts system.

2. Members of the executive council of the corporation are subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2). For purposes of applying ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2) to activities of executive council members, members shall be considered public officers and the corporation shall be considered the members' agency.

Section 10. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in references thereto, subsection (1) of section 112.3136, Florida Statutes, is reenacted to read:

112.3136 Standards of conduct for officers and employees of entities serving as chief administrative officer of political subdivisions.—The officers, directors, and chief executive officer of a corporation, partnership, or other business entity that is serving as the chief administrative or executive officer or employee of a political subdivision, and any business entity employee who is acting as the chief administrative or executive officer or employee of the political subdivision, for the purposes of the following sections, are public officers and employees who are subject to the following standards of conduct of this part:

(1) Section 112.313, and their "agency" is the political

subdivision that they serve; however, the contract under which the business entity serves as chief executive or administrative officer of the political subdivision is not deemed to violate s. 112.313(3) or (7).

Section 11. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in references thereto, section 112.3251, Florida Statutes, is reenacted to read:

112.3251 Citizen support and direct-support organizations; standards of conduct.—A citizen support or direct-support organization created or authorized pursuant to law must adopt its own ethics code. The ethics code must contain the standards of conduct and disclosures required under ss. 112.313 and 112.3143(2), respectively. However, an ethics code adopted pursuant to this section is not required to contain the standards of conduct specified in s. 112.313(3) or (7). The citizen support or direct-support organization may adopt additional or more stringent standards of conduct and disclosure requirements if those standards of conduct and disclosure requirements do not otherwise conflict with this part. The ethics code must be conspicuously posted on the citizen support or direct-support organization's website.

Section 12. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in references thereto, paragraph (d) of subsection (6)

of section 288.012, Florida Statutes, is reenacted to read:

288.012 State of Florida international offices; direct-support organization.—The Legislature finds that the expansion of international trade and tourism is vital to the overall health and growth of the economy of this state. This expansion is hampered by the lack of technical and business assistance, financial assistance, and information services for businesses in this state. The Legislature finds that these businesses could be assisted by providing these services at State of Florida international offices. The Legislature further finds that the accessibility and provision of services at these offices can be enhanced through cooperative agreements or strategic alliances between private businesses and state, local, and international governmental entities.

(6)

(d) The senior managers and members of the board of directors of the organization are subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2). For purposes of applying ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2) to activities of the president and staff, those persons shall be considered public officers or employees and the corporation shall be considered their agency. The exemption set forth in s. 112.313(12) for advisory boards applies to the members of board of directors. Further, each member of the board of directors who is not otherwise required to file financial

disclosures pursuant to s. 8, Art. II of the State Constitution or s. 112.3144, shall file disclosure of financial interests pursuant to s. 112.3145.

Section 13. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in references thereto, subsection (4) of section 288.8014, Florida Statutes, is reenacted to read:

288.8014 Triumph Gulf Coast, Inc.; organization; board of directors.—

(4) The Legislature determines that it is in the public interest for the members of the board of directors to be subject to the requirements of ss. 112.313, 112.3135, and 112.3143, notwithstanding the fact that the board members are not public officers or employees. For purposes of those sections, the board members shall be considered to be public officers or employees. In addition to the postemployment restrictions of s. 112.313(9), a person appointed to the board of directors must agree to refrain from having any direct interest in any contract, franchise, privilege, project, program, or other benefit arising from an award by Triumph Gulf Coast, Inc., during the term of his or her appointment and for 6 years after the termination of such appointment. It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for a person to accept appointment to the board of directors in violation of this subsection or to accept a direct interest in any contract,

franchise, privilege, project, program, or other benefit granted by Triumph Gulf Coast, Inc., to an awardee within 6 years after the termination of his or her service on the board. Further, each member of the board of directors who is not otherwise required to file financial disclosure under s. 8, Art. II of the State Constitution or s. 112.3144 shall file disclosure of financial interests under s. 112.3145.

Section 14. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in a reference thereto, paragraph (a) of subsection (3) of section 288.9604, Florida Statutes, is reenacted to read:

288.9604 Creation of the corporation.—

(3)(a)1. A director may not receive compensation for his or her services, but is entitled to necessary expenses, including travel expenses, incurred in the discharge of his or her duties. Each appointed director shall hold office until his or her successor has been appointed.

2. Directors are subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2). For purposes of applying ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2) to activities of directors, directors are considered public officers and the corporation is considered their agency.

Section 15. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in references thereto, paragraph (d) of subsection (4)

of section 295.21, Florida Statutes, is reenacted to read:

295.21 Florida Is For Veterans, Inc.—

(4) GOVERNANCE.—

(d) The Legislature finds that it is in the public interest for the members of the board of directors to be subject to the requirements of ss. 112.313, 112.3135, and 112.3143. Notwithstanding the fact that they are not public officers or employees, for purposes of ss. 112.313, 112.3135, and 112.3143, the board members shall be considered to be public officers or employees. In addition to the postemployment restrictions of s. 112.313(9), a person appointed to the board of directors may not have direct interest in a contract, franchise, privilege, project, program, or other benefit arising from an award by the corporation during the appointment term and for 2 years after the termination of such appointment. A person who accepts appointment to the board of directors in violation of this subsection, or accepts a direct interest in a contract, franchise, privilege, project, program, or other benefit granted by the corporation to an awardee within 2 years after the termination of his or her service on the board, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Further, each member of the board of directors who is not otherwise required to file financial disclosure under s. 8, Art. II of the State Constitution or s. 112.3144 shall file a statement of financial interests under s.

112.3145.

Section 16. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in a reference thereto, subsection (5) of section 406.06, Florida Statutes, is reenacted to read:

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

(5) District medical examiners and associate medical examiners are public officers for purposes of s. 112.313 and the standards of conduct prescribed thereunder.

Section 17. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in references thereto, paragraph (d) of subsection (1) of section 447.509, Florida Statutes, is reenacted to read:

447.509 Other unlawful acts.—

(1) Employee organizations, their members, agents, or representatives, or any persons acting on their behalf are hereby prohibited from:

(d) Offering anything of value to a public officer as defined in s. 112.313(1) which the public officer is prohibited from accepting under s. 112.313(2).

Section 18. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in references thereto, paragraph (m) of subsection (5) of section 627.311, Florida Statutes, is reenacted to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(5)

(m) Senior managers and officers, as defined in the plan of operation, and members of the board of governors are subject to the provisions of ss. 112.313, 112.3135, 112.3143, 112.3145, 112.316, and 112.317. Senior managers, officers, and board members are also required to file such disclosures with the Commission on Ethics and the Office of Insurance Regulation. The executive director of the plan or his or her designee shall notify each newly appointed and existing appointed member of the board of governors, senior manager, and officer of his or her duty to comply with the reporting requirements of s. 112.3145. At least quarterly, the executive director of the plan or his or her designee shall submit to the Commission on Ethics a list of names of the senior managers, officers, and members of the board of governors who are subject to the public disclosure requirements under s. 112.3145. Notwithstanding s. 112.313, an employee, officer, owner, or director of an insurance agency, insurance company, or other insurance entity may be a member of the board of governors unless such employee, officer, owner, or director of an insurance agency, insurance company, other insurance entity, or an affiliate provides policy issuance, policy administration, underwriting, claims handling, or payroll audit services. Notwithstanding s. 112.3143, such board member

may not participate in or vote on a matter if the insurance agency, insurance company, or other insurance entity would obtain a special or unique benefit that would not apply to other similarly situated insurance entities.

Section 19. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in a reference thereto, paragraph (a) of subsection (26) of section 1002.33, Florida Statutes, is reenacted to read:

1002.33 Charter schools.—

(26) STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—

(a) A member of a governing board of a charter school, including a charter school operated by a private entity, is subject to ss. 112.313(2), (3), (7), and (12) and 112.3143(3).

Section 20. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in a reference thereto, paragraph (f) of subsection (6) of section 1002.333, Florida Statutes, is reenacted to read:

1002.333 Persistently low-performing schools.—

(6) STATUTORY AUTHORITY.—

(f) Schools of hope operated by a hope operator shall be exempt from chapters 1000-1013 and all school board policies. However, a hope operator shall be in compliance with the laws in chapters 1000-1013 relating to:

1. The student assessment program and school grading system.

2. Student progression and graduation.

3. The provision of services to students with disabilities.

4. Civil rights, including s. 1000.05, relating to discrimination.

5. Student health, safety, and welfare.

6. Public meetings and records, public inspection, and criminal and civil penalties pursuant to s. 286.011. The governing board of a school of hope must hold at least two public meetings per school year in the school district in which the school of hope is located. Any other meetings of the governing board may be held in accordance with s. 120.54(5)(b)2.

7. Public records pursuant to chapter 119.

8. The code of ethics for public officers and employees pursuant to ss. 112.313(2), (3), (7), and (12) and 112.3143(3).

Section 21. For the purpose of incorporating the amendments made by this act to section 112.313, Florida Statutes, in a reference thereto, subsection (9) of section 1002.83, Florida Statutes, is reenacted to read:

1002.83 Early learning coalitions.—

(9) Each member of an early learning coalition is subject to ss. 112.313, 112.3135, and 112.3143. For purposes of s. 112.3143(3)(a), each voting member is a local public officer who must abstain from voting when a voting conflict exists.

Section 22. This act shall take effect July 1, 2024.