



Local Administration, Federal Affairs & Special Districts Subcommittee

**January 31, 2024
2:00 PM – 6:00 PM
Morris Hall (17 HOB)**

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Local Administration, Federal Affairs & Special Districts Subcommittee

Start Date and Time: Wednesday, January 31, 2024 02:00 pm
End Date and Time: Wednesday, January 31, 2024 06:00 pm
Location: Morris Hall (17 HOB)
Duration: 4.00 hrs

Consideration of the following bill(s):

CS/HB 47 Municipal Water and Sewer Utility Rates by Energy, Communications & Cybersecurity Subcommittee, Robinson, F.
HB 113 Tax Collections and Sales by Maney
CS/HB 267 Building Regulations by Regulatory Reform & Economic Development Subcommittee, Esposito
HB 377 License or Permit to Operate a Vehicle for Hire by Borrero
HB 503 Limitation on Local Fees for Virtual Offices by Fabricio
HB 509 Collier Mosquito Control District, Collier County by Melo
HB 535 Low-voltage Alarm System Projects by Snyder
HB 577 Spaceport Territory by Griffitts
CS/HB 665 Expedited Approval of Residential Building Permits by Regulatory Reform & Economic Development Subcommittee, McClain
HB 727 Tax Exemption for Disabled Ex-servicemembers by Amesty
CS/HB 777 Municipal Water or Sewer Utility Rates, Fees, and Charges by Energy, Communications & Cybersecurity Subcommittee, Brackett
HB 967 Lee County by Botana
HB 1023 St. Lucie County by Trabulsy
HM 1145 Florida National Guard by Daley
HB 1165 Town of Sneads, Jackson County by Abbott
HB 1167 Attorney Fees and Costs in Property Rights Disputes by Yarkosky
CS/HB 1195 Millage Rates by Ways & Means Committee, Garrison
CS/HB 1277 Municipal Utilities by Energy, Communications & Cybersecurity Subcommittee, Busatta Cabrera
HB 1297 Affordable Housing in Counties Designated as Areas of Critical State Concern by Mooney
HB 1307 Housing Developments by Redondo
HB 1329 Veterans by Redondo, Alvarez
HB 1421 Independent Hospital Districts by Fine
HB 1451 Identification Documents by Michael
HB 1573 Pace Fire Rescue District, Santa Rosa County by Andrade
HB 1575 Avalon Beach-Mulat Fire Protection District, Santa Rosa County by Andrade
HB 1577 Midway Fire District, Santa Rosa County by Andrade
HB 1621 Unlawful Demolition of Historical Structures and Landmarks by Beltran

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 01/29/2024 4:01PM by Rando.Lexi

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 47 Municipal Water and Sewer Utility Rates
SPONSOR(S): Energy, Communications & Cybersecurity Subcommittee, Robinson, F.
TIED BILLS: IDEN./SIM. **BILLS:** SB 104

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy, Communications & Cybersecurity Subcommittee	15 Y, 0 N, As CS	Bauldree	Keating
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Burgess	Darden
3) Commerce Committee			

SUMMARY ANALYSIS

Municipalities are authorized by general law to provide water and sewer utility services and to set the rates, fees, and charges for such services. These utility systems are exempt from the rate-setting jurisdiction of the Florida Public Service Commission. A municipality that provides water or sewer utility service outside of its municipal boundaries may impose, subject to limits specified in Florida law, higher rates, fees, and charges on consumers receiving service outside of its boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. Most municipal utility systems are governed by the municipality's governing body (i.e., the city commission).

The bill states that a municipality which operates a water or sewer utility outside its municipal boundaries must charge consumers outside its boundaries the same rates, fees, and charges as it charges consumers within its boundaries if:

- The consumers are located in a separate municipality, and
- The charging municipality uses a water or sewer treatment plant located in the separate municipality to serve those consumers.

The bill does not appear to impact state government revenues or state or local government expenditures. The bill may have a negative fiscal impact on certain local revenues. See Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2024.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may exercise any power for municipal purposes, except when expressly prohibited by law.¹ The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act with certain exceptions.² Under their home rule power and as otherwise provided or limited by law or agreement, municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even in other municipalities.

Municipalities are authorized by general law to provide water and sewer utility services.³ With respect to public works projects, including water and sewer utility services,⁴ municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare."⁵ A municipality may not extend or apply these corporate powers within the corporate limits of another municipality.⁶ However, it may permit any other municipality and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms and conditions.⁷ An informal study conducted in 2014 indicated that approximately 250 municipalities provide water service and approximately 220 municipalities provide wastewater service. Of these municipalities, the study found that approximately 140 provide water and/or wastewater services to consumers outside of their municipal boundaries, which may include consumers in unincorporated areas of counties or in other municipalities.⁸ These utility systems are exempt from the jurisdiction of the Florida Public Service Commission.⁹

A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its corporate boundaries as

¹ Section 166.021(2), F.S., provides that any activity or power which may be exercised by the state or its political subdivisions is considered a municipal purpose.

² Pursuant to s. 166.021(3), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.

³ Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes.

⁴ Other public works projects authorized under s. 180.06, F.S., include alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes, garbage collection and disposal, airports, hospitals, jails, golf courses, gas plants and distribution systems, and related facilities.

⁵ S. 180.02(2), F.S.

⁶ *Id.*

⁷ S. 180.19, F.S.

⁸ Analysis of House Bill 813 (2014), Florida House of Representatives.

⁹ See Fla. Public Service Commission, *Overview and Key Facts*, <https://www.psc.state.fl.us/about> (last visited Jan. 26, 2024) (stating PSC regulates investor-owned water and/or wastewater utilities).

compared to the rates, fees, and charges imposed on consumers within its boundaries. The municipality can accomplish this in two ways:

- First, for consumers outside of its boundaries, it may add a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries. This mechanism does not require a public hearing.¹⁰
- Second, it may set separate rates, fees, and charges for consumers outside its boundaries based on the same factors used to set rates for consumers within its boundaries. It may add a surcharge of up to 25 percent of these charges, provided that the total of all such rates, fees, and charges for service to consumers outside its boundaries may not exceed the total charges to consumers within its boundaries by more than 50 percent for corresponding service. Rates set in this manner require a public hearing at which all users served or to be served by the water or sewer utilities and all other interested persons will have an opportunity to be heard concerning the proposed rates.¹¹

For example, the City of North Miami Beach owns the Norwood Water Treatment Plant, which is located in Miami Gardens, and charges consumers outside of North Miami Beach municipal boundaries a 25% surcharge, including consumers in Miami Gardens.¹² However, there is no central repository for information concerning municipal water or sewer service rates that identifies municipalities that impose higher rates on consumers outside of the municipal boundaries, the specific mechanism used by such municipalities to establish such rates, or the level of any additional charge or surcharge imposed.

Effect of the Bill

The bill provides that a municipality which operates a water or sewer utility outside its municipal boundaries must charge consumers outside its boundaries the same rates, fees, and charges as it charges consumers within its boundaries if:

- The consumers are located in a separate municipality, and
- The charging municipality uses a water or sewer treatment plant located in the separate municipality to serve those consumers.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 180.191, F.S., relating to limitations on rates charged to consumers outside city limits.

Section 2: 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:

¹⁰ S. 180.191(1)(a), F.S.

¹¹ S. 180.191(1)(b), F.S.

¹² Kevin Ozebek & Leisa Williams, *New study reveals how much more some Miami Gardens residents are paying for water*, WSVN (January 19, 2023), <https://wsvn.com/news/investigations/new-study-reveals-how-much-more-some-miami-gardens-residents-are-paying-for-water/> (last visited January 5, 2024).

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have a negative fiscal impact on municipalities which own and operate water or sewer utilities and serve consumers located in another municipality with facilities located in the recipient municipality, as it reduces the amount that those municipal water and sewer utilities that use such facilities can charge such consumers.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in cost savings for certain municipal water and sewer utility consumers located outside of municipal boundaries.

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(b), of the Florida Constitution may apply because this bill reduces the amount that certain municipal water and sewer utilities can charge consumers outside of the municipal boundaries. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 10, 2024, the Energy, Communications & Cybersecurity Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment clarified that the bill applies to municipal water or sewer utilities serving consumers within the boundaries of a separate municipality using a “water treatment plant or sewer treatment plant” within the boundaries of that separate municipality.

This analysis is drafted to the committee substitute as passed by the Energy, Communications & Cybersecurity Subcommittee.

1 A bill to be entitled
 2 An act relating to municipal water and sewer utility
 3 rates; amending s. 180.191, F.S.; requiring a
 4 municipality to charge consumers receiving its utility
 5 services in another municipality the same rates, fees,
 6 and charges as it charges consumers within its own
 7 municipal boundaries under certain circumstances;
 8 providing an effective date.

9

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

11

12 Section 1. Subsections (2), (3), and (4) of section
 13 180.191, Florida Statutes, are renumbered as subsections (3),
 14 (4), and (5), respectively, subsection (1) is amended, and a new
 15 subsection (2) is added to that section, to read:

16 180.191 Limitation on rates charged consumer outside city
 17 limits.—

18 (1) Any municipality within this ~~the~~ state that operates
 19 ~~operating~~ a water or sewer utility outside of the boundaries of
 20 the ~~such~~ municipality shall charge consumers outside the
 21 boundaries rates, fees, and charges determined in one of the
 22 following manners:

23 (a) It may charge the same rates, fees, and charges as
 24 consumers inside the municipal boundaries. However, in addition
 25 ~~thereto~~, the municipality may add a surcharge of not more than

26 | 25 percent of such rates, fees, and charges to consumers outside
 27 | the boundaries, except as provided in subsection (2). Fixing of
 28 | the such rates, fees, and charges in this manner does ~~shall~~ not
 29 | require a public hearing except as may be provided for service
 30 | to consumers inside the municipality.

31 | (b) It may charge rates, fees, and charges that are just
 32 | and equitable and that ~~which~~ are based on the same factors used
 33 | in fixing the rates, fees, and charges for consumers inside the
 34 | municipal boundaries, except as provided in subsection (2). In
 35 | addition ~~thereto~~, the municipality may add a surcharge not to
 36 | exceed 25 percent of the such rates, fees, and charges for ~~said~~
 37 | services to consumers outside the boundaries. However, the total
 38 | of all the such rates, fees, and charges for the services to
 39 | consumers outside the boundaries may ~~shall~~ not be more than 50
 40 | percent in excess of the total amount the municipality charges
 41 | consumers served within the municipality for corresponding
 42 | service. The No-Such rates, fees, and charges may not ~~shall~~ be
 43 | fixed until after a public hearing at which all of the users of
 44 | the water or sewer systems; owners, tenants, or occupants of
 45 | property served or to be served ~~thereby~~; and all others
 46 | interested have had ~~shall have~~ an opportunity to be heard
 47 | concerning the proposed rates, fees, and charges. Any change or
 48 | revision of the such rates, fees, or charges may be made in the
 49 | same manner as the such rates, fees, or charges were originally
 50 | established, but if a such change or revision is to be made

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51 substantially pro rata as to all classes of service, both inside
52 and outside the municipality, ~~a ne~~ hearing or notice is not
53 ~~shall be~~ required.

54 (2) Any municipality within this state that operates a
55 water or sewer utility providing service to consumers within the
56 boundaries of a separate municipality using a water treatment
57 plant or sewer treatment plant located within the boundaries of
58 that separate municipality shall charge consumers in the
59 separate municipality the same rates, fees, and charges as it
60 charges the consumers within its own municipal boundaries.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 113 Tax Collections and Sales
SPONSOR(S): Maney and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 216

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	21 Y, 0 N	Berg	Aldridge
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Roy	Darden
3) State Affairs Committee			

SUMMARY ANALYSIS

At their own discretion, a tax collector may accept one or more partial payments of current year taxes and assessments on real or tangible personal property prior to the date of delinquency. Each partial payment is credited to the associated tax account, less a \$10 processing fee. Partial payments are not eligible for certain discounts, and do not affect the property owner's responsibility to pay taxes in full by their delinquency date.

If ad valorem taxes are not paid by the latter of June 1 or the 60th day after the tax becomes delinquent, the tax collector advertises and sells tax certificates to pay the delinquency. A tax certificate is a legal document that represents unpaid delinquent ad valorem taxes, non-ad valorem assessments, interest, and related costs and charges issued against a specific parcel of real property. Tax certificates must be sold to the person who will pay the taxes, interest, costs, and charges and demand the lowest rate of interest. The tax certificate sale process serves to reduce interest on unpaid taxes, from 18 percent to as low as .25 percent, in exchange for the local government collecting its expected tax roll. The tax certificate is held as a lien on the property in the amount of unpaid dues, and is fulfilled when the unpaid taxes, assessments, costs, charges, and interest are paid by the property owner.

Within 60 days after the tax certificate sale is adjourned, tax collectors are required to submit an errors and insolvencies report to the board of county commissioners. This report must show the discounts, errors, double assessments, and insolvencies relating to tax collections in which credit is to be given. This report serves to explain discrepancies between expected and actual tax revenue.

The bill makes three changes to local governments' tax collection administration:

- Removes a \$10 processing fee associated with partial payment of current year taxes;
- Requires that tax collectors revise their annual errors and insolvencies report on tax collections to include:
 - Properties subject to federal bankruptcies,
 - Properties in which the taxes are below the minimum tax bill, and
 - Properties assigned to the list of lands available for taxes; and
- Clarifies the applicable interest rate and status of a tax certificate following cancellation of a tax deed application.

The Revenue Estimating Conference estimated a recurring negative indeterminate impact on local government revenues for the repeal of the \$10 fee applied to partial payment of taxes.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Ad Valorem Taxation

Ad valorem tax or “property tax” is an annual tax levied by counties, municipalities, school districts, and some special districts.¹ The tax is based on the taxable value of property as of January 1 of each year.² The property appraiser annually determines the assessed or “just value”³ of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property’s “taxable value.”⁴ The property appraiser then submits the certified assessment roll to the tax collector.⁵ The tax collector sends out a tax notice to each taxpayer stating the amount of current taxes due within 20 business days after receiving the certified ad valorem tax roll.⁶

All taxes are due on November 1 of each year.⁷ Taxes become delinquent on the latter of April 1 of the following year or 60 days from the date the original tax notice was mailed.⁸ After receiving the tax roll, the tax collector publishes notice in the local newspaper stating the tax roll is open for collection and, within 20 working days of receipt of the tax roll, sends each taxpayer whose address is known a tax notice with the current taxes due and any delinquent taxes due.⁹

Partial Payment of Current Year Taxes

At their own discretion, a tax collector may accept one or more partial payments of current year taxes and assessments on real or tangible personal property prior to the date of delinquency.¹⁰ Each partial payment is credited to the associated tax account, less a \$10 processing fee.¹¹ Partial payments are not eligible for certain discounts, and do not affect the property owner’s responsibility to pay taxes in full by their delinquency date.¹²

The Florida Tax Collectors Association has indicated that, following Hurricane Michael (October 2018) tax collectors began waiving the \$10 fee in an effort to help taxpayers affected by natural disasters.¹³

¹ The Florida Constitution prohibits the state from levying ad valorem taxes. Art. VII, s. 1(a), Fla. Const.

² Both real property and tangible personal property are subject to ad valorem tax. Section 192.001(12), F.S., defines “real property” as land, buildings, fixtures, and all other improvements to land. S. 192.001(11)(d), F.S., defines the term “tangible personal property” as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

³ Property must be valued at “just value” for purposes of property taxation, unless the Florida Constitution provides otherwise. Art. VII, s. 4, Fla. Const. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm’s-length transaction. *See; Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973); *Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965).

⁴ *See* s. 192.001(2) and (16), F.S. The Florida Constitution limits the Legislature’s authority to provide for property valuations at less than just value, unless expressly authorized. Art. VII, s. 4, Fla. Const.

⁵ S. 197.322(1), F.S.

⁶ S. 197.322(3), F.S.

⁷ S. 197.333, F.S.

⁸ S. 197.333, F.S. If the delinquency date for ad valorem taxes is later than April 1st of the year following the year in which taxes are assessed, all dates or time periods relative to the collection of, or administrative procedures regarding, delinquent taxes are extended a like number of days.

⁹ S. 197.322(2), F.S. If payment has not been received, the tax collector must send out an additional notice by April 30. S. 197.343, F.S.

¹⁰ S. 197.374(2), F.S.

¹¹ S. 197.374(3), F.S.

¹² S. 197.374, F.S.

¹³ Office of Economic & Demographic Research, *Revenue Estimating Conference Impact Conference (November 17, 2023)* 29-30, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2024/_pdf/page29-30.pdf (last visited Jan. 24, 2024).

Tax Certificate Sales

If ad valorem taxes are not paid by the latter of June 1 or the 60th day after the tax becomes delinquent, the tax collector advertises and sells tax certificates to pay the delinquency.¹⁴ A tax certificate is a legal document that represents unpaid delinquent ad valorem taxes, non-ad valorem assessments, interest, and related costs and charges issued against a specific parcel of real property.¹⁵ Once sold, the tax certificate becomes a first lien on the property, superior to all other liens, except as provided by law, but can be enforced only through the remedies provided under ch. 197, F.S.

Once the tax has become delinquent, the tax collector must advertise notice of a tax certificate sale at least once a week for three weeks.¹⁶ The tax sale continues until each certificate is sold to pay the taxes, interest, costs, and charges described in the certificate.¹⁷ If all taxes due on a real property, as well as all interest, costs, and charges, are paid before a tax certificate is awarded to a buyer or struck to the county, a tax certificate is not issued, while payment after a certificate has been awarded is paid by a redemption of the certificate.¹⁸ Tax certificates of less than \$250 in delinquent taxes on a homestead property may not be sold to the public, but must instead be issued to the county at the maximum rate of interest allowed.¹⁹

Tax certificates must be sold to the person who will pay the taxes, interest, costs, and charges and demand the lowest rate of interest.²⁰ Bids for certificates must be made in even increments and in fractional interest rate bids of one-quarter of one percent. If the certificate is not purchased, the certificate is issued to the county at the maximum rate of interest.

The tax certificate sale process serves to reduce interest on unpaid taxes, from 18 percent to as low as .25 percent, in exchange for the local government collecting its expected tax roll.²¹ The tax certificate is held as a lien on the property in the amount of unpaid dues, and is fulfilled when the unpaid taxes, assessments, costs, charges, and interest are paid by the property owner.²²

Two years after a tax certificate is sold, the certificate holder may apply for a tax deed.²³ This brings into motion a process through which the property will ultimately be sold by the county in order to cover unpaid taxes.²⁴ Applying for a tax deed requires the certificate holder to pay to the tax collector all amounts required for redemption or purchase of all outstanding tax certificates, as a new certificate can be produced for each year's unpaid taxes, alongside associate costs, taxes, and interest, and any outstanding delinquent or current year taxes.²⁵ This application therefore redeems or collects tax certificates other than the one on which the tax deed application was based, and the property comes subject to a single tax certificate lien.

After application for tax deed, the county clerk notifies the applicant of the costs required to bring the property to sale. These costs include property information searches, mailing and advertising costs, and resale costs. If the certificate holder-applicant fails to pay these costs within 30 days after notice from the clerk, the tax collector must cancel the tax deed application. All taxes and costs associated with the canceled tax deed application earn interest at the bid rate of the certificate on which the tax deed application was based.

¹⁴ Ss. 197.402(3) and 197.432(1), F.S.

¹⁵ S. 197.102(1)(f), F.S.

¹⁶ S. 197.402(3), F.S.

¹⁷ S. 197.432(1), F.S.

¹⁸ S. 197.432(3), F.S.

¹⁹ S. 197.432(4), F.S.

²⁰ S. 197.432(6), F.S. Section 197.172(2), F.S. establishes 18 percent as the maximum rate of interest on a tax certificate.

²¹ See generally ss. 197.172 and 197.432, F.S.

²² *Id.*

²³ S. 197.502 (1), F.S.

²⁴ See generally s. 197.502, F.S.

²⁵ S. 197.502(2), F.S.

Errors and Insolvencies Report

Within 60 days after the tax certificate sale is adjourned, tax collectors are required to submit an errors and insolvencies report to the board of county commissioners.²⁶ This report must show the discounts, errors, double assessments, and insolvencies relating to tax collections for which credit is to be given.²⁷ This report serves to explain discrepancies between expected and actual tax revenue.

Effect of Proposed Changes

Partial Payment of Current Year Taxes

The bill amends s. 197.374, F.S., to remove the \$10 processing fee associated with partial payment of current year taxes.

Tax Certificate Sales

The bill amends s. 197.502, F.S., to clarify that, upon cancellation of a tax deed application due to failure to pay costs to bring the property to sale, the tax certificate on which the canceled tax deed application was based shall earn interest at the original bid rate of that certificate. It also clarifies that the certificate will include all other costs associated with the tax deed application, along with any other tax years that were paid as part of the application process and any costs associated with those years. In addition, it clarifies that the interest rate from the original certificate will also apply to those other taxes and costs. This should save distressed taxpayers from paying higher interest rates for portions of the costs included in the tax deed application if they later redeem the property, and will have no impact on the local governments as once a certificate is sold to an investor, all local government taxing authorities are made whole from those proceeds.

Errors and Insolvencies Report

The bill amends s. 197.492, F.S., to require that tax collectors include properties subject to federal bankruptcies, properties in which the taxes are below the minimum tax bill, and properties assigned to the list of lands available for taxes in their report on tax collections submitted annually to the board of county commissioners.

B. SECTION DIRECTORY:

- Section 1: Amends s. 197.374, F.S., to remove a processing fee.
- Section 2: Amends s. 197.492, F.S., to add three items to an annual report the tax collector provides to the Board of County Commissioners.
- Section 3: Amends s. 197.502, F.S., to clarify provisions related to the tax deed application process.
- Section 4: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

²⁶ S. 197.492, F.S.

²⁷ *Id.*

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated a recurring negative indeterminate impact on local government revenues for the repeal of the \$10 fee applied to partial payment of taxes.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may assist property owners with making partial payments of property taxes without additional fees, and may reduce the total interest paid by distressed property owners as part of the tax deed application process.

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 section 1 of this bill eliminates a \$10 fee that some county governments may be collecting; however, an exception may apply if the fiscal impact to local governments is insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to tax collections and sales; amending
 3 s. 197.374, F.S.; removing a specified processing fee;
 4 amending s. 197.492, F.S.; revising information to be
 5 included in a certain report; amending s. 197.502,
 6 F.S.; revising the calculation of interest for
 7 canceled tax deed applications; providing an effective
 8 date.

9

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

11

12 Section 1. Subsection (3) of section 197.374, Florida
 13 Statutes, is amended to read:

14 197.374 Partial payment of current year taxes.—

15 (3) Each partial payment, ~~less a \$10 processing fee~~
 16 ~~payable to the tax collector,~~ shall be credited to the tax
 17 account. A partial payment is not eligible for any applicable
 18 discount set forth in s. 197.162. The taxpayer has the
 19 responsibility to ensure that the remaining amount due is paid.

20 Section 2. Section 197.492, Florida Statutes, is amended
 21 to read:

22 197.492 Errors and insolvencies report.—

23 (1) On or before the 60th day after the tax certificate
 24 sale is adjourned, the tax collector shall certify to the board
 25 of county commissioners a report showing the following

26 situations for which credit is to be given:

27 (a) Discounts.~~7~~

28 (b) Errors.~~7~~

29 (c) Double assessments.~~7~~ and

30 (d) Insolvencies.

31 (e) Federal bankruptcies.

32 (f) Properties in which the taxes are below the minimum
 33 tax bill under s. 197.212.

34 (g) Properties assigned to the list of lands available for
 35 taxes. ~~relating to tax collections for which credit is to be~~
 36 ~~given, including in every case except discounts,~~

37 (2) The report must include the names of the parties on
 38 whose account the credit is to be allowed, excluding credits
 39 given for discounts.

40 (3) The report may be submitted in an electronic format.

41 Section 3. Subsection (2) of section 197.502, Florida
 42 Statutes, is amended to read:

43 197.502 Application for obtaining tax deed by holder of
 44 tax sale certificate; fees.—

45 (2) A certificateholder, other than the county, who
 46 applies for a tax deed shall pay the tax collector at the time
 47 of application all amounts required for redemption or purchase
 48 of all other outstanding tax certificates, plus interest, any
 49 omitted taxes, plus interest, any delinquent taxes, plus
 50 interest, and current taxes, if due, covering the property. In

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51 addition, the certificateholder shall pay the costs required to
52 bring the property to sale as provided in ss. 197.532 and
53 197.542, including property information searches, and mailing
54 costs, as well as the costs of resale, if applicable. If the
55 certificateholder fails to pay the costs to bring the property
56 to sale within 30 days after notice from the clerk, the tax
57 collector shall cancel the tax deed application. The tax
58 certificate on which the all taxes and costs associated with a
59 canceled tax deed application was based shall earn interest at
60 the original bid rate of the tax certificate and remain
61 inclusive of all tax years paid and costs associated with ~~on~~
62 ~~which~~ the tax deed application ~~was based~~. Failure to pay the
63 costs of resale, if applicable, within 30 days after notice from
64 the clerk shall result in the clerk's entering the land on a
65 list entitled "lands available for taxes."

66 Section 4. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 267 Residential Building Permits
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, Esposito
TIED BILLS: **IDEN./SIM. BILLS:** SB 684

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	9 Y, 6 N, As CS	Wright	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
3) Commerce Committee			

SUMMARY ANALYSIS

The Florida Building Code (Building Code) must be applied and enforced uniformly and consistently across the state. Local governments are required to enforce the Building Code and are responsible for issuing building permits. Current law provides standards and timeframes for local governments to follow for the issuance of building permits.

The bill:

- Requires a local government to:
 - Determine if a building permit application is complete within 5 business days of receiving the application, previously set at 10 days.
 - Determine if a building permit application is sufficient within 10 business days of receiving a completed application, previously set at 45 days.
 - Approve, approve with conditions, or deny a complete and sufficient permit application within the following timeframes:
 - 30 business days for applicants using local government review, previously set at 120 days;
 - 15 business days for applicants using a private provider, previously set at 120 days; and
 - 10 business days for applicants for a permit under an already-approved master plan permit, previously set at 120 days.
 - Provide an opportunity for a virtual meeting, instead of just an in-person meeting, before a second request for additional information may be made.
- Provides that a local government can request additional information from an applicant two times, unless the applicant agrees otherwise, previously set at three times.

In Florida law, “plat” means a map or delineated representation of the subdivision of lands, and is generally required whenever a developer wishes to subdivide a large piece of property into smaller parcels and tracts. Some local governments allow a developer to commence construction after a preliminary plat has been issued, but before the plat is finalized.

The bill:

- Requires certain local governments to create a process to expedite the issuance of building permits based on a preliminary plat and to issue the number or percentage of building permits requested by an applicant, under certain circumstances.
- Provides that vested rights may be formed in a preliminary plat, under certain circumstances.
- Allows an applicant to contract to sell, but not transfer ownership of, a residential structure or building located in the preliminary plat before the final plat is approved.
- Requires all local governments to create a master building permit process.

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

The bill provides an effective date of July 1, 2024.

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

STORAGE NAME: h0267a.LFS

DATE: 1/29/2024

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation – Building Permits

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study's commission recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.² The current edition of the Building Code is the eighth edition, which is referred to as the 2023 Florida Building Code.³

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁴

The Florida Building Commission (Commission) was created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,⁵ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.⁶

Use of Building Code Enforcement Fees

A local government may charge reasonable fees as set forth in a schedule of fees adopted by the enforcing agency for the issuance of a building permit.⁷ Such fees shall be used solely for carrying out the local government's responsibilities in enforcing the Building Code.⁸ Enforcing the Building Code includes the direct costs and reasonable indirect costs associated with training, review of building

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 28, 2024).

² *Id.*

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Jan. 28, 2024).

⁴ See s. 553.72(1), F.S.

⁵ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 28, 2024).

⁶ S. 553.73(7)(a), F.S.

⁷ S. 553.80 F.S.

⁸ *Id.*

plans, building inspections, re-inspections, building permit processing, and fire inspections.⁹ Local governments must post all building permit and inspection fee schedules on their website.¹⁰

Local governments are only allowed to collect building permit fees that are sufficient to cover their costs in enforcing the Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances must be carried forward to future years for allowable activities or must be refunded at the discretion of the local government. A local government may not carry forward an amount exceeding the average of its operating budget, not including reserve amounts, for enforcing the Building Code for the previous 4 fiscal years.¹¹

DBPR Surcharges

Current law requires all local governments to assess and collect a 1% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local jurisdictions collect the assessment and remit the surcharge fees to DBPR to fund the activities of the Commission, DBPR's Building Code Compliance and Mitigation Program, and the Florida Fire Prevention Code informal interpretations.¹²

Current law also requires all local governments to assess and collect a separate 1.5% surcharge on any building permit issued by their enforcement agency for the purpose of enforcing the Building Code. The local governments collect the assessment and remit the surcharge fees to DBPR, where it is divided equally to fund the activities of the Building Code Administrators and Inspectors Board (BCAIB) and the Florida Homeowners' Construction Recovery Fund.¹³

Local government building departments are permitted to retain 10% of the amount of the surcharges they collect to fund participation by their agencies in the national and state building code adoption processes and to provide education related to enforcement of the Building Code.¹⁴

Building Permit Delays

Any delays in obtaining a building permit can delay the completion of a construction project. Delays in the completion of a construction project may:¹⁵

- Lead to increased costs for construction projects, which may be passed onto occupants of a completed project;
- Discourage construction, which can reduce the total supply of buildings in a community and may lead to higher rents in the community;
- Reduce property tax revenue to a local government and other taxing jurisdictions resulting from the delayed start and completion of a construction project; and
- Result in delayed occupancy of a project, including single-family residences and multi-family residences.

⁹ S. 553.80(7)(a)1., F.S.

¹⁰ Ss.125.56 (4)(c) F.S., and 166.222(2), F.S.

¹¹ S. 553.80(7)(a), F.S.

¹² S. 553.721, F.S.

¹³ S. 468.631, F.S.; The Florida Homeowners' Construction Recovery Fund is used to compensate homeowners who have suffered a covered financial loss at the hands of state-licensed general, building and residential contractors. Claims are filed with the DBPR, who reviews for completeness and statutory eligibility. The DBPR then presents the claim to the Construction Industry Licensing Board for review. s. 489.1401(2), F.S.

¹⁴ Ss. 468.631, and 553.721, F.S.

¹⁵ City of Austin Development Services Department, *A Program for Expedited Permitting*, http://austintexas.gov/sites/default/files/files/8-9-2016_Report_on_Expedited_Permitting_Program.pdf (last visited Jan. 28, 2024); PricewaterhouseCoopers, *The Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues*, (Dec. 7, 2005).

Streamlining the process to obtain a building permit can accelerate the completion of construction projects. The goal of streamlining is to remove overlap and duplication and create more efficient administrative procedures while not reducing a building department's ability to enforce the applicable construction codes. Streamlining the building permit process may:¹⁶

- Increase local government revenues by accelerating completion of a project and thus accelerating property tax collection;
- Create local construction jobs and other indirect jobs supported by local construction jobs, such as jobs at a material supplier, which may increase local tax revenue; and
- Encourage economic development by having an efficient permit system.

Building Permit Application Review

Time-Period to Review

Current law requires local governments to review certain building permit applications within a specific time-period of receiving the applications. Current law has established time-periods for local governments to review applications for the following building permits:¹⁷

- Accessory structure;
- Alarm permit;
- Nonresidential buildings less than 25,000 square feet;
- Electric;
- Irrigation permit;
- Landscaping;
- Mechanical;
- Plumbing;
- Residential units other than a single-family unit;
- Multifamily residential not exceeding 50 units;
- Roofing;
- Signs;
- Site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- Lot grading and site alteration associated with the permit application.

When a local government receives an application for one of the above building permits, it must:¹⁸

- **Complete Application** – Inform the applicant within **10 days** of receiving the application, what information, if any, is needed to complete the application.
 - If the local government fails to provide written notice to the applicant within the 10-day window, the application is deemed to be properly completed.
- **Sufficiency of Application** – Notify the applicant within **45 days** of the application being deemed complete, if additional information is necessary to determine the sufficiency of the application;
 - If additional information is needed the local government must specify what additional information is necessary.
 - The applicant may submit the additional information to the local government within 30 days or request that the local government act on the application without the additional information.
- **Approve or Deny Application** – Approve, approve with conditions, or deny the application within **120 days** following receipt of the completed application.

¹⁶ *Id.*; Institute for Market Transformation, *Streamlining Compliance Processes*, (Winter 2012) <https://www.imt.org/wp-content/uploads/2018/02/CaseStudy5.pdf> (last visited Jan. 28, 2024).

¹⁷ S. 553.792(2), F.S.

¹⁸ S. 553.792(1), F.S.

- This period is tolled during the time an applicant is responding to a request for additional information and may be extended by mutual consent of the parties.

These time-periods do not apply when a law, agency rule, or local ordinance specify different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.¹⁹

Additional Information Standards²⁰

A local government may only make **three** requests for additional information. However, an applicant may agree in writing to waive the limitation that local governments may only make three requests for additional information for such permits.

If a local government makes a request for additional information from an applicant for one the above building permits, and the applicant provides the information within **30 days** of receiving the request, the local government must²¹:

- **First Request** – Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 15 days** of receiving the information from the applicant, if the request is the local government's **first request**.
- **Second Request** – Review the additional information and determine the application is complete, approve the application, approve the application with conditions, deny the application, or specify the remaining deficiencies **within 10 days** of receiving the information from the applicant, if the request is the local government's **second request**.
- **Third Request** – Deem the application complete and approve the application, approve the application with conditions, or deny the application **within 10 days** of receiving the information from the applicant, if the request is the local government's **third request**.

Prior to making a third request for information the local government must **offer to meet** with the permit applicant 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 local government, at the applicant's request, shall proceed to process the application for approval, approval with conditions, or denial.

Fee Reductions for Failure to Meet Timeframes

If a local government fails to meet these deadlines it must reduce the building permit fee by 10% for each **business day** that it fails to meet the deadline. However, these time limitations do not apply when a law, agency rule, or local ordinance specifies different timeframes for review of local building permit applications, for permits for wireless communication facilities, or when both parties agree to an extension.

If any permit fees are refunded because a local government fails to meet an established deadline for reviewing a building permit application, the Department of Business and Professional Regulation (DBPR) surcharges for funding the Commission, the Florida Building Code Administrators and Inspectors Board (BCAIB), and the Florida Homeowners' Recovery Fund must be recalculated based on the amount of the permit fees after the refund.²²

Time-Period to Review Single-Family Residential Dwelling Building Permit Applications

¹⁹ S. 553.792(1)(a), F.S.

²⁰ S. 553.792(1)(b), F.S.

²¹ *Id.*

²² S. 553.79(16)(d), F.S.

Single-family residential dwelling permits must be issued within:

- **30 business days** of receiving the application, unless the application fails to satisfy the Building Code or the enforcing agency's laws or ordinances, or unusual circumstances require a longer time-period for processing the application.²³
- If the local enforcing agency does not issue a building permit for a single-family residential dwelling, within **30 business days** after receiving the permit application, it must reduce the building permit fee by 10% for each **business day** that it fails to meet the deadline. Each 10% reduction is based on the original amount of the building permit fee.
- The enforcing agency does not have to reduce the building permit fee if it provides notice to the applicant, by e-mail or United States Postal Service, within **30 business days** after receiving the permit application, that specifically states the reasons the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances.²⁴
- After receiving the written notice, the applicant has **10 business days** to correct the specifications written by the local enforcing agency and submit revisions to correct the permit application.
- If the applicant submits the revisions within 10 business days, the local enforcing agency has **10 business days** after receiving such revisions to approve or deny the building permit unless the applicant agrees to a longer permit in writing.²⁵

If a government entity fails to approve or deny the single-family residential dwelling building permit within **10 business days** of receiving the applicant's revisions, it must:²⁶

- Reduce the permit fee by 20% of the original permit fee for the first business day that it fails to meet the deadline; and
- An additional 10% of the original permit fee for each business day that it fails to meet the deadline, for up to five business days.

A government entity does not have to reduce the fee for a single-family residential dwelling building permit, if:²⁷

- It provides written notice to the applicant, by email or USPS mail within **30 business days** of receiving the application; and
- The written notice specifically states how the application fails to satisfy the Building Code or the government entity's laws or ordinances, and that the applicant has **10 business days** after receiving the notice to remedy the deficiencies in their application or it will be denied.

A building permit for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant-Disaster Recovery program administered by the Department of Economic Opportunity must be issued within **15 business days** after receipt of the application unless the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances.²⁸

Effect of the Bill – Building Permits

Building Permit Application Review

The bill removes a provision in Ch. 533, the Building Code, which requires single-family residential dwelling permits to be issued within 30 days unless the application does not conform to the Building

²³ S. 553.79(16), F.S.

²⁴ S. 553.79(16)(a)-(b), F.S.

²⁵ S. 553.79(16)(c), F.S.

²⁶ S. 553.79(16)(c), F.S.

²⁷ S. 553.79(16)(b), F.S.

²⁸ S. 553.79(16)(e), F.S.

Code or local laws or ordinances. However, the bill incorporates the time period to review single-family residential dwellings into the general section related to building permit applications.²⁹

The bill reduces current timelines and revises procedures for applying for and obtaining a building permit. The new procedures set out below apply to the following building permit applications:

- Accessory structure;
- Alarm permit;
- Nonresidential buildings less than 25,000 square feet;
- Electric;
- Irrigation;
- Landscaping;
- Mechanical;
- Plumbing;
- Residential units **including a single-family residential unit or a single-family residential dwelling**;
- Multifamily residential not exceeding 50 units;
- Roofing;
- Signs;
- Site-plan approvals and subdivision plats not requiring public hearings or public notice; and
- Lot grading and site alteration associated with a permit application set forth above.

Timelines to Approve or Deny a Completed and Sufficient Building Permit Application

The bill reduces the time that a local government has to approve, approve with conditions, or deny a building permit application following receipt of a **completed and sufficient** application to the following timelines, unless the applicant waives such limitation in writing:

- For an applicant using local government plans review to obtain a building permit:
 - Within **30 business days** after receiving a complete and sufficient application (**currently 120 days, or 30 days for single-family residential dwellings**).
- For an applicant using a private provider to obtain a building permit:
 - Within **15 business days** after receiving a complete and sufficient application (**currently 120 days, or 30 days for single-family residential dwellings**).
- For an applicant for a master plan permit:
 - Within **10 business days** after receiving a complete and sufficient application (**current timeframe is dependent on the local program, or 30 days for single-family residential dwellings**).
- For an applicant for a single-family residential dwelling applied for by a contractor licensed in this state on behalf of a property owner who participates in a Community Development Block Grant–Disaster Recovery program administered by the Department of Economic Opportunity:
 - Within **10 business days** after receipt of the application, unless the permit application fails to satisfy the Building Code or the enforcing agency's laws or ordinances (**currently 15 days**).

If the local government does not approve, approve with conditions, or deny the completed and sufficient application within the required timeframes, the application is **deemed or determined to be approved**.

The bill requires a local government to maintain a policy on its website containing procedures and expectations for processing of any building permits and development orders required by law to be expedited.

²⁹ See, s. 553.792, F.S.
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Timelines to Determine a Complete and Sufficient Application

The bill reduces the time that a local government has to provide timely written notice to the applicant about what information, if any, is needed before the application is deemed or determined to be:

- **Completed:**
 - Local government has 5 business days to review an application and determine if it has been properly completed (from 10 days).
- **Sufficient:**
 - Local government has 10 business days to review a completed application to determine whether more information is needed or whether the application is sufficient (from 45 days).

The bill reduces the amount of times that a local government may request additional information from the applicant when reviewing an application for sufficiency for a building permit, to **two times**, from three times.

If the local government requests additional information for a second time, such request must be within **10 business days** of receiving additional information after the first request, and the local government must determine the sufficiency of the application within **10 business days** of receiving the requested additional information.

The bill allows a local government to offer to **meet virtually**, instead of only in person, with the applicant to attempt to resolve outstanding issues before a second request for additional information is made.

If the applicant believes a request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the bill requires the local government, at the applicant's written request, to approve the application, approve the application with conditions, or deny the application within **10 business days** after receipt of such. The local government must provide the applicant with sufficient reason for a denial.

Use of Building Code Enforcement Fees

The bill clarifies that local governments may use fees, and any related fines or investment earnings, they have collected for enforcing the Building Code to upgrade technology hardware and software systems used to enforce the Building Code.

Current Situation – Plats

In Florida law, “plat” means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of all applicable state requirements and of any local ordinances.³⁰ Generally, platting is required whenever a developer wishes to subdivide a large piece of property into smaller parcels and tracts. These smaller areas become the residential lots, streets and parks of a new residential subdivision.³¹

State law establishes consistent minimum requirements for the establishment of plats, and local governing bodies have the power to regulate and control the platting of lands.³² Prior to approval by the appropriate governing body, the plat must be reviewed for conformity with state and local law and

³⁰ S. 177.031(14), F.S.

³¹ Harry W. Carls, Florida Condo & HOA Law Blog, May 17, 2018, *Why is a Plat so Important?*, <https://www.floridacondoalawblog.com/2018/05/17/why-is-a-plat-so-important/> (last visited Jan. 28, 2024).

³² S. 177.011, F.S.

sealed by a professional surveyor and mapper who is either employed by or under contract to the local governing body.³³

Before a plat is offered for recording with the clerk of the circuit court, it must be approved by the appropriate governing body, and evidence of such approval must be placed on the plat. If not approved, the governing body must return the plat to the professional surveyor and mapper or the legal entity offering the plat for recordation.³⁴

Jurisdiction over plat approval is as follows:³⁵

- When the plat to be submitted for approval is located wholly within the boundaries of a municipality, the governing body of the municipality has exclusive jurisdiction to approve the plat.
- When a plat lies wholly within the unincorporated areas of a county, the governing body of the county has exclusive jurisdiction to approve the plat.
- When a plat lies within the boundaries of more than one governing body, two plats must be prepared and each governing body has exclusive jurisdiction to approve the plat within its boundaries, unless the governing bodies having said jurisdiction agree that one plat is mutually acceptable.

Every plat of a subdivision offered for recording must have certain information, including providing:³⁶

- The name of the plat in bold legible letters, and the name of the subdivision, professional surveyor and mapper or legal entity, and street and mailing address on each sheet.
- The section, township, and range immediately under the name of the plat on each sheet included, along with the name of the city, town, village, county, and state in which the land being platted is situated.
- The dedications and approvals by the surveyor and mapper and local governing body, and the circuit court clerk's certificate and the professional surveyor and mapper's seal and statement.
- All section lines and quarter section lines occurring within the subdivision. If the description is by metes and bounds, all information called for, such as the point of commencement, course bearings and distances, and the point of beginning. If the platted lands are in a land grant or are not included in the subdivision of government surveys, then the boundaries are to be defined by metes and bounds and courses.
- Location, width, and names of all streets, waterways, or other rights-of-way.
- Location and width of proposed easements and existing easements identified in the title opinion or property information report must be shown on the plat or in the notes or legend, and their intended use.
- All lots numbered either by progressive numbers or, if in blocks, progressively numbered in each block, and the blocks progressively numbered or lettered, except that blocks in numbered additions bearing the same name may be numbered consecutively throughout the several additions.
- Sufficient survey data to positively describe the bounds of every lot, block, street easement, and all other areas shown on the plat.
- Designated park and recreation parcels.
- All interior excepted parcels clearly indicated and labeled "Not a part of this plat."
- The purpose of all areas dedicated clearly indicated or stated on the plat.
- That all platted utility easements must provide that such easements are also easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television

³³ S. 177.081(1), F.S.

³⁴ S. 177.071(1), F.S.

³⁵ *Id.*

³⁶ S. 177.091, F.S.

services interferes with the facilities and services of an electric, telephone, gas, or other public utility.

Preliminary Plat Approval

Many local governments around the state have a process to approve a preliminary plat before approving a final plat. Generally, a preliminary plat is a technical, graphic representation of a proposed development, including plans for streets, utilities, drainage, easements, and lot lines, for a proposed subdivision. If a preliminary plat is required, it is generally a prerequisite for a final plat approval and the submission of any property improvement plans or permit applications.³⁷

Generally, a preliminary plat approval is approval of the development plan, and a final plat approval is approval of a finalized development plan; engineering plans, if required; and documents confirming the parties with a property interest; which is then recorded with the clerk of the circuit court.³⁸

Based on a preliminary plat approval, some local governments allow a developer to commence construction before the plat is finalized. For example, the City of Jacksonville, Village of Royal Palm Beach, and the City of Tallahassee allow for a preliminary plat approval process.³⁹

In Jacksonville, the Planning and Development Department (Department) of the City of Jacksonville, upon request of an applicant, may allow up to 50 percent of the lots within a proposed subdivision to be developed, but not occupied, based on a preliminary plat approval so long as the developer or owner meets the following conditions for construction:⁴⁰

- Prior to Civil Plans submittal to the Department, the developer must submit the development proposal to Jacksonville Electric Authority (JEA) for review.
- Once JEA has granted preliminary approval, the Department will review the preliminary site plan, the preliminary and final engineering plans for the required improvements, and the sheet identifying the lots being requested for home construction prior to platting as approved by JEA. The Department reserves the right to deny authorization for development on a specific lot or lots to protect City interests.
- The developer or owner must provide a guarantee for required improvements and warranty of title.
- A Certificate of Occupancy may not be issued until the final plat is approved by JEA and the Department and recorded in the current public records of Duval County, Florida.
- Approval of the preliminary plat and required supplemental material are valid for 12 months from the date of approval. If the final plat is not submitted to and approved during the 12-month period, the conditional approvals are null and void.⁴¹

Vested Rights in Property Based on a Plat

³⁷ For examples, see City of Zephyrhills Code of Ordinances s. 11.03.02.01; Palm Beach County Code of Ordinances Art. 11., Ch. A.; Seminole County, SEMINOLE COUNTY PLANNING & DEVELOPMENT DIVISION, Subdivision Application, <https://www.seminolecountyfl.gov/core/fileparse.php/3307/urllt/SUBDIVISION-05-2023.ADA.pdf> (last visited Jan. 28, 2024).

³⁸ Advance Surveying & Engineering, *An In-Depth Look At Preliminary and Final Plats*, <https://www.advsur.com/2019/07/an-in-depth-look-at-preliminary-and-final-plats/> (last visited Jan. 28, 2024).

³⁹ City of Jacksonville Code of Ordinances s. 654-109, Village of Royal Palm Beach Code of Ordinances s. 22-22, City of Tallahassee Code of Ordinances s. 9-92.

⁴⁰ City of Jacksonville Code of Ordinances s. 654-139(d).

⁴¹ City of Jacksonville Code of Ordinances s. 654-109(b).

In general, vested rights⁴² form when a property owner or developer acquires real property rights that cannot be taken by governmental regulation.⁴³ Property owners or developers who do not have vested rights will be subject to subsequently enacted land regulations, while subsequently enacted land regulations do not apply to the property owners or developers who are determined to have vested rights.⁴⁴

Florida common law provides that vested rights in a property may be established if a property owner or developer has:⁴⁵

- In good faith reliance,
- Upon some act or omission of government,
- Made such a substantial change in position or has incurred such extensive obligations and expenses,
- That it would make it highly inequitable to interfere with the acquired right.

Recordation of a final plat with the clerk of the circuit court alone is not sufficient to establish vested rights⁴⁶ in the land development regulations in existence at that time.⁴⁷ Instead, the property owner or developer must take meaningful steps towards development of the property, such as applying for development permits or expending certain monies,⁴⁸ to constitute a substantial change in position or be considered extensive obligations and expenses towards development of the property in reliance on some action by the local government.⁴⁹

Additionally, a property owner or developer may obtain vested rights in both a local government-approved preliminary plat and a final plat, as long as expenditures or a substantial change have been made by the property owner or developer based on such preliminary plat or plat.⁵⁰

Effect of the Bill - Plats

The bill requires a governing body to create:

- A two-step application process for the adoption of a preliminary plat and for a final plat in order to expedite the issuance of building permits related to such plats. The application must allow an applicant to identify the percentage of planned homes, or the number of building permits, that the governing body must issue for the residential subdivision or planned community indicated in the preliminary plat.
- A master building permit process consistent with existing master building permit application requirements for applicants seeking multiple building permits for residential subdivisions or planned communities.
 - The bill provides that a master building permit issued pursuant to this requirement is valid for 3 consecutive years after its issuance or until the adoption of a new Building

⁴² Florida courts have used the concepts of vested rights and equitable estoppel interchangeably in deciding fault in property rights cases. Equitable estoppel, in this instance, means focusing on whether it would be inequitable or fair to allow a local government to deny prior conduct or position on building or development decisions. Robert M. Rhodes and Cathy M. Sellers, *Equitable Estoppel and Vested Rights in Land Use*, The Florida Bar, II Florida Environmental and Land Use Law 8, (1994).

⁴³ *Id.*; Heeter, *Zoning Estoppel: Application of the Principles of Equitable Estoppel and Vested Rights to Zoning Disputes*, Urb.L. Ann. 63, 64-65 (1971).

⁴⁴ *Monroe County v. Ambrose*, 866 So.2d 707, 712 (Fla. 3d DCA 2003); Kristin Melton, de la Parte & Gilbert P.A., *When are Rights Vested in a Platted Development?*, 2016, <https://www.dgfirm.com/email/2016summer/article2.html#:~:text=Florida%20common%20law%20provides%20that,it%20would%20make%20it%20highly> (last visited Jan. 28, 2024).

⁴⁵ *Monroe County*, 866 So.2d at 710.

⁴⁶ *Id.*

⁴⁷ Melton, *supra*, at 42.

⁴⁸ *Town of Largo v. Imperial Homes Corp.*, 309 So.2d 571, 573 (Fla. 2d DCA 1975).

⁴⁹ *Id.*; Melton, *supra*, at 42.

⁵⁰ *The Florida Companies v. Orange County*, 411 So.2d 1008, 1011 (Fla. 5th DCA 1982)

Code, whichever is earlier. After a new Building Code is adopted, the applicant may apply for a new master building permit, which, upon approval, is valid for 3 consecutive years.

The bill requires the governing body to issue the number or percentage of building permits requested by an applicant, provided the residential buildings or structures are unoccupied and all of the following conditions are met:

- The governing body has approved a preliminary plat for each residential subdivision or planned community.
- The applicant provides proof to the governing body that the applicant has provided a copy of the approved preliminary plat, along with the approved plans, to the relevant electric, water, and wastewater utilities.
- The applicant holds a valid performance bond for up to 130 percent of the necessary utilities, roads, and stormwater improvements that have not been completed upon submission of the application under this section. For purposes of master planned communities,⁵¹ a valid performance bond is required on a phase-by-phase basis.

By **August 15, 2024**, the bill requires a governing body of a county that has 75,000 residents or more and a governing body of a municipality that has 30,000 residents or more to create a program to expedite the process for issuing building permits for residential subdivisions or planned communities before a final plat is recorded with the clerk of the circuit court.

Such expedited process must include an application for an applicant to identify the percentage of planned homes, or the number of building permits, that the governing body must issue for the residential subdivision or planned community, **not to exceed 50 percent** of the residential subdivision or planned community. However, such a local government may issue building permits that exceed 50 percent of the residential subdivision or planned community.

By **December 31, 2027**, the bill requires such a governing body to update its expedited process to contain an application that allows an applicant to request an **increased percentage of up to 75 percent** of building permits for planned homes that the local governing body must issue for the residential subdivision or planned community. However, such a local government may issue building permits that exceed 75 percent of the residential subdivision or planned community.

If a governing body had a program in place **before July 1, 2023**, to expedite the building permit process, the bill requires such governing body to only update their program to approve an applicant's written application to issue up to 50 percent of the building permits for the residential subdivision or planned community. However, such a local government may issue building permits that exceed 50 percent of the residential subdivision or planned community.

The bill allows an applicant to use a **private provider** to review a preliminary plat and to obtain a building permit for each residential building or structure.

The bill allows a governing body to work with appropriate local government agencies to issue an address and a temporary parcel identification number for lot lines and lot sizes based on the metes and bounds of the plat contained in an application.

The bill allows an applicant to contract to sell, but not transfer ownership of, a residential structure or building located in the residential subdivision or planned community until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

⁵¹ "Planned unit development" or "master planned community" means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots. S. 163.3203(5)(b), F.S.

The bill prohibits an applicant from obtaining a final certificate of occupancy for each residential structure or building for which a building permit is issued until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

An applicant has a vested right in a preliminary plat that has been approved with conditions by a governing entity, if all of the following conditions are met:

- The applicant relies in good faith on the approved preliminary plat or any amendments, and
- The applicant commences and is continuing in good faith with the development of the property.

When vested rights in a preliminary plat have been established, a government entity may not make substantive changes to the preliminary plat without the applicant's written consent.

The bill requires an applicant to indemnify and hold harmless the governing body and its agents and employees from damages accruing and directly related to the issuance of a building permit for a residential building or structure located in the residential subdivision or planned community before the approval and recording of the final plat by the governing body. This includes damage resulting from fire, flood, construction defects, and bodily injury, but excludes infringement of vested rights.

The bill provides the following definitions:

- "Applicant" means a homebuilder or developer that files an application with the local governing body to identify the percentage of planned homes, or the number of building permits, that the local governing body must issue for the residential subdivision or planned community.
- "Final plat" means the final tracing, map, or site plan presented by the subdivider to a governing body for final approval, and, upon approval by the appropriate governing body, is submitted to the clerk of the circuit court for recording.
- "Preliminary plat" means a map or delineated representation of the subdivision of lands that is a complete and exact representation of the residential subdivision or planned community and contains required land boundary information.

B. SECTION DIRECTORY:

- Section 1: Creates s. 177.073, F.S.; relating to approval of certain building permits pursuant to a preliminary plat.
- Section 2: Amends s. 553.79, F.S., relating to single-family residential permits.
- Section 3: Amends s. 553.792, F.S., relating to building permit application processes.
- Section 4: Amends s. 440.103, F.S., conforming a cross-reference.
- Section 5: Amends s. 553.80, F.S.; relating to acceptable uses of local government Building Code enforcement fees.
- Section 6: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

For a similar bill in 2023, DBPR stated that surcharge collections pursuant to s. 553.791, F.S., and s. 468.631, F.S., could be impacted by the bill.⁵²

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

For a similar bill in 2023, DBPR stated that this bill may reduce the amount of permit fees that could be collected by local governments in certain circumstances.⁵³

2. Expenditures:

This bill may impact local governments because they may have to hire more employees to meet the prescribed timeframes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

For a similar bill in 2023, DBPR stated that the bill may reduce the cost of permit fees paid by the private sector to local governments based on the local governments failure to meet time requirements.⁵⁴ On the other hand, the local jurisdiction may raise permit fees so that they can hire employees to meet the time requirements in the bill.

The streamlined permitting processes in the bill may expedite development across the state.

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 would require the Florida Building Commission to amend the Building Code to reflect some of the bill's changes to building permit application processing requirements.⁵⁵

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

⁵³ *Id.*, at 5.

⁵⁴ *Id.*

⁵⁵ See rule impacted, r. 61G20-1.001, F.A.C.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On December 12, 2024, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Provides that vested rights in a preliminary plat are formed if an applicant commences developing the property based on an approval of such preliminary plat by a local government.
- Requires an applicant for a residential building permit pursuant to a preliminary plat to indemnify and hold harmless the local government from damages directly related to the issuance of such building permit before the approval of the final plat.
- Clarifies that timeframes in the updated permitting procedures are calculated using business days.
- Clarifies that if a local government fails to timely notify an applicant of what is needed to determine a sufficient application, such application will be automatically determined to be sufficient.
- Corrects a scrivener's error.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.

1 A bill to be entitled
2 An act relating to building regulations; creating s.
3 177.073, F.S.; providing definitions; requiring
4 certain governing bodies, by a date certain, to create
5 a program to expedite the process for issuing
6 residential building permits before a final plat is
7 recorded; requiring the expedited process to include a
8 certain application; requiring certain governing
9 bodies to update its program in a specified manner;
10 requiring a governing body to create certain processes
11 for purposes of the program; authorizing applicants to
12 use a private provider for certain reviews;
13 authorizing a governing body to issue addresses and
14 temporary parcel identification numbers for specified
15 purposes; requiring a governing body to issue a
16 specified number or percentage of building permits
17 requested in an application when certain conditions
18 are met; setting forth certain conditions for
19 applicants who apply to the program; providing that an
20 applicant has a vested right in an approved
21 preliminary plat when certain conditions are met;
22 prohibiting a governing body from making substantive
23 changes to a preliminary plat without written consent;
24 requiring an applicant to indemnify and hold harmless
25 certain entities and persons; providing an exception;

26 | amending s. 553.79, F.S.; removing provisions relating
27 | to acquiring building permits for certain residential
28 | dwellings; amending s. 553.792, F.S.; revising the
29 | timeframes for approving, approving with conditions,
30 | or denying certain building permits; requiring local
31 | governments to follow the prescribed timeframes unless
32 | a local ordinance is more stringent; requiring a local
33 | government to provide written notice to an applicant
34 | under certain circumstances; revising how many times a
35 | local government may request additional information
36 | from an applicant; specifying when a permit
37 | application is deemed complete and approved; requiring
38 | the opportunity for an in-person or virtual meeting
39 | before a second request for additional information may
40 | be made; requiring a local government to process an
41 | application within a specified timeframe without
42 | additional information upon written request by the
43 | applicant; reducing permit fees by a certain
44 | percentage if certain timeframes are not met;
45 | providing construction; conforming provisions to
46 | changes made by the act; amending s. 553.80, F.S.;
47 | authorizing local governments to use certain fees for
48 | certain technology upgrades; amending s. 440.103,
49 | F.S.; conforming a cross-reference; providing an
50 | effective date.

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

Section 1. Section 177.073, Florida Statutes, is created to read:

177.073 Expedited approval of residential building permits before a final plat is recorded.—

(1) As used in this section, the term:

(a) "Applicant" means a homebuilder or developer who files an application with the local governing body to identify the percentage of planned homes, or the number of building permits, that the local governing body must issue for a residential subdivision or planned community.

(b) "Final plat" means the final tracing, map, or site plan presented by the subdivider to a governing body for final approval, and, upon approval by the appropriate governing body, is submitted to the clerk of the circuit court for recording.

(c) "Local building official" has the same meaning as in s. 553.791(1).

(d) "Plans" means any building plans, construction plans, engineering plans, or site plans, or their functional equivalent, submitted by an applicant for a building permit.

(e) "Preliminary plat" means a map or delineated representation of the subdivision of lands that is a complete and exact representation of the residential subdivision or

76 planned community and contains any additional information needed
77 to be in compliance with the requirements of this chapter.

78 (2) (a) By August 15, 2024, the governing body of a county
79 that has 75,000 residents or more and the governing body of a
80 municipality that has 30,000 residents or more shall create a
81 program to expedite the process for issuing building permits for
82 residential subdivisions or planned communities in accordance
83 with the Florida Building Code and this section before a final
84 plat is recorded with the clerk of the circuit court. The
85 expedited process must include an application for an applicant
86 to identify the percentage of planned homes, not to exceed 50
87 percent of the residential subdivision or planned community, or
88 the number of building permits that the governing body must
89 issue for the residential subdivision or planned community. This
90 paragraph does not restrict the governing body from issuing more
91 than 50 percent of the building permits for the residential
92 subdivision or planned community.

93 (b) A governing body that had a program in place before
94 July 1, 2023, to expedite the building permit process, need only
95 update their program to approve an applicant's written
96 application to issue up to 50 percent of the building permits
97 for the residential subdivision or planned community in order to
98 comply with this section. This paragraph does not restrict a
99 governing body from issuing more than 50 percent of the building
100 permits for the residential subdivision or planned community.

101 (c) By December 31, 2027, the governing body of a county
102 that has 75,000 residents or more and the governing body of a
103 municipality that has 30,000 residents or more shall update its
104 program to expedite the process for issuing building permits for
105 residential subdivisions or planned communities in accordance
106 with the Florida Building Code and this section before a final
107 plat is recorded with the clerk of the circuit court. The
108 expedited process must include an application for an applicant
109 to identify the percentage of planned homes, not to exceed 75
110 percent of the residential subdivision or planned community, or
111 the number of building permits that the governing body must
112 issue for the residential subdivision or planned community. This
113 paragraph does not restrict the governing body from issuing more
114 than 75 percent of the building permits for the residential
115 subdivision or planned community.

116 (3) A governing body shall create:

117 (a) A two-step application process for the adoption of a
118 preliminary plat and for a final plat in order to expedite the
119 issuance of building permits under this section. The application
120 must allow an applicant to identify the percentage of planned
121 homes or the number of building permits that the governing body
122 must issue for the residential subdivision or planned community.

123 (b) A master building permit process consistent with s.
124 553.794(3) for applicants seeking multiple building permits for
125 residential subdivisions or planned communities. For purposes of

126 this paragraph, a master building permit is valid for 3
127 consecutive years after its issuance or until the adoption of a
128 new Florida Building Code, whichever is earlier. After a new
129 Florida Building Code is adopted, the applicant may apply for a
130 new master building permit, which, upon approval, is valid for 3
131 consecutive years.

132 (4) An applicant may use a private provider consistent
133 with s. 553.791 to review a preliminary plat and to obtain a
134 building permit for each residential building or structure.

135 (5) A governing body may work with appropriate local
136 government agencies to issue an address and a temporary parcel
137 identification number for lot lines and lot sizes based on the
138 metes and bounds of the plat contained in the application.

139 (6) The governing body must issue the number or percentage
140 of building permits requested by an applicant in accordance with
141 the Florida Building Code and this section, provided the
142 residential buildings or structures are unoccupied and all of
143 the following conditions are met:

144 (a) The governing body has approved a preliminary plat for
145 each residential subdivision or planned community.

146 (b) The applicant provides proof to the governing body
147 that the applicant has provided a copy of the approved
148 preliminary plat, along with the approved plans, to the relevant
149 electric, water, and wastewater utilities.

150 (c) The applicant holds a valid performance bond for up to

151 130 percent of the necessary utilities, roads, and stormwater
 152 improvements that have not been completed upon submission of the
 153 application under this section. For purposes of a master planned
 154 community as defined in s. 163.3202 (5) (b), a valid performance
 155 bond is required on a phase-by-phase basis.

156 (7) (a) An applicant may contract to sell, but may not
 157 transfer ownership of, a residential structure or building
 158 located in the residential subdivision or planned community
 159 until the final plat is approved by the governing body and
 160 recorded in the public records by the clerk of the circuit
 161 court.

162 (b) An applicant may not obtain a final certificate of
 163 occupancy for each residential structure or building for which a
 164 building permit is issued until the final plat is approved by
 165 the governing body and recorded in the public records by the
 166 clerk of the circuit court.

167 (8) For purposes of this section, an applicant has a
 168 vested right in a preliminary plat that has been approved by a
 169 governing body if all of the following conditions are met:

170 (a) The applicant relies in good faith on the approved
 171 preliminary plat or any amendments thereto.

172 (b) The applicant commences and is continuing in good
 173 faith with the development of the property.

174 (9) Upon the establishment of an applicant's vested rights
 175 in accordance with subsection (8), a governing body may not make

176 substantive changes to the preliminary plat without the
177 applicant's written consent.

178 (10) An applicant must indemnify and hold harmless the
179 governing body and its agents and employees from damages
180 accruing and directly related to the issuance of a building
181 permit for a residential building or structure located in the
182 residential subdivision or planned community before the approval
183 and recording of the final plat by the governing body. This
184 includes damage resulting from fire, flood, construction
185 defects, and bodily injury, but excludes the infringement of
186 vested rights.

187 Section 2. Subsection (16) of section 553.79, Florida
188 Statutes, is amended to read:

189 553.79 Permits; applications; issuance; inspections.—

190 ~~(16) Except as provided in paragraph (c), a building~~
191 ~~permit for a single-family residential dwelling must be issued~~
192 ~~within 30 business days after receiving the permit application~~
193 ~~unless the permit application fails to satisfy the Florida~~
194 ~~Building Code or the enforcing agency's laws or ordinances.~~

195 ~~(a) If a local enforcement agency fails to issue a~~
196 ~~building permit for a single-family residential dwelling within~~
197 ~~30 business days after receiving the permit application, it must~~
198 ~~reduce the building permit fee by 10 percent for each business~~
199 ~~day that it fails to meet the deadline. Each 10-percent~~
200 ~~reduction shall be based on the original amount of the building~~

201 ~~permit fee.~~

202 ~~(b) A local enforcement agency does not have to reduce the~~
203 ~~building permit fee if it provides written notice to the~~
204 ~~applicant, by e-mail or United States Postal Service, within 30~~
205 ~~business days after receiving the permit application, that~~
206 ~~specifically states the reasons the permit application fails to~~
207 ~~satisfy the Florida Building Code or the enforcing agency's laws~~
208 ~~or ordinances. The written notice must also state that the~~
209 ~~applicant has 10 business days after receiving the written~~
210 ~~notice to submit revisions to correct the permit application and~~
211 ~~that failure to correct the application within 10 business days~~
212 ~~will result in a denial of the application.~~

213 ~~(c) The applicant has 10 business days after receiving the~~
214 ~~written notice to address the reasons specified by the local~~
215 ~~enforcement agency and submit revisions to correct the permit~~
216 ~~application. If the applicant submits revisions within 10~~
217 ~~business days after receiving the written notice, the local~~
218 ~~enforcement agency has 10 business days after receiving such~~
219 ~~revisions to approve or deny the building permit unless the~~
220 ~~applicant agrees to a longer period in writing. If the local~~
221 ~~enforcement agency fails to issue or deny the building permit~~
222 ~~within 10 business days after receiving the revisions, it must~~
223 ~~reduce the building permit fee by 20 percent for the first~~
224 ~~business day that it fails to meet the deadline unless the~~
225 ~~applicant agrees to a longer period in writing. For each~~

226 ~~additional business day, but not to exceed 5 business days, that~~
 227 ~~the local enforcement agency fails to meet the deadline, the~~
 228 ~~building permit fee must be reduced by an additional 10 percent.~~
 229 ~~Each reduction shall be based on the original amount of the~~
 230 ~~building permit fee.~~

231 ~~(d) If any building permit fees are refunded under this~~
 232 ~~subsection, the surcharges provided in s. 468.631 or s. 553.721~~
 233 ~~must be recalculated based on the amount of the building permit~~
 234 ~~fees after the refund.~~

235 ~~(e) A building permit for a single-family residential~~
 236 ~~dwelling applied for by a contractor licensed in this state on~~
 237 ~~behalf of a property owner who participates in a Community~~
 238 ~~Development Block Grant-Disaster Recovery program administered~~
 239 ~~by the Department of Economic Opportunity must be issued within~~
 240 ~~15 working days after receipt of the application unless the~~
 241 ~~permit application fails to satisfy the Florida Building Code or~~
 242 ~~the enforcing agency's laws or ordinances.~~

243 Section 3. Subsections (1) and (2) of section 553.792,
 244 Florida Statutes, are amended and subsection (4) is added to
 245 that section, to read:

246 553.792 Building permit application to local government.-

247 (1)(a) A local government must approve, approve with
 248 conditions, or deny a building permit application after receipt
 249 of a completed and sufficient application within the following
 250 timeframes, unless the applicant waives such timeframes in

251 writing:

252 1. For an applicant using a local government plans
 253 reviewer to obtain a building permit, within 30 business days
 254 after receiving a complete and sufficient application.

255 2. For an applicant using a private provider consistent
 256 with s. 553.791 to obtain a building permit, within 15 business
 257 days after receiving a complete and sufficient application.

258 3. For an applicant for a master plan permit, within 10
 259 business days after receiving a complete and sufficient
 260 application.

261 4. For an applicant for a single-family residential
 262 dwelling applied for by a contractor licensed in this state on
 263 behalf of a property owner who participates in a Community
 264 Development Block Grant-Disaster Recovery program administered
 265 by the Department of Commerce, within 10 business days after
 266 receipt of the application unless the permit application fails
 267 to satisfy the Florida Building Code or the enforcing agency's
 268 laws or ordinances.

269
 270 If the local government does not approve, approve with
 271 conditions, or deny the completed and sufficient application
 272 within the required timeframes in this paragraph, the
 273 application is deemed or determined to be approved.

274 (b) A local government must meet the timeframes set forth
 275 in this section for reviewing building permit applications

276 unless the timeframes set by local ordinance are more stringent
 277 than those prescribed in this section.

278 (c) After ~~Within 10 days of~~ an applicant submits
 279 ~~submitting~~ an application to the local government, the local
 280 government must provide written notice to the applicant within 5
 281 business days after receipt of the application advising ~~shall~~
 282 ~~advise~~ the applicant what information, if any, is needed to deem
 283 or determine that the application is properly completed in
 284 compliance with the filing requirements published by the local
 285 government. If the local government does not provide timely
 286 written notice that the applicant has not submitted a ~~the~~
 287 properly completed application, the application is ~~shall be~~
 288 automatically deemed or determined to be properly completed and
 289 accepted.

290 (d)1. Within 10 business ~~45~~ days after receiving a
 291 completed application, a local government must provide written
 292 notice to ~~notify~~ an applicant if additional information is
 293 required for the local government to determine the sufficiency
 294 of the application, and the notice must ~~shall~~ specify the
 295 additional information that is required. The applicant may ~~must~~
 296 submit the additional information to the local government or
 297 request that the local government act without the additional
 298 information. When reviewing an application for a building
 299 permit, a local government may not request additional
 300 information from the applicant more than two times unless the

301 applicant waives such limitation in writing. The local
302 government's second request for information must be made within
303 10 business days after the local government receives the
304 additional information indicated in the first request. The local
305 government must determine the sufficiency of the application
306 within 10 business days after receiving the additional
307 information from a second request. If the local government does
308 not provide to the applicant timely written notice that the
309 applicant must submit additional information to determine
310 whether the application is sufficient, the application is
311 automatically deemed or determined to be sufficient.

312 2. Before a second request for additional information may
313 be made, the local government must offer the applicant an
314 opportunity to meet in person or virtually with the local
315 government to attempt to resolve outstanding issues.

316 3. If an applicant believes a request for additional
317 information is not authorized by ordinance, rule, statute, or
318 other legal authority, the local government, at the applicant's
319 written request, must process the application within 10 business
320 days after receipt of such request and approve the application,
321 approve the application with conditions, or deny the application
322 and provide the applicant with sufficient reason for such
323 denial. While the applicant responds to the request for
324 additional information, the 120-day period described in this
325 subsection is tolled. Both parties may agree to a reasonable

326 ~~request for an extension of time, particularly in the event of a~~
327 ~~force majeure or other extraordinary circumstance. The local~~
328 ~~government must approve, approve with conditions, or deny the~~
329 ~~application within 120 days following receipt of a completed~~
330 ~~application.~~

331 (e) A local government shall maintain on its website a
332 policy containing procedures and expectations for expedited
333 processing of those building permits and development orders
334 required by law to be expedited.

335 ~~(b)1. When reviewing an application for a building permit,~~
336 ~~a local government may not request additional information from~~
337 ~~the applicant more than three times, unless the applicant waives~~
338 ~~such limitation in writing.~~

339 ~~2. If a local government requests additional information~~
340 ~~from an applicant and the applicant submits the requested~~
341 ~~additional information to the local government within 30 days~~
342 ~~after receiving the request, the local government must, within~~
343 ~~15 days after receiving such information:~~

344 ~~a. Determine if the application is properly completed;~~

345 ~~b. Approve the application;~~

346 ~~c. Approve the application with conditions;~~

347 ~~d. Deny the application; or~~

348 ~~e. Advise the applicant of information, if any, that is~~
349 ~~needed to deem the application properly completed or to~~
350 ~~determine the sufficiency of the application.~~

351 ~~3. If a local government makes a second request for~~
352 ~~additional information from the applicant and the applicant~~
353 ~~submits the requested additional information to the local~~
354 ~~government within 30 days after receiving the request, the local~~
355 ~~government must, within 10 days after receiving such~~
356 ~~information:~~

357 ~~a. Determine if the application is properly completed;~~

358 ~~b. Approve the application;~~

359 ~~c. Approve the application with conditions;~~

360 ~~d. Deny the application; or~~

361 ~~e. Advise the applicant of information, if any, that is~~
362 ~~needed to deem the application properly completed or to~~
363 ~~determine the sufficiency of the application.~~

364 ~~4. Before a third request for additional information may~~
365 ~~be made, the applicant must be offered an opportunity to meet~~
366 ~~with the local government to attempt to resolve outstanding~~
367 ~~issues. If a local government makes a third request for~~
368 ~~additional information from the applicant and the applicant~~
369 ~~submits the requested additional information to the local~~
370 ~~government within 30 days after receiving the request, the local~~
371 ~~government must, within 10 days after receiving such information~~
372 ~~unless the applicant waived the local government's limitation in~~
373 ~~writing, determine that the application is complete and:~~

374 ~~a. Approve the application;~~

375 ~~b. Approve the application with conditions; or~~

376 e. ~~Deny the application.~~

377 5. ~~If the applicant believes the request for additional~~
378 ~~information is not authorized by ordinance, rule, statute, or~~
379 ~~other legal authority, the local government, at the applicant's~~
380 ~~request, must process the application and either approve the~~
381 ~~application, approve the application with conditions, or deny~~
382 ~~the application.~~

383 (f)-(e) If a local government fails to meet a deadline
384 under this subsection ~~provided in paragraphs (a) and (b)~~, it
385 must reduce the building permit fee by 10 percent for each
386 business day that it fails to meet the deadline, unless the
387 parties agree in writing to a reasonable extension of time. Each
388 10-percent reduction shall be based on the original amount of
389 the building permit fee, unless the parties agree to an
390 extension of time.

391 (2) ~~(a)~~ The procedures set forth in subsection (1) apply to
392 the following building permit applications: accessory structure;
393 alarm permit; nonresidential buildings less than 25,000 square
394 feet; electric; irrigation permit; landscaping; mechanical;
395 plumbing; residential units including a single-family
396 residential ~~other than a single family unit~~ or a single-family
397 residential dwelling; multifamily residential not exceeding 50
398 units; roofing; signs; site-plan approvals and subdivision plats
399 not requiring public hearings or public notice; and lot grading
400 and site alteration associated with the permit application set

401 | forth in this subsection. The procedures set forth in subsection
 402 | (1) do not apply to permits for any wireless communications
 403 | facilities ~~or when a law, agency rule, or local ordinance~~
 404 | ~~specify different timeframes for review of local building permit~~
 405 | ~~applications.~~

406 | ~~(b) If A local government has different timeframes than~~
 407 | ~~the timeframes set forth in subsection (1) for reviewing~~
 408 | ~~building permit applications described in paragraph (a), the~~
 409 | ~~local government must meet the deadlines established by local~~
 410 | ~~ordinance. If a local government does not meet an established~~
 411 | ~~deadline to approve, approve with conditions, or deny an~~
 412 | ~~application, it must reduce the building permit fee by 10~~
 413 | ~~percent for each business day that it fails to meet the~~
 414 | ~~deadline. Each 10-percent reduction shall be based on the~~
 415 | ~~original amount of the building permit fee, unless the parties~~
 416 | ~~agree to an extension of time. This paragraph does not apply to~~
 417 | ~~permits for any wireless communications facilities.~~

418 | Section 4. Paragraph (a) of subsection (7) of section
 419 | 553.80, Florida Statutes, is amended to read:

420 | 553.80 Enforcement.—

421 | (7) (a) The governing bodies of local governments may
 422 | provide a schedule of reasonable fees, as authorized by s.
 423 | 125.56(2) or s. 166.222 and this section, for enforcing this
 424 | part. These fees, and any fines or investment earnings related
 425 | to the fees, may only ~~shall~~ be used ~~solely~~ for carrying out the

426 local government's responsibilities in enforcing the Florida
427 Building Code, including upgrading technology hardware and
428 software systems that are used in enforcement. When providing a
429 schedule of reasonable fees, the total estimated annual revenue
430 derived from fees, and the fines and investment earnings related
431 to the fees, may not exceed the total estimated annual costs of
432 allowable activities. Any unexpended balances must be carried
433 forward to future years for allowable activities or must be
434 refunded at the discretion of the local government. A local
435 government may not carry forward an amount exceeding the average
436 of its operating budget for enforcing the Florida Building Code
437 for the previous 4 fiscal years. For purposes of this
438 subsection, the term "operating budget" does not include reserve
439 amounts. Any amount exceeding this limit must be used as
440 authorized in subparagraph 2. However, a local government that
441 established, as of January 1, 2019, a Building Inspections Fund
442 Advisory Board consisting of five members from the construction
443 stakeholder community and carries an unexpended balance in
444 excess of the average of its operating budget for the previous 4
445 fiscal years may continue to carry such excess funds forward
446 upon the recommendation of the advisory board. The basis for a
447 fee structure for allowable activities must relate to the level
448 of service provided by the local government and must include
449 consideration for refunding fees due to reduced services based
450 on services provided as prescribed by s. 553.791, but not

451 provided by the local government. Fees charged must be
452 consistently applied.

453 1. As used in this subsection, the phrase "enforcing the
454 Florida Building Code" includes the direct costs and reasonable
455 indirect costs associated with review of building plans,
456 building inspections, reinspections, and building permit
457 processing; building code enforcement; and fire inspections
458 associated with new construction. The phrase may also include
459 training costs associated with the enforcement of the Florida
460 Building Code and enforcement action pertaining to unlicensed
461 contractor activity to the extent not funded by other user fees.

462 2. A local government must use any excess funds that it is
463 prohibited from carrying forward to rebate and reduce fees, or
464 to pay for the construction of a building or structure that
465 houses a local government's building code enforcement agency or
466 the training programs for building officials, inspectors, or
467 plans examiners associated with the enforcement of the Florida
468 Building Code. Excess funds used to construct such a building or
469 structure must be designated for such purpose by the local
470 government and may not be carried forward for more than 4
471 consecutive years. An owner or builder who has a valid building
472 permit issued by a local government for a fee, or an association
473 of owners or builders located in the state that has members with
474 valid building permits issued by a local government for a fee,
475 may bring a civil action against the local government that

476 | issued the permit for a fee to enforce this subparagraph.

477 | 3. The following activities may not be funded with fees
478 | adopted for enforcing the Florida Building Code:

479 | a. Planning and zoning or other general government
480 | activities.

481 | b. Inspections of public buildings for a reduced fee or no
482 | fee.

483 | c. Public information requests, community functions,
484 | boards, and any program not directly related to enforcement of
485 | the Florida Building Code.

486 | d. Enforcement and implementation of any other local
487 | ordinance, excluding validly adopted local amendments to the
488 | Florida Building Code and excluding any local ordinance directly
489 | related to enforcing the Florida Building Code as defined in
490 | subparagraph 1.

491 | 4. A local government must use recognized management,
492 | accounting, and oversight practices to ensure that fees, fines,
493 | and investment earnings generated under this subsection are
494 | maintained and allocated or used solely for the purposes
495 | described in subparagraph 1.

496 | 5. The local enforcement agency, independent district, or
497 | special district may not require at any time, including at the
498 | time of application for a permit, the payment of any additional
499 | fees, charges, or expenses associated with:

500 | a. Providing proof of licensure under chapter 489;

501 b. Recording or filing a license issued under this
 502 chapter;

503 c. Providing, recording, or filing evidence of workers'
 504 compensation insurance coverage as required by chapter 440; or

505 d. Charging surcharges or other similar fees not directly
 506 related to enforcing the Florida Building Code.

507 Section 5. Section 440.103, Florida Statutes, is amended
 508 to read:

509 440.103 Building permits; identification of minimum
 510 premium policy.—Every employer shall, as a condition to applying
 511 for and receiving a building permit, show proof and certify to
 512 the permit issuer that it has secured compensation for its
 513 employees under this chapter as provided in ss. 440.10 and
 514 440.38. Such proof of compensation must be evidenced by a
 515 certificate of coverage issued by the carrier, a valid exemption
 516 certificate approved by the department, or a copy of the
 517 employer's authority to self-insure and shall be presented,
 518 electronically or physically, each time the employer applies for
 519 a building permit. As provided in s. 553.79(23) ~~s. 553.79(24)~~,
 520 for the purpose of inspection and record retention, site plans
 521 or building permits may be maintained at the worksite in the
 522 original form or in the form of an electronic copy. These plans
 523 and permits must be open to inspection by the building official
 524 or a duly authorized representative, as required by the Florida
 525 Building Code. As provided in s. 627.413(5), each certificate of

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526 | coverage must show, on its face, whether or not coverage is
527 | secured under the minimum premium provisions of rules adopted by
528 | rating organizations licensed pursuant to s. 627.221. The words
529 | "minimum premium policy" or equivalent language shall be typed,
530 | printed, stamped, or legibly handwritten.

531 | Section 6. This act shall take effect July 1, 2024.

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COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Local Administration,
 2 Federal Affairs & Special Districts Subcommittee
 3 Representative Esposito offered the following:
 4

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

7 Section 1. Paragraphs (g) and (h) are added to subsection
 8 (7) of section 553.73, Florida Statutes, to read:

9 553.73 Florida Building Code.—

10 (7)

11 (g) The commission shall modify the Florida Building Code
 12 to state that sealed drawings by a design professional shall not
 13 be required for the replacement of windows, doors, or garage
 14 doors in an existing building, provided that the replacement
 15 windows, doors, and garage doors shall be installed in
 16 accordance with the manufacturer's instructions for the

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17 appropriate wind zone, meet the design pressure requirements of
18 the current Florida Building Code, and a copy of the
19 manufacturer's instructions are submitted with the permit
20 application in a printed or digital format.

21 (h) The definition of the windborne debris region shall be
22 the same as defined in the Florida Building Code, Residential,
23 7th Edition until the adoption of the 9th Edition of the Florida
24 Building Code.

25 Section 2. Subsection (16) of section 553.79, Florida
26 Statutes, is amended to read:

27 553.79 Permits; applications; issuance; inspections.—

28 ~~(16) Except as provided in paragraph (c), a building~~
29 ~~permit for a single-family residential dwelling must be issued~~
30 ~~within 30 business days after receiving the permit application~~
31 ~~unless the permit application fails to satisfy the Florida~~
32 ~~Building Code or the enforcing agency's laws or ordinances.~~

33 ~~(a) If a local enforcement agency fails to issue a~~
34 ~~building permit for a single-family residential dwelling within~~
35 ~~30 business days after receiving the permit application, it must~~
36 ~~reduce the building permit fee by 10 percent for each business~~
37 ~~day that it fails to meet the deadline. Each 10-percent~~
38 ~~reduction shall be based on the original amount of the building~~
39 ~~permit fee.~~

40 ~~(b) A local enforcement agency does not have to reduce the~~
41 ~~building permit fee if it provides written notice to the~~

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42 ~~applicant, by e-mail or United States Postal Service, within 30~~
43 ~~business days after receiving the permit application, that~~
44 ~~specifically states the reasons the permit application fails to~~
45 ~~satisfy the Florida Building Code or the enforcing agency's laws~~
46 ~~or ordinances. The written notice must also state that the~~
47 ~~applicant has 10 business days after receiving the written~~
48 ~~notice to submit revisions to correct the permit application and~~
49 ~~that failure to correct the application within 10 business days~~
50 ~~will result in a denial of the application.~~

51 ~~(c) The applicant has 10 business days after receiving the~~
52 ~~written notice to address the reasons specified by the local~~
53 ~~enforcement agency and submit revisions to correct the permit~~
54 ~~application. If the applicant submits revisions within 10~~
55 ~~business days after receiving the written notice, the local~~
56 ~~enforcement agency has 10 business days after receiving such~~
57 ~~revisions to approve or deny the building permit unless the~~
58 ~~applicant agrees to a longer period in writing. If the local~~
59 ~~enforcement agency fails to issue or deny the building permit~~
60 ~~within 10 business days after receiving the revisions, it must~~
61 ~~reduce the building permit fee by 20 percent for the first~~
62 ~~business day that it fails to meet the deadline unless the~~
63 ~~applicant agrees to a longer period in writing. For each~~
64 ~~additional business day, but not to exceed 5 business days, that~~
65 ~~the local enforcement agency fails to meet the deadline, the~~
66 ~~building permit fee must be reduced by an additional 10 percent.~~

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67 ~~Each reduction shall be based on the original amount of the~~
68 ~~building permit fee.~~

69 ~~(d) If any building permit fees are refunded under this~~
70 ~~subsection, the surcharges provided in s. 468.631 or s. 553.721~~
71 ~~must be recalculated based on the amount of the building permit~~
72 ~~fees after the refund.~~

73 ~~(e) A building permit for a single-family residential~~
74 ~~dwelling applied for by a contractor licensed in this state on~~
75 ~~behalf of a property owner who participates in a Community~~
76 ~~Development Block Grant-Disaster Recovery program administered~~
77 ~~by the Department of Economic Opportunity must be issued within~~
78 ~~15 working days after receipt of the application unless the~~
79 ~~permit application fails to satisfy the Florida Building Code or~~
80 ~~the enforcing agency's laws or ordinances.~~

81 Section 3. Subsections (1) and (2) of section 553.792,
82 Florida Statutes, are amended and subsection (4) is added to
83 that section, to read:

84 553.792 Building permit application to local government.-

85 (1) (a) A local government must approve, approve with
86 conditions, or deny a building permit application after receipt
87 of a completed and sufficient application within the following
88 timeframes, unless the applicant waives such timeframes in
89 writing:

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90 1. For an applicant using a local government plans
91 reviewer to obtain a building permit, within 30 business days
92 after receiving a complete and sufficient application.

93 2. For an applicant using a private provider consistent
94 with s. 553.791 to obtain a building permit, within 15 business
95 days after receiving a complete and sufficient application.

96 3. For an applicant for a master plan permit, within 10
97 business days after receiving a complete and sufficient
98 application.

99 4. For an applicant for a single-family residential
100 dwelling applied for by a contractor licensed in this state on
101 behalf of a property owner who participates in a Community
102 Development Block Grant-Disaster Recovery program administered
103 by the Department of Commerce, within 10 business days after
104 receipt of the application unless the permit application fails
105 to satisfy the Florida Building Code or the enforcing agency's
106 laws or ordinances.

107 5. For an applicant for multifamily residential units,
108 within 60 business days after receiving a complete and
109 sufficient application.

110
111 If the local government does not approve, approve with
112 conditions, or deny the completed and sufficient application
113 within the required timeframes in this paragraph, the
114 application is deemed or determined to be approved.

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115 (b) A local government must meet the timeframes set forth
116 in this section for reviewing building permit applications
117 unless the timeframes set by local ordinance are more stringent
118 than those prescribed in this section.

119 (c) After ~~Within 10 days of~~ an applicant submits
120 ~~submitting~~ an application to the local government, the local
121 government must provide written notice to the applicant within 5
122 business days after receipt of the application advising ~~shall~~
123 ~~advise~~ the applicant what information, if any, is needed to deem
124 or determine that the application is properly completed in
125 compliance with the filing requirements published by the local
126 government. If the local government does not provide timely
127 written notice that the applicant has not submitted a ~~the~~
128 properly completed application, the application is ~~shall be~~
129 automatically deemed or determined to be properly completed and
130 accepted.

131 (d)1. Within 10 business ~~45~~ days after providing written
132 notice to the applicant that the application is properly
133 completed or upon receipt of any information needed to deem the
134 application complete ~~receiving a completed application~~, a local
135 government must provide written notice to ~~notify~~ an applicant if
136 additional information is required for the local government to
137 determine the sufficiency of the application, and the notice
138 must ~~shall~~ specify the additional information that is required.
139 The applicant may ~~must~~ submit the additional information to the

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140 local government or request that the local government act
141 without the additional information. When reviewing an
142 application for a building permit, a local government may not
143 request additional information from the applicant more than two
144 times unless the applicant waives such limitation in writing.
145 The local government's second request for information must be
146 made within 10 business days after the local government receives
147 the additional information indicated in the first request. The
148 local government must determine the sufficiency of the
149 application within 10 business days after receiving the
150 additional information from a second request. If the local
151 government does not provide to the applicant timely written
152 notice that the applicant must submit additional information to
153 determine whether the application is sufficient, the application
154 is automatically deemed or determined to be sufficient.

155 2. Before a second request for additional information may
156 be made, the local government must offer the applicant an
157 opportunity to meet in person or virtually with the local
158 government to attempt to resolve outstanding issues.

159 3. If an applicant believes a request for additional
160 information is not authorized by ordinance, rule, statute, or
161 other legal authority, the local government, at the applicant's
162 written request, must process the application within 10 business
163 days after receipt of such request and approve the application,
164 approve the application with conditions, or deny the application

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165 and provide the applicant with sufficient reason for such
166 denial. ~~While the applicant responds to the request for~~
167 ~~additional information, the 120-day period described in this~~
168 ~~subsection is tolled. Both parties may agree to a reasonable~~
169 ~~request for an extension of time, particularly in the event of a~~
170 ~~force majeure or other extraordinary circumstance. The local~~
171 ~~government must approve, approve with conditions, or deny the~~
172 ~~application within 120 days following receipt of a completed~~
173 ~~application.~~

174 (e) A local government shall maintain on its website a
175 policy containing procedures and expectations for expedited
176 processing of those building permits and development orders
177 required by law to be expedited.

178 ~~(b)1. When reviewing an application for a building permit,~~
179 ~~a local government may not request additional information from~~
180 ~~the applicant more than three times, unless the applicant waives~~
181 ~~such limitation in writing.~~

182 ~~2. If a local government requests additional information~~
183 ~~from an applicant and the applicant submits the requested~~
184 ~~additional information to the local government within 30 days~~
185 ~~after receiving the request, the local government must, within~~
186 ~~15 days after receiving such information:~~

187 ~~a. Determine if the application is properly completed;~~

188 ~~b. Approve the application;~~

189 ~~c. Approve the application with conditions;~~

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- 190 ~~d. Deny the application; or~~
- 191 ~~e. Advise the applicant of information, if any, that is~~
192 ~~needed to deem the application properly completed or to~~
193 ~~determine the sufficiency of the application.~~
- 194 ~~3. If a local government makes a second request for~~
195 ~~additional information from the applicant and the applicant~~
196 ~~submits the requested additional information to the local~~
197 ~~government within 30 days after receiving the request, the local~~
198 ~~government must, within 10 days after receiving such~~
199 ~~information:~~
- 200 ~~a. Determine if the application is properly completed;~~
- 201 ~~b. Approve the application;~~
- 202 ~~e. Approve the application with conditions;~~
- 203 ~~d. Deny the application; or~~
- 204 ~~e. Advise the applicant of information, if any, that is~~
205 ~~needed to deem the application properly completed or to~~
206 ~~determine the sufficiency of the application.~~
- 207 ~~4. Before a third request for additional information may~~
208 ~~be made, the applicant must be offered an opportunity to meet~~
209 ~~with the local government to attempt to resolve outstanding~~
210 ~~issues. If a local government makes a third request for~~
211 ~~additional information from the applicant and the applicant~~
212 ~~submits the requested additional information to the local~~
213 ~~government within 30 days after receiving the request, the local~~
214 ~~government must, within 10 days after receiving such information~~

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215 ~~unless the applicant waived the local government's limitation in~~
216 ~~writing, determine that the application is complete and:~~

217 ~~a. Approve the application;~~

218 ~~b. Approve the application with conditions; or~~

219 ~~c. Deny the application.~~

220 ~~5. If the applicant believes the request for additional~~
221 ~~information is not authorized by ordinance, rule, statute, or~~
222 ~~other legal authority, the local government, at the applicant's~~
223 ~~request, must process the application and either approve the~~
224 ~~application, approve the application with conditions, or deny~~
225 ~~the application.~~

226 ~~(f)(e)~~ If a local government fails to meet a deadline
227 ~~under this subsection provided in paragraphs (a) and (b), it~~
228 must reduce the building permit fee by 10 percent for each
229 business day that it fails to meet the deadline, unless the
230 parties agree in writing to a reasonable extension of time, the
231 delay is caused by the applicant, or the delay is attributable
232 to a force majeure or other extraordinary circumstance. Each 10-
233 percent reduction shall be based on the original amount of the
234 building permit fee, unless the parties agree to an extension of
235 time.

236 ~~(2)(a)~~ The procedures set forth in subsection (1) apply to
237 the following building permit applications: accessory structure;
238 alarm permit; nonresidential buildings less than 25,000 square
239 feet; electric; irrigation permit; landscaping; mechanical;

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240 plumbing; residential units including a single-family
241 residential ~~other than a single family unit~~ or a single-family
242 residential dwelling; multifamily residential not exceeding 50
243 units; roofing; signs; site-plan approvals and subdivision plats
244 not requiring public hearings or public notice; and lot grading
245 and site alteration associated with the permit application set
246 forth in this subsection. The procedures set forth in subsection
247 (1) do not apply to permits for any wireless communications
248 facilities ~~or when a law, agency rule, or local ordinance~~
249 ~~specify different timeframes for review of local building permit~~
250 ~~applications.~~

251 ~~(b) If A local government has different timeframes than~~
252 ~~the timeframes set forth in subsection (1) for reviewing~~
253 ~~building permit applications described in paragraph (a), the~~
254 ~~local government must meet the deadlines established by local~~
255 ~~ordinance. If a local government does not meet an established~~
256 ~~deadline to approve, approve with conditions, or deny an~~
257 ~~application, it must reduce the building permit fee by 10~~
258 ~~percent for each business day that it fails to meet the~~
259 ~~deadline. Each 10-percent reduction shall be based on the~~
260 ~~original amount of the building permit fee, unless the parties~~
261 ~~agree to an extension of time. This paragraph does not apply to~~
262 ~~permits for any wireless communications facilities.~~

263 Section 4. Paragraph (a) of subsection (7) of section
264 553.80, Florida Statutes, is amended to read:

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265 553.80 Enforcement.—

266 (7) (a) The governing bodies of local governments may
267 provide a schedule of reasonable fees, as authorized by s.
268 125.56(2) or s. 166.222 and this section, for enforcing this
269 part. These fees, and any fines or investment earnings related
270 to the fees, may only ~~shall~~ be used ~~solely~~ for carrying out the
271 local government's responsibilities in enforcing the Florida
272 Building Code, including upgrading technology hardware and
273 software systems that are used in enforcement. When providing a
274 schedule of reasonable fees, the total estimated annual revenue
275 derived from fees, and the fines and investment earnings related
276 to the fees, may not exceed the total estimated annual costs of
277 allowable activities. Any unexpended balances must be carried
278 forward to future years for allowable activities or must be
279 refunded at the discretion of the local government. A local
280 government may not carry forward an amount exceeding the average
281 of its operating budget for enforcing the Florida Building Code
282 for the previous 4 fiscal years. For purposes of this
283 subsection, the term "operating budget" does not include reserve
284 amounts. Any amount exceeding this limit must be used as
285 authorized in subparagraph 2. However, a local government that
286 established, as of January 1, 2019, a Building Inspections Fund
287 Advisory Board consisting of five members from the construction
288 stakeholder community and carries an unexpended balance in
289 excess of the average of its operating budget for the previous 4

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290 fiscal years may continue to carry such excess funds forward
291 upon the recommendation of the advisory board. The basis for a
292 fee structure for allowable activities must relate to the level
293 of service provided by the local government and must include
294 consideration for refunding fees due to reduced services based
295 on services provided as prescribed by s. 553.791, but not
296 provided by the local government. Fees charged must be
297 consistently applied.

298 1. As used in this subsection, the phrase "enforcing the
299 Florida Building Code" includes the direct costs and reasonable
300 indirect costs associated with review of building plans,
301 building inspections, reinspections, and building permit
302 processing; building code enforcement; and fire inspections
303 associated with new construction. The phrase may also include
304 training costs associated with the enforcement of the Florida
305 Building Code and enforcement action pertaining to unlicensed
306 contractor activity to the extent not funded by other user fees.

307 2. A local government must use any excess funds that it is
308 prohibited from carrying forward to rebate and reduce fees, or
309 to pay for the construction of a building or structure that
310 houses a local government's building code enforcement agency or
311 the training programs for building officials, inspectors, or
312 plans examiners associated with the enforcement of the Florida
313 Building Code. Excess funds used to construct such a building or
314 structure must be designated for such purpose by the local

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315 government and may not be carried forward for more than 4
316 consecutive years. An owner or builder who has a valid building
317 permit issued by a local government for a fee, or an association
318 of owners or builders located in the state that has members with
319 valid building permits issued by a local government for a fee,
320 may bring a civil action against the local government that
321 issued the permit for a fee to enforce this subparagraph.

322 3. The following activities may not be funded with fees
323 adopted for enforcing the Florida Building Code:

324 a. Planning and zoning or other general government
325 activities.

326 b. Inspections of public buildings for a reduced fee or no
327 fee.

328 c. Public information requests, community functions,
329 boards, and any program not directly related to enforcement of
330 the Florida Building Code.

331 d. Enforcement and implementation of any other local
332 ordinance, excluding validly adopted local amendments to the
333 Florida Building Code and excluding any local ordinance directly
334 related to enforcing the Florida Building Code as defined in
335 subparagraph 1.

336 4. A local government must use recognized management,
337 accounting, and oversight practices to ensure that fees, fines,
338 and investment earnings generated under this subsection are

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339 maintained and allocated or used solely for the purposes
340 described in subparagraph 1.

341 5. The local enforcement agency, independent district, or
342 special district may not require at any time, including at the
343 time of application for a permit, the payment of any additional
344 fees, charges, or expenses associated with:

345 a. Providing proof of licensure under chapter 489;

346 b. Recording or filing a license issued under this
347 chapter;

348 c. Providing, recording, or filing evidence of workers'
349 compensation insurance coverage as required by chapter 440; or

350 d. Charging surcharges or other similar fees not directly
351 related to enforcing the Florida Building Code.

352 Section 5. Section 440.103, Florida Statutes, is amended
353 to read:

354 440.103 Building permits; identification of minimum
355 premium policy.—Every employer shall, as a condition to applying
356 for and receiving a building permit, show proof and certify to
357 the permit issuer that it has secured compensation for its
358 employees under this chapter as provided in ss. 440.10 and
359 440.38. Such proof of compensation must be evidenced by a
360 certificate of coverage issued by the carrier, a valid exemption
361 certificate approved by the department, or a copy of the
362 employer's authority to self-insure and shall be presented,
363 electronically or physically, each time the employer applies for

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364 a building permit. As provided in s. 553.79(23) ~~s. 553.79(24)~~,
365 for the purpose of inspection and record retention, site plans
366 or building permits may be maintained at the worksite in the
367 original form or in the form of an electronic copy. These plans
368 and permits must be open to inspection by the building official
369 or a duly authorized representative, as required by the Florida
370 Building Code. As provided in s. 627.413(5), each certificate of
371 coverage must show, on its face, whether or not coverage is
372 secured under the minimum premium provisions of rules adopted by
373 rating organizations licensed pursuant to s. 627.221. The words
374 "minimum premium policy" or equivalent language shall be typed,
375 printed, stamped, or legibly handwritten.

376 Section 6. This act shall take effect January 1, 2025.

377

378

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

379

380 Remove everything before the enacting clause and insert:

381 An act relating to building regulations; amending s.
382 553.73, F.S.; requiring the Florida Building Commission to
383 modify Florida Building Code provisions concerning replacement
384 windows, doors, or garage doors in an existing building;
385 providing a definition for windborne debris region; amending s.
386 553.79, F.S.; removing provisions relating to acquiring building
387 permits for certain residential dwellings; amending s. 553.792,
388 F.S.; revising the timeframes for approving, approving with

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389 conditions, or denying certain building permits; requiring local
390 governments to follow the prescribed timeframes unless a local
391 ordinance is more stringent; requiring a local government to
392 provide written notice to an applicant under certain
393 circumstances; revising how many times a local government may
394 request additional information from an applicant; specifying
395 when a permit application is deemed complete and approved;
396 requiring the opportunity for an in-person or virtual meeting
397 before a second request for additional information may be made;
398 requiring a local government to process an application within a
399 specified timeframe without additional information upon written
400 request by the applicant; reducing permit fees by a certain
401 percentage if certain timeframes are not met; providing
402 exceptions; providing construction; conforming provisions to
403 changes made by the act; amending s. 553.80, F.S.; authorizing
404 local governments to use certain fees for certain technology
405 upgrades; amending s. 440.103, F.S.; conforming a cross-
406 reference; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 377 License or Permit to Operate a Vehicle for Hire

SPONSOR(S): Borrero

TIED BILLS: **IDEN./SIM. BILLS:** SB 648

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	13 Y, 0 N	Larkin	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Burgess	Darden
3) Commerce Committee			

SUMMARY ANALYSIS

Motor vehicles used for transporting persons or goods for compensation are called “vehicles for-hire” or “transportation for-hire.” The transport of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is also considered transportation “for hire.”

Some counties and municipalities require persons to obtain a permit or license to operate a vehicle for-hire within its jurisdiction. Counties are authorized by general law to license and regulate taxis, jitneys, limousines, rental cars, and other passenger vehicles for-hire that operate in the unincorporated areas of the county. Some municipalities currently license and regulate vehicles for-hire under their broad general powers because they are not currently prohibited from doing so in general law. Similarly, county airports and airport authorities are not restricted from licensing and regulating vehicles for-hire.

The bill:

- Prohibits a county or municipality from requiring a person to obtain an additional license from such county or municipality when that person holds a valid, active license or permit to operate a vehicle for-hire in any other county or municipality if the person:
 - Holds a valid, active license or permit to operate a vehicle for-hire in the county or municipality in which the person permanently resides.
 - Has not had a license or permit to operate a vehicle for hire suspended or revoked within the preceding 5 years.
- Provides that public-use airports are exempted from the provisions of the bill.
- Provides that certain persons who hold a valid, active license or permit to operate a vehicle-for-hire are exempted from the provisions of the bill when such person provides transportation of persons:
 - While on stretchers or wheelchairs, or
 - Whose handicap, illness, other incapacitation makes it impractical to be transported by a regular common carrier such as a bus, taxi, non-taxi, limousine, or other vehicle-for-hire.

The bill provides an effective date of July 1, 2024.

The bill may have an insignificant indeterminate fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

License or Permit to Operate a Vehicle for-Hire- Current Situation

Background

With certain exceptions¹, offering for lease or rent any motor vehicle or offering passengers transportation in exchange for compensation in the State of Florida qualifies the vehicle as a “for-hire vehicle.” A “for-hire vehicle” is a motor vehicle used for transporting persons or goods for compensation. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported for compensation in a motor vehicle not owned by the person owning the goods, such transportation is considered “for-hire.” In addition, the carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation “for-hire.”² Moreover, there are companies that provide for-hire medical transportation of individuals while they are on stretchers or wheelchairs, or are handicap, have an illness, injury, or other incapacitation.³ This kind of medical transportation is included in the definition of a “for-hire vehicle” because the vehicle is transporting passengers for compensation. Some local governments require a nonemergency and emergency medical transportation service provider to apply for a license or certificate.⁴

Florida law establishes specific financial responsibility requirements applicable to for-hire vehicles. For-hire vehicles, such as taxis and limousines, must maintain a motor vehicle liability policy with minimum limits of \$125,000 per person for bodily injury, \$250,000 per incident for bodily injury, and \$50,000 for property damage.⁵ The owner or operator of a for-hire vehicle may also prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy issued by an insurance carrier, which is a member of the Florida Insurance Guaranty Association, or by providing a certificate of self-insurance.⁶

Vehicles for-hire are not the same as transportation network companies or TNC’s, like Uber or Lyft. **The regulation and licensing of TNC’s are expressly preempted to the state** and are regulated by the Department of Financial Services.⁷

The State imposes annual license taxes on certain types of motor vehicles for-hire upon registration or renewal, including locally operated motor vehicles for-hire. These taxes range from a \$17 flat fee plus \$1.50 per cwt⁸ to a \$3.50 flat fee plus \$1.50 per cwt.⁹ However, the state does not require special licenses for drivers for vehicles for-hire.

¹ S. 320.01(15)(b), F.S.

² S. 320.01(15)(a), F.S.

³ A couple examples of medical transportation: *Explore about Nonmedical Transport Services*, Frang Zeal, July 22, 2022, <https://frangzeal.com/faq-s/> (last visited Jan. 12, 2024) and *Trans Mobility Private Hire Service*, Trans Mobility Private Hire Service, <https://www.transmobilityfl.com/> (last visited Jan. 12, 2024).

⁴ For example, Broward County requires nonemergency medical transportation service providers to obtain a license and requires emergency medical transport or non-transport services such as Advanced Life Services and Basic Life Services to obtain a certificate of public convenience and necessity from the Broward County Board of Commissioners. See, Requirements for a Nonemergency Medical Transportation Service License, https://www.broward.org/Consumer/Forms/Documents/NonemergencyMedicalTransportServLic_CPD2023.pdf (last visited Jan. 12, 2024); See also, Broward County Ordinance Code Sec. 3½-6.

⁵ S. 324.032(1), F.S.

⁶ S. 324.031, F.S.

⁷ S. 627.748(17)(a), F.S.

⁸ “Cwt” means the weight per hundred pounds, or major fraction thereof, of a motor vehicle. S. 320.01(8), F.S.

⁹ S. 320.08(6) and (14), F.S.

Counties

Counties are specifically authorized by general law to license and regulate taxis, jitneys, limousines, rental cars, and other passenger vehicles for-hire that operate in the unincorporated areas of the county.¹⁰ The county may impose licensing fees in order to license these vehicles for-hire.

Municipalities

Municipalities have broad home rule powers, authorizing them to enact legislation concerning any subject matter upon which the Legislature may act, except:

- The subjects of annexation, merger, and exercise of extraterritorial power, which require general or special law pursuant to s. 2(c), Art. VIII of the State Constitution;
- Any subject expressly prohibited by the State Constitution;
- Any subject expressly preempted to state or county government by the constitution or by general law; or
- Any subject preempted to a county pursuant to a county charter adopted under the authority of ss. 1(g), 3, and 6(e), Art. VIII of the State Constitution.¹¹

A municipality is allowed to impose reasonable regulatory fees, proportionate to the cost of the regulatory activity.¹²

Currently, counties and municipalities differ on whether they require vehicles for-hire to be licensed and regulated. Some counties require licensure and some do not. Some cities require licensure for vehicles for-hire within the city and also at the airport, while others only require the license for the city but not the airport and vice versa. Here are some examples of local requirements:¹³

- Miami-Dade County's Passenger Transportation Regulatory Division regulates for-hire chauffeurs and vehicles such as taxicabs, limousines, passenger motor carriers, including jitneys and tour vans. The county charges \$70 for an initial inspection fee; quarterly, semi-annual and annual inspection fees of \$38, depending on the type of service; \$35 for re-inspection; and \$20 for a replacement decal. The for-hire application fees are non-refundable and are separate from the annual license fee, inspection fees and Local Business Tax Receipt.¹⁴
- Hillsborough County requires any person engaged in the business of operating vehicles for-hire in the county to obtain a "public vehicle driver's license" (PVDL) from the Hillsborough County Tax Collector, in addition to a valid certificate for the operator and a valid permit for the vehicle after passing a safety and mechanical inspection. Vehicles 10 years of age or older must have additional inspections.¹⁵ A PVDL initial application and renewal fee is \$65 and requires fingerprinting.
- The City of Orlando's police department has a vehicle for-hire unit that requires applicants to show proof of payment of the business tax, pass a vehicle inspection, pass a national

¹⁰ S. 125.01(1)(n), F.S.; an incorporated area of the county means that the area is not located within the boundaries of an incorporated municipality.

¹¹ S. 166.021(3), F.S.

¹² S. 166.221, F.S; *see also* s. 205.042, F.S. (municipalities may levy, by appropriate resolution or ordinance, business tax for the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction).

¹³ Examples of other cities with vehicle for-hire requirements include: the City of Fort Lauderdale. *See Vehicle For Hire*, City of Fort Lauderdale, <https://www.fortlauderdale.gov/government/departments-i-z/transportation-and-mobility/vehicle-for-hire> (last visited Jan. 12, 2024).

¹⁴ Miami-Dade County, Transportation and Public Work, *For-Hire Transportation*, https://www.miamidade.gov/global/service.page?Mduid_service=ser1498077559199786 (last visited Jan. 12, 2024)

¹⁵ Hillsborough County Tax Collectors Office, <https://www.hillstax.org/other-services/vehicle-for-hire/ordinance-information/> (Last visited Jan. 12, 2024).

background check, and obtain a vehicle permit and a driver permit. The application fee for the vehicle for-hire permit is \$250 and each permit is \$200.¹⁶

Some cities and counties have made the decision to end their practice of specifically licensing vehicles for-hire.

- For example, Sarasota, Naples and Collier County made the decision in 2015 to stop licensing vehicles for-hire. “The decision will deregulate the industry once the county's ordinance is officially taken off the books in the coming weeks. Taxi companies will no longer have to buy commercial insurance and their drivers won't have to pass criminal background checks. Collier County will no longer issue licenses to taxi or limo companies. Essentially, anyone with a driver's license will be able to operate a car-for-hire in Collier County.”¹⁷

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.¹⁸ Special districts are created by general law, special act, local ordinance, or rule of the Governor and Cabinet.¹⁹ 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.²⁰ Special districts are funded through the imposition of ad valorem taxes, fees, or charges on the users of those services as authorized by law.²¹

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.²²

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.²³

*Preemption*²⁴

Generally, local governments are preempted from issuing occupational licenses that are not specifically authorized in general law. Local governments include counties, municipalities, and special districts.

¹⁶ *Vehicle for Hire Permit Application*, City of Orlando Police Department, <https://www.orlando.gov/Public-Safety/OPD/Start-a-Transportation-Company> (last visited Jan. 12, 2024).

¹⁷ Naples Daily News, Greg Stanley, *Collier tosses out regulations for cabs and ride-sharing, helping Uber and similar businesses*, <https://archive.naplesnews.com/business/local/collier-tosses-out-regulations-for-cabs-and-ride-sharing-helping-uber-and-similar-businesses-2319126-337701871.html/> (last visited Jan. 12, 2024).

¹⁸ See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019).

¹⁹ See ss. 189.02(1), 189.031(3), and 190.005(1), F.S. See generally s. 189.012(6), F.S.

²⁰ 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).

²¹ 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).

²² S. 189.012(2), F.S.

²³ S. 189.012(3), F.S.

²⁴ S. 163.211, F.S.

In 2021, the Governor signed HB 735, Preemption of Local Occupational Licensing, which preempts occupational licensing to the state unless the local government has specific authority to license and regulate as set out in general law. In 2023, the Governor signed HB 1383, which extended the expiration date for local licensing without general law authority to July 1, 2024. Because counties have specific authority in general law to license and regulate vehicles for-hire, HB 735 does not appear to affect a county's ability to license vehicles for-hire. However, this preemption may prevent municipalities from licensing and regulating vehicles for-hire after July 1, 2024, because they do not have specific authority to do so.²⁵

Public Use Airports

A "public-use airport" means any publicly owned airport which is used or to be used for public purposes.²⁶ An airport is classified as a commercial service airport when the U.S. Secretary of Transportation determines that it has more than 10,000 passenger boardings each year.²⁷

In Florida, the Department of Transportation (DOT) is responsible for planning airport systems and overseeing the public airport system.²⁸ The owner or lessee of a proposed public airport²⁹ must receive DOT approval before site acquisition, construction, or establishment of a public airport facility.³⁰ DOT is also responsible for licensing public airport facilities prior to the operation of aircraft to or from the facility and must inspect such facilities prior to licensing or renewal.³¹ Current law authorizes local governments to establish and operate airports.³² Neither state law nor federal law establish requirements for airport governance or ownership. As such, Florida airports operate under either a government department model (where the airport operates as a department of the local government) or an airport authority model (where the airport authority is created as either an independent or a dependent special district). Because airports are generally governed and subsumed as part of local governments, state law provides for very little oversight and accountability.

With respect to county-owned or operated airports, the board of county commissioners has the right, power, and authority to enter into contracts with one or more motor carriers for the transportation of passengers for-hire between airports and points within such county.³³ These contracts define the period of authorization to transport passengers.³⁴ The county is required to use the competitive bidding process³⁵ to grant an exclusive right to use certain parking areas at the county-owned airport for motor carriers for the transportation of passengers, such as a taxicab and limousine stand.³⁶ A county-owned airport, which is located within the jurisdictional boundaries of a municipality, is under the county's exclusive authority and the municipality does not have authority over such airport.³⁷

²⁵ See s. 163.211, F.S.; This may be preempted on July 1, 2024.

²⁶ S. 332.004(14), F.S.

²⁷ 49 U.S.C.A. § 47102 (2018); see also, s. 332.0075 (1)(a), F.S.

²⁸ S. 332.001, F.S.

²⁹ S. 330.27(6), F.S. For purposes of DOT approval and licensure, the term "public airport" means a publicly or privately-owned airport for public use.

³⁰ S. 330.30(1), F.S.

³¹ S. 330.30(2), F.S.

³² See ch.332, F.S.

³³ This does not apply to counties who own or operate an airport which is located on land that is separated from the mainland of the state by a body of water or the county has a population between 150,000 and 200,000. S. 331.15(2), F.S.

³⁴ S. 331.15(2), F.S.

³⁵ "Competitive bidding is a process of issuing a public bid with the intent that companies will put together their best proposal and compete for a specific project." *Competitive Bidding: What Is Competitive Bidding?*, FindRFP Inc. <https://www.findrfp.com/Government-Contracting/competitive-bidding.aspx> (last visited Jan. 12, 2024); A county is required to use a competitive bidding procedure to lease county-owned property. See 1988 Op. Att'y Gen. Fla. 110 (1988).

³⁶ *Randall Indus., Inc. v. Lee Cnty.*, 307 So. 2d 499, 501 (Fla. 2d DCA 1975).

³⁷ Fla. Att'y Gen. Op. 2009-46 (2009); s. 125.015, F.S.; see also *City of Dania v. Hertz Corp.*, 518 So. 2d 1387, 1388 (Fla. 4th DCA 1988).

Some airport authorities require vehicles for-hire to obtain a permit to operate from the local government and the airport. For example, Orlando International Airport requires vehicles for hire to have:³⁸

- a valid, current driver's license issued by the City of Orlando,
- a vehicle permit (V-Permit) decal issued by the Orlando International Airport displayed on the vehicle at all times, and
- a vehicle for-hire permit decal issued by the City of Orlando displayed on the vehicle at all times.

The Fort Lauderdale-Hollywood International Airport requires persons that operate a vehicle for hire to first register with and obtain a permit from the Environmental and Consumer Protection Division of Broward County. Then, persons with a permit to operate a vehicle for hire must apply for a decal permit from the Broward County Aviation Department.³⁹ The Jacksonville International Airport has a similar arrangement.⁴⁰

On the other hand, some airport authorities issue a separate permit for vehicles for-hire for transporting passengers at the airport. For example, the Orlando Sanford International Airport requires a vehicle for hire to obtain a ground transportation prearranged permit which is issued by the airport.⁴¹ This includes a ground transportation agreement which excludes taxicabs.⁴²

The following are public-use airports:⁴³

- Airglades Airport;
- Arcadia Municipal Airport;
- Bartow Executive Airport;
- Boca Raton Airport;
- Calhoun County Airport;
- Clearwater Air Park;
- Dade-Collier Training and Transition Airport;
- DeLand Municipal - Sidney H. Taylor Field;
- Downtown Fort Lauderdale Heliport;
- Fernandina Beach Municipal Airport;
- Fort Lauderdale/Hollywood International Airport;
- Herlong Recreational Airport;
- Inverness Airport;
- Key West International Airport;
- La Belle Municipal Airport;
- Lakeland Linder International Airport;
- Marianna Municipal Airport;
- Merritt Island Airport;
- Albert Whitted Airport;
- Arthur Dunn Air Park;
- Belle Glade State Municipal Airport;
- Brooksville - Tampa Bay Regional Airport;
- Carrabelle - Thompson Airport;
- Cross City Airport;
- Daytona Beach International Airport;
- Destin - Fort Walton Beach Airport / Eglin Air Force Base;
- Everglades Airpark;
- Flagler Executive Airport;
- Gainesville Regional Airport;
- Hilliard Airpark;
- Jacksonville Executive at Craig Airport;
- Keystone Heights Airport;
- Lake City Gateway Airport;
- Leesburg International Airport;
- Marion County Airport;
- Miami Executive Airport;
- Apalachicola Regional-Cleve Randolph Field;
- Avon Park Executive Airport;
- Bob Sikes Airport;
- Buchan Airport;
- Cecil Airport;
- Crystal River - Captain Tom Davis Field;
- Defuniak Springs Airport;
- Destin Executive Airport;
- Orlando Executive Airport;
- Fort Lauderdale Executive Airport;
- George T. Lewis Airport;
- Immokalee Regional Airport;
- Jacksonville International Airport;
- Kissimmee Gateway Airport;
- Lake Wales Municipal Airport;
- Marco Island Executive Airport;
- Melbourne Orlando International Airport;
- Miami Homestead General

³⁸ Greater Orlando Aviation Authority, Vehicle-For-Hire (VFH): V-Permit Holders and Drivers Handbook p. 5, Orlando International Airport, <https://orlandoairports.net/site/uploads/VFH-Handbook.pdf> (last visited Jan. 26, 2024).

³⁹ *Operational Guidelines for Ground Transportation at Fort Lauderdale-Hollywood International Airport*, p. 5, Broward County Board of County Commissioners (Aug. 17, 2021), <https://www.broward.org/Airport/Business/about/Documents/Operationalguidelinesforgroundtransportationservices01.pdf> (last visited Jan. 26, 2024).

⁴⁰ First a person must obtain a vehicle for hire permit issued from the City of Jacksonville. Then, the person must obtain an annual permit from the Jacksonville Aviation Authority. *Commercial Ground Transportation Policy* p. 7, Jacksonville International Airport, Jacksonville Aviation Authority, (Jan. 28, 2013), <https://flyjacksonville.com/PDFs/AppndxG.pdf> (last visited Jan. 26, 2024).

⁴¹ The fees to obtain a permit to operate vehicle for hire depend on the weight and length of the vehicle.

⁴² *2023 Ground Transportation Pre-Arranged Permit*, Orlando Sanford International Airport, <https://web1.osaa.net/GTX/docs/GT-Permit-2023-for-Website.pdf> (last visited Jan. 26, 2024).

⁴³ E-mail from Lisa Waters, President/CEO, Florida Airports Council, RE: HB 807 (April 14, 2023) (on file with Regulatory Reform & Economic Development Subcommittee).

- Miami International Airport;
- New Smyrna Beach Municipal Airport;
- Northeast Florida Regional Airport;
- Okeechobee County Airport;
- Ormond Beach Municipal Airport;
- Palm Beach County Glades Airport;
- Pensacola International Airport;
- Peter Prince Field;
- Pompano Beach Airpark;
- Sarasota/Bradenton International Airport;
- Southwest Florida International Airport;
- St Pete-Clearwater International Airport;
- Tampa Executive Airport;
- The Florida Keys Marathon International Airport;
- Umatilla Municipal Airport;
- Vero Beach Regional Airport;
- Williston Municipal Airport;
- Zephyrhills Municipal Airport
- Miami-Opa Locka Executive Airport;
- North Palm Beach County General Aviation Airport;
- Northwest Florida Beaches International Airport;
- Orlando International Airport;
- Page Field;
- Palm Beach County Park Airport;
- Perry-Foley Airport;
- Pierson Municipal Airport;
- Punta Gorda Airport;
- Sebastian Municipal Airport;
- Space Coast Regional Airport;
- Suwannee County Airport;
- Tampa International Airport;
- Treasure Coast International Airport;
- Valkaria Airport;
- Wakulla County Airport;
- Winter Haven Regional Airport;
- Aviation Airport;
- Naples Municipal Airport;
- North Perry Airport;
- Ocala International-Jim Taylor Field;
- Orlando Sanford International Airport;
- Palatka Municipal-Lt Kay Larkin Field;
- Palm Beach International Airport;
- Peter O Knight Airport;
- Plant City Airport;
- Quincy Municipal Airport;
- Sebring Regional Airport;
- St Cloud Seaplane Base;
- Tallahassee International Airport;
- Tavares Seaplane Base;
- Tri-County Airport;
- Venice Municipal Airport;
- Wauchula Municipal Airport; and
- Witham Field.

Effect of the Bill

Counties and Municipalities

The bill provides an exception from certain local licensing requirements for a person who holds a valid, active license or permit issued by a county or municipality to operate a vehicle for-hire. Such person may operate a vehicle-for hire without being subject to additional licensing or permitting requirements and without paying additional fees if the person:

- Holds a valid, active license or permit to operate a vehicle for hire in the county or municipality in which the person is domiciled.⁴⁴
- Has not had a license or permit to operate a vehicle for hire suspended or revoked within the preceding 5 years.

A county may still license and regulate taxis, jitneys, limousines, rental cars, and other passenger vehicles for-hire. However, if the person is already licensed or permitted by the county or municipality where they live and has a license or permit in good standing, the county will not be able to enforce additional licensing or permitting requirements or impose additional fees upon that person.

As for municipalities, if a person is licensed or permitted by the area where they live and has a license or permit in good standing, the municipality will not be able to enforce additional licensing or permitting requirements or impose additional fees upon that person.

A person who is unlicensed or does not fall within the exception may be able to obtain a license or permit to operate a vehicle for hire in another county or municipality, despite where he or she currently lives.

Thus, the bill allows persons who possess a license or permit in one jurisdiction to operate a vehicle for-hire in other jurisdictions without being subject to obtaining another license or permit.

⁴⁴ Domicile means someone's permanent residence or principal home. *Domicile Definition and Meaning*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/domicile> (last visited Jan. 12, 2024).

The bill states that this section does not grant specific authority to counties, municipalities, or special districts to regulate or license vehicles.

Furthermore, the bill provides that reciprocity under certain circumstances **does not apply** to a person who holds a valid, active license or permit to operate a vehicle when such person provides transportation of persons:

- While on stretchers or wheelchairs, or
- Whose handicap, illness, other incapacitation makes it impractical to be transported by a regular common carrier such as a bus, taxi, non-taxi, limousine, or other vehicle-for-hire.

This will likely allow counties or municipalities to maintain or implement required certifications or licenses for a company to operate a medical transportation service for hire.

Public Use Airports

The bill provides that the ability for a person to operate a vehicle for hire to obtain reciprocity under certain circumstances **does not apply** to an airport that licenses or certifies persons who operate a vehicle for hire. For purposes of this section, the term "airport" includes an airport, airport authority, aviation authority, or other entity that operates a public-use airport as defined in s. 332.004(14), F.S.⁴⁵, including counties, municipalities or special districts that operate airports defined in this subsection.

Overall, this will allow an airport to license or permit persons who operate a vehicle for hire and charge a licensing fee.

B. SECTION DIRECTORY:

Section 1. Creating s. 320.0603, F.S., relating to a license or permit to operate a vehicle for hire.

Section 2. 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:

The bill may potentially impact the revenues of municipalities who raise revenue from the licenses that they issue if such fees are not in proportion to the regulatory activity. However, municipalities are required to only impose regulatory fees that are proportionate to the cost of regulation in accordance with section 166.221, F.S. Since municipalities will no longer be issuing as many licenses or inspecting as many vehicles for hire, this loss of revenue should be offset by a decrease in expenditures.

⁴⁵ A "public-use airport" means any publicly owned airport which is used or to be used for public purposes. S. 332.004(14), F.S.

As for counties, the negative impact on revenues is indeterminate.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There may be a positive economic impact on the vehicles for-hire industry. There would be a positive economic impact for persons who:

- hold a valid, active license or permit to operate a for hire vehicle in the municipality or county where they live and
- maintain their license or permit to operate in good standing for the preceding 5 years.

Such persons will not be subject to additional licensing or permitting requirements or fees in other municipalities or counties.

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

None.

1 A bill to be entitled
 2 An act relating to a license or permit to operate a
 3 vehicle for hire; creating s. 320.0603, F.S.;
 4 providing that a person who holds a license or permit
 5 issued by a county or municipality to operate a
 6 vehicle for hire may operate a vehicle for hire in any
 7 other county or municipality without being subject to
 8 certain requirements or fees under certain
 9 circumstances; defining the term "airport"; providing
 10 construction and applicability; providing an effective
 11 date.

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

14
 15 Section 1. Section 320.0603, Florida Statutes, is created
 16 to read:

17 320.0603 Vehicle-for-hire license or permit; reciprocity.—

18 (1) A person who holds a valid, active license or permit
 19 issued by a county or municipality to operate a vehicle for hire
 20 may operate a vehicle for hire in any other county or
 21 municipality without being subject to additional licensing or
 22 permitting requirements and without paying additional license or
 23 permit fees if the person:

24 (a) Holds a valid, active license or permit to operate a
 25 vehicle for hire in the county or municipality in which the

26 person is domiciled; and

27 (b) Has not had a license or permit to operate a vehicle
 28 for hire suspended or revoked within the preceding 5 years.

29 (2) Notwithstanding subsection (1) or subsection (3), this
 30 section does not apply to an airport. For purposes of this
 31 section, the term "airport" includes an airport, airport
 32 authority, aviation authority, or other entity that operates a
 33 public-use airport as defined in s. 332.004, including counties,
 34 municipalities, or special districts that operate airports
 35 defined in this subsection.

36 (3) This section does not grant specific authority to
 37 counties, municipalities, or special districts to regulate or
 38 license vehicles for hire which is required by s. 163.211.

39 (4) This section does not apply to a person who holds a
 40 valid, active license or permit to operate a vehicle for hire
 41 when such person provides transportation of persons while on
 42 stretchers or wheelchairs, or transportation of persons whose
 43 disability, illness, injury, or other incapacitation makes it
 44 impractical to be transported by a regular common carrier such
 45 as a bus, taxi, non-taxi, limousine, or other vehicle for hire.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 503 Limitation on Local Fees for Virtual Offices

SPONSOR(S): Fabricio

TIED BILLS: **IDEN./SIM. BILLS:** SB 578

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

Counties can levy and collect taxes, both for county purposes and for the provision of municipal services within a municipal services taxing unit, in a manner provided by general law. A municipality can raise amounts of money which are necessary for the conduct of municipal government and may enforce that receipt and collection in a manner prescribed by ordinance not inconsistent with general law.

The bill prohibits a county, municipality, or local governmental entity from adopting or maintaining in effect any ordinance or rule that has the effect of imposing a "tax, charge, fee, or other imposition" on a virtual office. For the purposes of this prohibition, the bill defines:

- A "tax, charge, fee, or other imposition" as any amount or in-kind payment of property or services, regardless of whether such amount or in-kind payment is designated as a user fee, privilege fee, occupancy fee, or rental fee; and
- A "virtual office" as an office that provides communications services, such as telephone or facsimile services, and address services without providing dedicated office space.

The bill does not appear to have a fiscal impact on state government, but may have an indeterminate negative fiscal impact on 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 these 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

Local Government Revenue Sources

Governments obtain revenue necessary to fund their operations and pay necessary expenses from a variety of sources. The nature of these revenue sources and the purpose for which such revenue may be used varies. Among the sources of governmental revenue are taxes, various fees and assessments, charges for goods or services, fines and penalties, gifts, grants and intergovernmental transfers and borrowing.⁷

In an overarching sense, all of these sources of revenue share some common attributes. They are all sources of revenue available to governments to be spent for their operations. They all represent a diversion of resources from the private sector to the public sector of the economy. There are also important legal, economic and practical differences between these revenue sources and the purposes for which the funds that they generate may be used. For example, some levies are often government

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 S. 125.67 and 166.041(2), F.S.

⁷ *See generally* Joseph Bishop-Henchman, *How Is the Money Used? Federal and State Cases Distinguishing Taxes and Fees*, Tax Foundation (Mar. 27, 2013), <https://taxfoundation.org/blog/how-money-used-federal-and-state-cases-distinguishing-taxes-and-fees> (last visited Jan. 27, 2024).

exactions of money to pay for governmental goods or services that are either unrelated or only distantly related to the activity, person, or entity being taxed. Alternatively, there may be some direct “benefit” to the payer, but there is limited or no ability to avoid the levy. The lines differentiating between these revenue sources are not always clear.⁸

Counties can levy and collect taxes, both for county purposes and for the provision of municipal services within a municipal services taxing unit, in a manner provided by general law.⁹ A municipality can raise amounts of money which are necessary for the conduct of municipal government and may enforce that receipt and collection in a manner prescribed by ordinance not inconsistent with general law.¹⁰

Effect of Proposed Change

The bill prohibits a county, municipality, or local governmental entity from adopting or maintaining in effect any ordinance or rule that has the effect of imposing a “tax, charge, fee, or other imposition” on a virtual office. For the purposes of this prohibition, the bill defines:

- A “tax, charge, fee, or other imposition” as any amount or in-kind payment of property or services, regardless of whether such amount or in-kind payment is designated as a user fee, privilege fee, occupancy fee, or rental fee; and
- A “virtual office” as an office that provides communications services, such as telephone or facsimile services, and address services without providing dedicated office space.

B. SECTION DIRECTORY:

Section 1: Creates s. 125.01035, F.S., prohibiting counties, municipalities, and local government entities from imposing a tax or other imposition on virtual offices.

Section 2: Creates s. 166.272, F.S., prohibiting municipalities from levying a tax or other imposition on virtual offices.

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:

⁸ See *City of De Land v. Fla. Pub. Serv. Co.*, 119 Fla. 819, 823, (1935) (“What controls our judgment in cases...involving the attempted imposition of taxes of the character here...is the underlying reality of the tax ordinance rather than the form or label of the challenged tax.”); *City of Gainesville v. State*, 863 So. 2d 138, 144-45 (Fla. 2003) (when determining whether a charge is an assessment or fee, the name of the charge is only one factor to consider among a list of factors).

⁹ S. 125.01(1)(r), F.S.

¹⁰ S. 166.201, F.S.

1. Revenues:

The Revenue Estimate Conference estimated the bill to have an indeterminate negative fiscal impact on local government revenues, as the bill prohibits local governments from levying on or collecting a tax, charge, fee, or other imposition with respect to the utilization of a virtual office space but no local government has been identified as being potentially impacted.¹¹

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:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill prohibits counties and municipalities from levying certain tax, charges, fees, and other imposition on virtual offices. 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:

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.

¹¹ Revenue Estimating Conference, *Limitation on Local Fees for Virtual Offices*, http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2024/_pdf/page176-177.pdf (last visited Jan. 29, 2024).
STORAGE NAME: h0503.LFS **PAGE: 4**
DATE: 1/29/2024

1 A bill to be entitled
 2 An act relating to limitation on local fees for
 3 virtual offices; creating ss. 125.01035 and 166.272,
 4 F.S.; prohibiting a county, municipality, or local
 5 governmental entity from imposing, levying, or
 6 collecting certain fees relating to the utilization of
 7 a virtual office; providing definitions; providing an
 8 effective date.

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

11
 12 Section 1. Section 125.01035, Florida Statutes, is created
 13 to read:

14 125.01035 Limitation on local fees.-

15 (1) A county, municipality, or local governmental entity
 16 may not adopt or maintain in effect an ordinance or a rule that
 17 has the effect of imposing a tax, charge, fee, or other
 18 imposition on or with respect to the utilization of a virtual
 19 office.

20 (2) For purposes of this section, the term:

21 (a) "Tax, charge, fee, or other imposition" includes any
 22 amount or in-kind payment of property or services, regardless of
 23 whether such amount or in-kind payment of property or services
 24 is designated as a user fee, privilege fee, occupancy fee, or
 25 rental fee.

26 (b) "Virtual office" means an office that provides
 27 communications services, such as telephone or facsimile
 28 services, and address services without providing dedicated
 29 office space.

30 Section 2. Section 166.272, Florida Statutes, is created
 31 to read:

32 166.272 Limitation on local fees.—

33 (1) A municipality may not levy on or collect from a
 34 person any tax, charge, fee, or other imposition on or with
 35 respect to the utilization of a virtual office.

36 (2) For purposes of this section, the term:

37 (a) "Tax, charge, fee, or other imposition" includes any
 38 amount or in-kind payment of property or services, regardless of
 39 whether such amount or in-kind payment of property or services
 40 is designated as a user fee, privilege fee, occupancy fee, or
 41 rental fee.

42 (b) "Virtual office" means an office that provides
 43 communications services, such as telephone or facsimile
 44 services, and address services without providing dedicated
 45 office space.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 509 Collier Mosquito Control District, Collier County
SPONSOR(S): Melo
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.

Mosquito control districts (MCDs) are created to protect health and safety, improve quality of life, promote economic development, and allow for the enjoyment of natural attractions of the state by reducing the number of insects that transmit disease within their boundaries. An MCD may contain part or all of a county or municipality. As of January 25, 2024, there were 18 mosquito control districts: 15 independent districts and three dependent districts.

The Collier Mosquito Control District (CMCD) is an independent MCD in Collier County created in 1950. The charter of the district was re-codified in 2001. The CMCD originally served an area of six square miles, but has been subsequently expanded to cover an area of 401 square miles.

The bill revises the boundaries of CMCD to include approximately 329 square miles in northern and eastern Collier County, including the area contained in the Ave Maria Stewardship Community District that is currently served by CMCD through an interlocal agreement. The boundary expansion of the CMCD was approved by the Collier County Board of County Commissioners, as required by statute, and by the electors of the area to annexed into the district.

The Economic Impact Statement (EIS) projects a net decline in CMCD revenues by approximately \$86,710 and \$64,485 in the first and second fiscal year, respectively, as services currently paid for via an interlocal agreement will instead be paid for by ad valorem taxation. The EIS also projects cost increases of approximately \$983,774 and \$920,569 for the first and second fiscal year, respectively, associated with acquiring additional equipment and hiring staff to service areas that are not currently serviced by the CMCD.

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

Mosquito Control Districts

Mosquito control districts (MCDs) are created to protect health and safety, improve quality of life, promote economic development, and allow for the enjoyment of natural attractions of the state by reducing the number of insects that transmit disease within their boundaries.⁸ An MCD may contain part or all of a county or municipality.⁹ As of January 18, 2024, there were 18 mosquito control districts: 15 independent districts and three dependent districts.¹⁰

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 Ss. 388.0101 and 388.011(5), F.S.

⁹ S. 388.021(1), 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. 25, 2024).

The creation of new MCDs has been prohibited since July 1, 1980.¹¹ In counties without a district, the board of county commissioners may exercise the rights, powers, and duties authorized by statute for an MCD or may direct the county health department to do so.¹² For MCDs formed prior to July 1, 1980, the district board of commissioners may request the board of county commissioners for the county in which the district lies to approve a change in the boundaries of the district.¹³

General law authorizes MCDs to levy an ad valorem tax of up to 10 mills on real and personal property within the district.¹⁴ If an area is added to a district's boundaries, an ad valorem tax may only be levied in the added area if approved by a referendum in the area added to the district.¹⁵

Collier Mosquito Control District

The Collier Mosquito Control District (CMCD) is an independent MCD in Collier County created in 1950.¹⁶ The charter of the district was re-codified in 2001.¹⁷ The CMCD originally served an area of six square miles, but has been subsequently expanded to cover an area of 401 square miles.¹⁸ The district is governed by five-member board elected to serve 4-year terms.¹⁹

Effect of Proposed Change

The bill revises the boundaries of CMCD to include approximately 329 square miles in northern and eastern Collier County, including the area contained in the Ave Maria Stewardship Community District that is currently served by CMCD through an interlocal agreement. The boundary expansion of the CMCD was approved by the Collier County Board of County Commissioners,²⁰ as required by statute, and by the electors of the area to annexed into the district.²¹

The Economic Impact Statement (EIS) projects a net decline in CMCD revenues by approximately \$86,710 and \$64,485 in the first and second fiscal year, respectively, as services currently paid for via an interlocal agreement will instead be paid for by ad valorem taxation. The EIS also projects cost increases of approximately \$983,774 and \$920,569 for the first and second fiscal year, respectively, associated with acquiring additional equipment and hiring staff to service areas that are not currently serviced by the CMCD.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2001-298, Laws of Fla., as amended, revising boundaries of the CMCD.

Section 2: Provides the boundary expansion was approved by a majority of qualified electors residing in the areas to be added in a referendum held August 23, 2022.

¹¹ S. 388.021(2), F.S.

¹² Ss. 388.241 and 388.251, F.S. The county health department must keep the books and make all reports require under ch. 388, F.S., and all purchases, whether by bid or otherwise, must be made in accordance with the procedures allowed by the board of county commissioners. The health department must also submit to the board of county commissioners itemized monthly statements of expenses incurred in carrying out the control program in the county.

¹³ S. 388.211(1), F.S.

¹⁴ S. 388.221(1), F.S.

¹⁵ See art. VII, s. 9(b), Fla. Const. (setting maximum ad valorem millage rate for special districts at "a millage authorized by law approved by vote of the electors").

¹⁶ Collier Mosquito Control District, *About the District*, <https://cmcd.org/about-the-district/> (last visited Jan. 26, 2024).

¹⁷ Ch. 2001-298, Laws of Fla.

¹⁸ Collier Mosquito Control District, *About the District*, <https://cmcd.org/about-the-district/> (last visited Jan. 26, 2024).

¹⁹ Ch. 2001-298, s. 3(1)(e), Laws of Fla.

²⁰ Collier County, Fla. Resolution 2021-156 (July 13, 2021).

²¹ See Collier County Supervisor of Elections, *2022 Primary Election*, available at <https://www.colliervotes.gov/Research-Data/Past-Results> (last visited Jan. 26, 2024).

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? September 18, 2023.

WHERE? *Naples Daily News*, a daily newspaper published in Collier County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? August 23, 2022.

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes 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.

1 A bill to be entitled
 2 An act relating to Collier Mosquito Control District,
 3 Collier County; amending chapter 2001-298, Laws of
 4 Florida, as amended; amending district boundaries to
 5 add new lands; providing that the boundary expansion
 6 was approved at referendum; providing an effective
 7 date.
 8

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

10
 11 Section 1. Section 1 of section 3 of chapter 2001-298,
 12 Laws of Florida, as amended by chapter 2004-425, Laws of
 13 Florida, is amended to read:

14 Section 1. Minimum charter requirements.—In accordance
 15 with section 189.031(3) ~~189.404(3)~~, Florida Statutes, the
 16 following subsections shall comprise the minimum required
 17 charter provisions for Collier Mosquito Control District:

18 (a) The District is organized and exists for all purposes
 19 set forth in this act and chapter 388, Florida Statutes, as they
 20 may be amended from time to time.

21 (b) The powers, functions, and duties of the District
 22 regarding ad valorem taxation, non-ad valorem assessments, bond
 23 issuance, other revenue-raising capabilities, budget preparation
 24 and approval, liens, foreclosure of liens, use of tax deeds and
 25 tax certificates, and contractual agreements shall be as set

26 | forth in chapters 170, 189, 197, 200, and 388, Florida Statutes,
27 | this act, or any other applicable general or special law, as
28 | they may be amended from time to time.

29 | (c) The District was created by the petition process
30 | formerly contained in chapter 390, Florida Statutes, 1949.

31 | (d) The District's charter may be amended only by special
32 | act of the Legislature, unless otherwise provided by chapter
33 | 189, Florida Statutes, or chapter 388, Florida Statutes, as
34 | amended from time to time.

35 | (e) In accordance with section 388.101(2), Florida
36 | Statutes, the District is governed by a five-member board. The
37 | membership and organization of the board shall be as set forth
38 | in this act and chapter 388, Florida Statutes, as they may be
39 | amended from time to time.

40 | (f) Board members may be paid a salary in accordance with
41 | this act and chapter 388, Florida Statutes, as they may be
42 | amended from time to time. Notwithstanding section 388.141(1),
43 | Florida Statutes, board members may also receive benefits, such
44 | as medical insurance or accidental death and dismemberment
45 | insurance, in addition to the maximum salary allowed under
46 | general law. Each additional benefit will be granted by
47 | unanimous resolution of the District with all members present.

48 | (g) The administrative duties of the Board of
49 | Commissioners shall be as set forth in this act and chapter 388,
50 | Florida Statutes, as they may be amended from time to time.

51 (h) Requirements for financial disclosure, meeting
52 notices, reporting, public records maintenance, and per diem
53 expenses for officers and employees shall be as set forth in
54 chapters 112, 189, 286, and 388, Florida Statutes, as they may
55 be amended from time to time.

56 (i) The procedures and requirements governing the issuance
57 of bonds, notes, and other evidence of indebtedness by the
58 District shall be as set forth in chapters 189 and 388, Florida
59 Statutes, and applicable general laws, as they may be amended
60 from time to time.

61 (j) The procedures for conducting District elections and
62 for qualification of electors shall be pursuant to chapters 189
63 and 388, Florida Statutes, and applicable general laws, as they
64 may be amended from time to time.

65 (k) The District may be financed by any method established
66 in this act, chapter 189, Florida Statutes, or chapter 388,
67 Florida Statutes, or any applicable general laws, as they may be
68 amended from time to time.

69 (l) Pursuant to section 388.221, Florida Statutes, as it
70 may be amended from time to time, the District's authority to
71 levy upon all of the personal and real taxable property in the
72 District a special tax during each year as maintenance tax is
73 preserved.

74 (m) The method for collecting non-ad valorem assessments,
75 fees, service charges, or state matching funds shall be as set

76 | forth in chapters 170, 197, and 388, Florida Statutes, as they
 77 | may be amended from time to time.

78 | (n) The District's planning requirements shall be as set
 79 | forth in chapters 189 and 388, Florida Statutes, as they may be
 80 | amended from time to time.

81 | (o) The District's geographic boundary limitations shall
 82 | be as follows and may be amended pursuant to section 388.211,
 83 | Florida Statutes, as amended from time to time:

84 |
 85 | BEGINNING WHERE THE NORTH LINE OF TOWNSHIP 48S RANGE 25E
 86 | EXTENDED WESTERLY INTERSECTS THE WESTERN BOUNDARY OF THE
 87 | STATE OF FLORIDA IN THE WATERS OF THE GULF OF MEXICO;
 88 | THENCE EASTERLY ALONG SAID TOWNSHIP LINE TO THE NORTHEAST
 89 | CORNER OF SECTION 5, TOWNSHIP 48S RANGE 25E; THENCE
 90 | SOUTHERLY ALONG THE EAST LINE OF SECTION 5 TO THE SOUTHEAST
 91 | CORNER OF SECTION 5, TOWNSHIP 48S RANGE 25E, ALSO KNOWN AS
 92 | THE NORTHWEST CORNER OF SECTION 9, TOWNSHIP 48S RANGE 25E;
 93 | THENCE EASTERLY ALONG THE NORTH LINES OF SECTIONS 9, 10, 11
 94 | AND 12 TO THE NORTHEAST CORNER OF SECTION 12, TOWNSHIP 48S
 95 | RANGE 25E, ALSO KNOWN AS THE NORTHWEST CORNER OF SECTION 7,
 96 | TOWNSHIP 48S RANGE 26E; CONTINUE EASTERLY ALONG THE NORTH
 97 | LINES OF SECTIONS 7, 8 AND 9 TO THE NORTHEAST CORNER OF
 98 | SECTION 9, TOWNSHIP 48S RANGE 26E, ALSO KNOWN AS THE
 99 | NORTHWEST CORNER OF SECTION 10, TOWNSHIP 48S RANGE 26E;
 100 | THENCE SOUTHERLY ALONG THE EAST LINE OF SECTION 9 TO THE

101 SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 48S RANGE 26E, ALSO
 102 KNOWN AS THE NORTHWEST CORNER OF SECTION 15, TOWNSHIP 48S
 103 RANGE 26E; THENCE EASTERLY ALONG THE NORTH LINES OF
 104 SECTIONS 15, 14 AND 13 TO THE NORTHEAST CORNER OF SECTION
 105 13, TOWNSHIP 48S RANGE 26E, ALSO KNOWN AS THE NORTHWEST
 106 CORNER OF SECTION 18, TOWNSHIP 48S RANGE 27E; THENCE
 107 SOUTHERLY ALONG THE EAST LINE OF SECTION 13 AND THE WEST
 108 LINE OF SECTION 18 TO AN INTERSECTION WITH THE SOUTHERLY
 109 BOUNDARY OF THOSE LANDS AS DESCRIBED IN O.R. BOOK 4100,
 110 PAGE 1223, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA;
 111 THENCE EASTERLY AND SOUTHERLY ALONG SAID SOUTHERLY BOUNDARY
 112 TO AN INTERSECTION WITH THE EAST LINE OF SECTION 18 AND THE
 113 WEST LINE OF SECTION 17, TOWNSHIP 48S RANGE 27E; THENCE
 114 NORTHERLY ALONG THE EAST AND WEST SECTION LINES AND SAID
 115 SOUTHERLY BOUNDARY; THENCE LEAVING THE EAST AND WEST
 116 SECTION LINES WESTERLY AND NORTHERLY CONTINUING ALONG THE
 117 AFORESAID BOUNDARY TO AN INTERSECTION WITH THE NORTH LINE
 118 OF SECTION 18; THENCE EASTERLY ALONG THE NORTH LINE OF
 119 SECTION 18 TO THE NORTHEAST CORNER OF SECTION 18, TOWNSHIP
 120 48S RANGE 27E, ALSO KNOWN AS THE SOUTHWEST CORNER OF
 121 SECTION 8, TOWNSHIP 48S RANGE 27E AND THE SOUTHWEST CORNER
 122 OF THE PLAT OF GOLDEN GATE ESTATES UNIT 53, PLAT BOOK 7,
 123 PAGE 93, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA; THENCE
 124 NORTHERLY ALONG THE WEST LINE OF SECTION 8 AND THE WEST
 125 BOUNDARY OF SAID PLAT TO THE NORTHWEST CORNER OF SAID PLAT;

126 THENCE EASTERLY ALONG THE NORTH BOUNDARY OF SAID PLAT TO AN
 127 INTERSECTION WITH THE SOUTHWEST CORNER OF THOSE LANDS AS
 128 DESCRIBED IN O.R. BOOK 2138, PAGE 1799, PUBLIC RECORDS OF
 129 COLLIER COUNTY, FLORIDA; THENCE NORTHERLY, EASTERLY AND
 130 SOUTHERLY ALONG THE BOUNDARY OF SAID LANDS TO AN
 131 INTERSECTION WITH THE NORTH BOUNDARY OF SAID PLAT; THENCE
 132 EASTERLY ALONG THE NORTH BOUNDARY OF SAID PLAT TO AN
 133 INTERSECTION WITH THE EAST LINE OF SECTION 8, WEST LINE OF
 134 SECTION 9, TOWNSHIP 48S RANGE 27E AND THE NORTHWEST CORNER
 135 OF TRACT 3, GOLDEN GATE ESTATES UNIT 52, PLAT BOOK 7, PAGE
 136 92, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA; THENCE
 137 NORTHERLY ALONG SAID EAST AND WEST SECTION LINES TO THE
 138 NORTHWEST CORNER OF TRACT A OF SAID PLAT; THENCE EASTERLY
 139 ALONG THE NORTH BOUNDARY OF SAID TRACT A TO THE NORTHEAST
 140 CORNER OF SAID TRACT A AND THE NORTHWEST CORNER OF SHADY
 141 HOLLOW TRUST, PLAT BOOK 36, PAGES 84-86, PUBLIC RECORDS OF
 142 COLLIER COUNTY, FLORIDA; THENCE EASTERLY ALONG THE NORTH
 143 BOUNDARY OF SAID PLAT TO AN INTERSECTION WITH THE EAST LINE
 144 OF SECTION 9, TOWNSHIP 48S RANGE 27E AND THE WEST LINE OF
 145 SECTION 10; THENCE NORTHERLY ALONG THE EAST AND WEST
 146 SECTION LINES TO THE NORTHWEST CORNER OF SECTION 10,
 147 TOWNSHIP 48S RANGE 27E, ALSO KNOWN AS THE SOUTHWEST CORNER
 148 OF SECTION 3, TOWNSHIP 48S RANGE 27E; THENCE EASTERLY ALONG
 149 THE NORTH LINE OF SECTION 10 AND THE SOUTH LINE OF SECTION
 150 3 TO THE NORTH QUARTER CORNER OF SECTION 10 AND THE SOUTH

151 QUARTER CORNER OF SECTION 3; THENCE NORTHERLY ALONG THE
 152 NORTH-SOUTH QUARTER SECTION LINE TO THE NORTH QUARTER
 153 CORNER OF SECTION 3 AND THE SOUTH QUARTER CORNER OF SECTION
 154 34, TOWNSHIP 47S RANGE 27E; CONTINUE NORTHERLY TO THE NORTH
 155 QUARTER CORNER OF SECTION 34 AND THE SOUTH QUARTER CORNER
 156 OF SECTION 27, TOWNSHIP 47S RANGE 27E; CONTINUE NORTHERLY
 157 TO THE NORTH QUARTER CORNER OF SECTION 27 AND THE SOUTH
 158 QUARTER CORNER OF SECTION 22, TOWNSHIP 47S RANGE 27E;
 159 CONTINUE NORTHERLY TO THE NORTH QUARTER CORNER OF SECTION
 160 22 AND THE SOUTH QUARTER CORNER OF SECTION 15, TOWNSHIP 47S
 161 RANGE 27E; THENCE EASTERLY ALONG THE NORTH LINE OF SECTION
 162 22 AND THE SOUTH LINE OF SECTION 15 TO THE NORTHEAST CORNER
 163 OF SECTION 22, TOWNSHIP 47S RANGE 27E, ALSO KNOWN AS THE
 164 SOUTHWEST CORNER OF SECTION 14, TOWNSHIP 47S RANGE 27E;
 165 THENCE NORTHERLY ALONG THE WEST LINE OF SECTION 14 TO THE
 166 NORTHWEST CORNER OF SECTION 14, TOWNSHIP 47S RANGE 27E,
 167 ALSO KNOWN AS THE SOUTHWEST CORNER OF SECTION 11, TOWNSHIP
 168 47S RANGE 27E; THENCE EASTERLY ALONG THE NORTH LINES OF
 169 SECTIONS 14 AND 13 TO THE NORTHEAST CORNER OF SECTION 13,
 170 TOWNSHIP 47S RANGE 27E, ALSO KNOWN AS THE SOUTHWEST CORNER
 171 OF SECTION 7, TOWNSHIP 47S RANGE 28E; THENCE NORTHERLY
 172 ALONG THE EAST LINES OF SECTIONS 7 AND 6 TO THE NORTHWEST
 173 CORNER OF SECTION 6, TOWNSHIP 47S RANGE 28E, ALSO KNOWN AS
 174 THE SOUTHWEST CORNER OF SECTION 31, TOWNSHIP 46S RANGE 28E;
 175 THENCE EASTERLY ALONG THE NORTH LINES OF SECTIONS 6 AND 5

176 TO THE NORTHEAST CORNER OF SECTION 5, TOWNSHIP 47S RANGE
 177 28E, ALSO KNOWN AS THE SOUTHWEST CORNER OF SECTION 33,
 178 TOWNSHIP 46S RANGE 28E; THENCE NORTHERLY ALONG THE EAST
 179 LINES OF SECTIONS 33 AND 28 TO THE NORTHWEST CORNER OF
 180 SECTION 28, TOWNSHIP 46S RANGE 28E, ALSO KNOWN AS THE
 181 SOUTHWEST CORNER OF SECTION 21, TOWNSHIP 46S RANGE 28E;
 182 THENCE EASTERLY ALONG THE NORTH LINE OF SECTION 28 TO THE
 183 NORTHEAST CORNER OF SECTION 28, TOWNSHIP 46S RANGE 28E,
 184 ALSO KNOWN AS THE SOUTHWEST CORNER OF SECTION 22, TOWNSHIP
 185 46S RANGE 28E; CONTINUE EASTERLY ALONG THE SOUTH LINE OF
 186 SECTION 22 TO AN INTERSECTION WITH THE EAST BOUNDARY OF
 187 THOSE LANDS AS DESCRIBED IN O.R. BOOK 1577, PAGE 681,
 188 PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA; THENCE NORTHERLY
 189 AND EASTERLY ALONG SAID EAST BOUNDARY TO AN INTERSECTION
 190 WITH THE EAST LINE OF SECTION 22; THENCE NORTHERLY ALONG
 191 THE EAST LINE OF SECTION 22 AND SAID EAST BOUNDARY TO THE
 192 NORTHEAST CORNER OF SECTION 22, TOWNSHIP 46S RANGE 28E,
 193 ALSO KNOWN AS THE SOUTHEAST CORNER OF SECTION 15, TOWNSHIP
 194 46S RANGE 28E; CONTINUE NORTHERLY ALONG THE EAST LINE OF
 195 SECTION 15 AND SAID EAST BOUNDARY; THENCE LEAVING THE EAST
 196 LINE OF SECTION 15 WESTERLY AND NORTHERLY ALONG SAID EAST
 197 BOUNDARY TO AN INTERSECTION WITH THE NORTH LINE OF SECTION
 198 15 AND THE SOUTH LINE OF SECTION 10, TOWNSHIP 46S RANGE
 199 28E; CONTINUE WESTERLY AND NORTHERLY ALONG SAID EAST
 200 BOUNDARY TO AN INTERSECTION WITH THE WEST LINE OF SECTION

201 10; THENCE NORTHERLY ALONG THE WEST LINES OF SECTIONS 10
 202 AND 3 TO THE NORTHWEST CORNER OF SECTION 3, TOWNSHIP 46S
 203 RANGE 28E; THENCE EASTERLY ALONG THE NORTH LINES OF
 204 SECTIONS 3, 2 AND 1 TO THE NORTHEAST CORNER OF SECTION 1,
 205 TOWNSHIP 46S RANGE 28E, ALSO KNOWN AS THE NORTHWEST CORNER
 206 OF SECTION 6, TOWNSHIP 46S RANGE 29E; CONTINUE EASTERLY
 207 ALONG THE NORTH LINES OF SECTIONS 6, 5, 4, 3, 2 AND 1 TO
 208 THE NORTHEAST CORNER OF SECTION 1, TOWNSHIP 46S RANGE 29E,
 209 ALSO KNOWN AS THE NORTHWEST CORNER OF SECTION 6, TOWNSHIP
 210 46S RANGE 30E; CONTINUE EASTERLY ALONG THE NORTH LINES OF
 211 SECTIONS 6 AND 5 TO AN INTERSECTION WITH THE EAST BOUNDARY
 212 OF THOSE LANDS AS DESCRIBED IN O.R. 584, PAGE 1686, PUBLIC
 213 RECORDS OF COLLIER COUNTY, FLORIDA; THENCE SOUTHERLY,
 214 EASTERLY AND WESTERLY ALONG SAID EAST BOUNDARY TO AN
 215 INTERSECTION WITH THE SOUTH LINE OF SECTION 5; THENCE
 216 WESTERLY ALONG THE SOUTH LINE OF SECTION 5 TO THE SOUTHWEST
 217 CORNER OF SECTION 5, TOWNSHIP 46S RANGE 30E, ALSO KNOWN AS
 218 THE NORTHEAST CORNER OF SECTION 7, TOWNSHIP 46S RANGE 30E;
 219 THENCE SOUTHERLY ALONG THE EAST LINES OF SECTIONS 7, 18,
 220 19, 30 AND 31 TO THE SOUTHEAST CORNER OF SECTION 31,
 221 TOWNSHIP 46S RANGE 30E, ALSO KNOWN AS THE NORTHEAST CORNER
 222 OF SECTION 6, TOWNSHIP 47S RANGE 30E; CONTINUE SOUTHERLY
 223 ALONG THE EAST LINES OF SECTIONS 6, 7, 18 AND 19 TO THE
 224 SOUTHEAST CORNER OF SECTION 19, TOWNSHIP 47S RANGE 30E,
 225 ALSO KNOWN AS THE NORTHEAST CORNER OF SECTION 30, TOWNSHIP

226 47S RANGE 30E; CONTINUE SOUTHERLY ALONG THE EAST LINE OF
 227 SECTION 30 TO AN INTERSECTION WITH THE WESTERLY RIGHT-OF-
 228 WAY OF STATE ROAD 29; CONTINUE SOUTHERLY ALONG SAID
 229 WESTERLY RIGHT-OF-WAY THROUGH SECTIONS 29 AND 32, TOWNSHIP
 230 47S RANGE 30E AND SECTIONS 5, 8, 17 AND 20, TOWNSHIP 48S
 231 RANGE 30E TO AN INTERSECTION WITH THE SOUTH LINE OF SECTION
 232 20; THENCE WESTERLY ALONG THE SOUTH LINES OF SECTIONS 20
 233 AND 19 TO THE SOUTHWEST CORNER OF SECTION 19, TOWNSHIP 48S
 234 RANGE 30E, ALSO KNOWN AS THE SOUTHEAST CORNER OF SECTION
 235 24, TOWNSHIP 48S RANGE 29E; CONTINUE WESTERLY ALONG THE
 236 SOUTH LINES OF SECTIONS 24 AND 23 TO THE SOUTHWEST CORNER
 237 OF SECTION 23, TOWNSHIP 48S RANGE 29E, ALSO KNOWN AS THE
 238 NORTHEAST CORNER OF SECTION 27, TOWNSHIP 48S RANGE 29E;
 239 THENCE SOUTHERLY ALONG THE EAST LINES OF SECTIONS 27 AND 34
 240 TO THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP 48S RANGE
 241 29E; THENCE WESTERLY ALONG THE SOUTH LINES OF SECTIONS 34,
 242 33 AND 32 TO THE SOUTHWEST CORNER OF SECTION 32, TOWNSHIP
 243 48S RANGE 29E, ALSO KNOWN AS THE NORTHEAST CORNER OF
 244 SECTION 6, TOWNSHIP 49S RANGE 29E; THENCE SOUTHERLY ALONG
 245 THE EAST LINES OF SECTIONS 6 AND 7 TO THE SOUTHEAST CORNER
 246 OF 7; THENCE WESTERLY ALONG THE SOUTH LINE OF SECTION 7 TO
 247 THE SOUTHWEST CORNER OF SECTION 7, TOWNSHIP 49S RANGE 29E,
 248 ALSO KNOWN AS THE SOUTHEAST CORNER OF SECTION 12, TOWNSHIP
 249 49S RANGE 28E; CONTINUE WESTERLY ALONG THE SOUTH LINE OF
 250 SECTION 12 TO THE SOUTHWEST CORNER OF SECTION 12, ALSO

251 KNOWN AS THE NORTHEAST CORNER OF SECTION 14, TOWNSHIP 49S
 252 RANGE 28E; THENCE SOUTHERLY ALONG THE EAST LINES OF
 253 SECTIONS 14 AND 23 TO AN INTERSECTION WITH THE SOUTH
 254 BOUNDARY OF THOSE LANDS AS DESCRIBED IN O.R. BOOK 4998,
 255 PAGE 865, PUBLIC RECORDS OF COLLIER COUNTY, FLORIDA; THENCE
 256 WESTERLY ALONG SAID SOUTH BOUNDARY TO AN INTERSECTION WITH
 257 THE WEST LINE OF SECTION 23; THENCE SOUTHERLY ALONG THE
 258 WEST LINE OF SECTION 23 TO THE SOUTHWEST CORNER OF SECTION
 259 23, TOWNSHIP 49S RANGE 28E, ALSO KNOWN AS THE NORTHEAST
 260 CORNER OF SECTION 27, TOWNSHIP 49S RANGE 28E; CONTINUE
 261 SOUTHERLY ALONG THE EAST LINES OF SECTIONS 27 AND 34 TO AN
 262 INTERSECTION WITH THE NORTH BOUNDARY OF THOSE LANDS AS
 263 DESCRIBED IN O.R. BOOK 2263, PAGE 871, PUBLIC RECORDS OF
 264 COLLIER COUNTY, FLORIDA; THENCE WESTERLY AND SOUTHERLY
 265 ALONG SAID BOUNDARY TO AN INTERSECTION WITH THE SOUTH LINE
 266 OF SECTION 34; THENCE EASTERLY ALONG THE SOUTH LINE OF
 267 SECTION 34 TO THE SOUTHEAST CORNER OF SECTION 34, TOWNSHIP
 268 49S RANGE 28E, ALSO KNOWN AS THE NORTHWEST CORNER OF
 269 SECTION 2, TOWNSHIP 50S RANGE 28E; CONTINUE EASTERLY ALONG
 270 THE NORTH LINES OF SECTIONS 2 AND 1 TO THE NORTHEAST CORNER
 271 OF SECTION 1, TOWNSHIP 50S RANGE 28E; THENCE SOUTHERLY
 272 ALONG THE EAST LINES OF SECTIONS 1, 12, 13, 24, 25 AND 36
 273 TO THE SOUTHEAST CORNER OF SECTION 36, TOWNSHIP 50S RANGE
 274 28E, ALSO KNOWN AS THE NORTHEAST CORNER OF SECTION 1,
 275 TOWNSHIP 51S RANGE 28E; CONTINUE SOUTHERLY ALONG THE EAST

276 LINES OF SECTIONS 1, 12 AND 13 TO THE SOUTHEAST CORNER OF
 277 13; THENCE WESTERLY ALONG THE SOUTH LINE OF SECTION 13 TO
 278 THE SOUTHWEST CORNER OF SECTION 13, TOWNSHIP 51S RANGE 28E,
 279 ALSO KNOWN AS THE NORTHEAST CORNER OF SECTION 23, TOWNSHIP
 280 51S RANGE 28E; THENCE SOUTHERLY ALONG THE EAST LINE OF
 281 SECTION 23 TO THE SOUTHEAST CORNER OF 23; THENCE WESTERLY
 282 ALONG THE SOUTH LINE OF SECTION 23 TO THE SOUTHWEST CORNER
 283 OF SECTION 23, TOWNSHIP 51S RANGE 28E, ALSO KNOWN AS THE
 284 NORTHEAST CORNER OF SECTION 27, TOWNSHIP 51S RANGE 28E;
 285 THENCE SOUTHERLY ALONG THE EAST LINE OF SECTION 27 TO THE
 286 SOUTHEAST CORNER OF 27; THENCE WESTERLY ALONG THE SOUTH
 287 LINE OF SECTION 27 TO THE SOUTHWEST CORNER OF SECTION 27,
 288 TOWNSHIP 51S RANGE 28E, ALSO KNOWN AS THE NORTHEAST CORNER
 289 OF SECTION 33, TOWNSHIP 51S RANGE 28E; THENCE SOUTHERLY
 290 ALONG THE EAST LINE OF SECTION 33 TO THE SOUTHEAST CORNER
 291 OF SECTION 33, TOWNSHIP 51S RANGE 28E, ALSO KNOWN AS THE
 292 NORTHEAST CORNER OF SECTION 4, TOWNSHIP 52S RANGE 28E;
 293 CONTINUE SOUTHERLY ALONG THE EAST LINES OF SECTIONS 4 AND 9
 294 TO THE SOUTHEAST CORNER OF SECTION 9, TOWNSHIP 52S RANGE
 295 28E; THENCE WESTERLY ALONG THE SOUTH LINE OF SECTION 9 TO
 296 AN INTERSECTION WITH THE EAST BOUNDARY OF THOSE LANDS AS
 297 DESCRIBED IN O.R. BOOK 2263, PAGE 871, PUBLIC RECORDS OF
 298 COLLIER COUNTY, FLORIDA; THENCE NORTHERLY ALONG SAID EAST
 299 BOUNDARY TO AN INTERSECTION WITH THE NORTH RIGHT-OF-WAY OF
 300 U.S. 41 (TAMIAMI TRAIL); THENCE NORTHWESTERLY ALONG SAID

301 NORTH RIGHT-OF-WAY THROUGH SECTIONS 9, 5 AND 6, TOWNSHIP
 302 52S RANGE 28E AND SECTION 1, TOWNSHIP 52S RANGE 27E TO AN
 303 INTERSECTION WITH THE NORTH LINE OF SECTION 1 AND THE SOUTH
 304 LINE OF SECTION 36, TOWNSHIP 51S RANGE 27E; THENCE WESTERLY
 305 ALONG THE SOUTH LINES OF SECTIONS 36 AND 35 TO THE
 306 SOUTHWEST CORNER OF SECTION 35, TOWNSHIP 51S RANGE 27E,
 307 ALSO KNOWN AS THE NORTHEAST CORNER OF SECTION 3, TOWNSHIP
 308 52S RANGE 27E; THENCE SOUTHERLY ALONG THE EAST LINES OF
 309 SECTIONS 3 AND 10 TO THE SOUTHEAST CORNER OF 10; THENCE
 310 WESTERLY ALONG THE SOUTH LINE OF SECTION 10 TO THE
 311 SOUTHWEST CORNER OF SECTION 10, TOWNSHIP 52S RANGE 27E,
 312 ALSO KNOWN AS THE NORTHEAST CORNER OF SECTION 16, TOWNSHIP
 313 52S 27E; THENCE SOUTHERLY ALONG THE EAST LINE OF SECTION 16
 314 TO THE SOUTHEAST CORNER OF SECTION 16; THENCE WESTERLY
 315 ALONG THE SOUTH LINES OF SECTIONS 16, 17 AND 18, TOWNSHIP
 316 52S RANGE 27E TO AN INTERSECTION WITH GOODLAND; THENCE
 317 SOUTHERLY AND WESTERLY ALONG THE SOUTHERLY BOUNDARY OF
 318 GOODLAND TO AN INTERSECTION WITH THE NORTH LINE OF SECTION
 319 24, TOWNSHIP 52S RANGE 26E; THENCE SOUTHEASTERLY ALONG THE
 320 NORTH LINE OF SECTION 24 TO THE NORTHEAST CORNER OF SECTION
 321 24; THENCE SOUTHERLY ALONG THE EAST LINE OF SECTION 24 TO
 322 THE SOUTHEAST CORNER OF SECTION 24; THENCE WESTERLY ALONG
 323 THE SOUTH LINES OF SECTIONS 24, 23 AND 22, TOWNSHIP 52S
 324 RANGE 26E TO AN INTERSECTION WITH THE SOUTHERLY BOUNDARY OF
 325 HORRS ISLAND; THENCE SOUTHERLY AND WESTERLY ALONG SAID

326 SOUTHERLY BOUNDARY TO AN INTERSECTION WITH THE WEST LINE OF
 327 SECTION 27, TOWNSHIP 52S RANGE 26E AND THE EAST LINE OF
 328 SECTION 28, TOWNSHIP 52S RANGE 26E; CONTINUE SOUTHERLY AND
 329 WESTERLY ALONG SAID SOUTH BOUNDARY TO AN INTERSECTION WITH
 330 THE NORTH LINE OF SECTION 28 AND THE SOUTH LINE OF SECTION
 331 21, TOWNSHIP 52S RANGE 26E; THENCE WESTERLY ALONG THE SOUTH
 332 LINES OF SECTIONS 21, 20 AND 19, TOWNSHIP 52S RANGE 26E TO
 333 WHERE THAT LINE EXTENDED INTERSECTS THE WESTERN BOUNDARY OF
 334 THE STATE OF FLORIDA IN THE WATERS OF THE GULF OF MEXICO;
 335 THENCE NORTHWESTERLY ALONG THE WATERS OF THE GULF OF MEXICO
 336 TO THE POINT OF BEGINNING.

337
 338 LESS and EXCEPT any state or federal public lands,
 339 including, but not limited to, Picayune Strand State
 340 Forest/Picayune Strand Restoration Project, Collier-
 341 Seminole State Park, Fakahatchee Strand Preserve State
 342 Park, Florida Panther National Wildlife Refuge, Rookery Bay
 343 National Estuarine Research Reserve, and Ten Thousand
 344 Islands National Wildlife Refuge.

345
 346 ~~Beginning where the north line to Township 48S Range 25E~~
 347 ~~extended westerly intersects the western boundary of the~~
 348 ~~State of Florida in the waters of the Gulf of Mexico;~~
 349 ~~thence easterly along said Township line to the~~
 350 ~~northeast corner of Section 5, Township 48S Range 25E;~~

351 ~~thence southerly along the easterly Section line of 5 to~~
352 ~~the southeast corner of Section 5 Township 48S Range~~
353 ~~25E, also known as the northwest corner of Section 9,~~
354 ~~Township 48S Range 25E; thence easterly along the north~~
355 ~~lines of Sections 9, 10, 11 and 12 to the northeast~~
356 ~~corner of Section 12, Township 48S Range 25E, also known~~
357 ~~as the northwest corner of Section 7, Township 48S Range~~
358 ~~26E; continue easterly along the north lines of Sections~~
359 ~~7, 8, 9, 10, 11 and 12 to the northeast corner of~~
360 ~~Section 12, Township 48S Range 26E, also known as the~~
361 ~~northwest corner of Section 7, Township 48S Range 27E;~~
362 ~~continue easterly along the north lines of Sections 7,~~
363 ~~8, 9, and 10 to the Northeast corner of Section 10,~~
364 ~~Township 48 South, Range 27 East, thence northerly along~~
365 ~~the easterly section line of Section 3, to the Northeast~~
366 ~~corner of Section 3, Township 48 South, Range 27 East,~~
367 ~~also known as the Southeast corner of Section 34,~~
368 ~~Township 47 South, Range 27 East, thence northerly along~~
369 ~~the easterly line of Sections 34 and 27 to the Northeast~~
370 ~~corner of Section 27, Township 47 South, Range 27 East,~~
371 ~~thence easterly along the north line of Sections 26 and~~
372 ~~25 to the Northeast corner of Section 25, Township 47~~
373 ~~South, Range 27 East, also known as the Northwest corner~~
374 ~~of Section 30, Township 47 South, Range 28 East, thence~~
375 ~~continue along northerly line of Sections 30, 29, and 28~~

376 ~~to the Northeast corner of Section 28, Township 47~~
 377 ~~South, Range 28 East, thence southerly along the~~
 378 ~~easterly line of Section 28 and 33 to the Southeast~~
 379 ~~corner of Section 33, Township 47 South, Range 28 East,~~
 380 ~~also known as the Northeast corner of Section 4,~~
 381 ~~Township 48 South, Range 28 East, thence southerly along~~
 382 ~~the easterly line of Sections 4, 9, 16, 21, 28, and 33~~
 383 ~~to the Southeast corner of Section 33, Township 48~~
 384 ~~South, Range 28 East, also known as the Northeast corner~~
 385 ~~of Section 4, Township 49 South, Range 28 East, thence~~
 386 ~~southerly along the easterly line of Sections 4, 9, 16,~~
 387 ~~21, 28, and 33 to the Southeast corner of Section 33,~~
 388 ~~Township 49 South, Range 28 East, thence westerly along~~
 389 ~~the southerly lines of Section 33, 32, and 31 to the~~
 390 ~~Southwest corner of Section 31, Township 49 South, Range~~
 391 ~~28 East, also known as the Southeast corner of Section~~
 392 ~~36, Township 49 South, Range 27 East, thence continue~~
 393 ~~westerly along the southerly line of section 36, 35, 34,~~
 394 ~~33, and 32 to the southwest corner of Section 31,~~
 395 ~~Township 49S Range 27E, also known as the southeast~~
 396 ~~corner of Section 36, Township 49S Range 26E; thence~~
 397 ~~westerly along the south line of Section 36 to the~~
 398 ~~southwest corner of Section 36, Township 49S Range 26E,~~
 399 ~~also known as the northeast corner of Section 2,~~
 400 ~~Township 50S Range 26E; thence southerly along the east~~

401 ~~lines of Sections 2, 11, 14, 23, 26 and 35 to the~~
 402 ~~southeast corner of Section 35, Township 50S Range 26E,~~
 403 ~~also known as the northeast corner of Section 2,~~
 404 ~~Township 51S Range 26E; thence southerly along the east~~
 405 ~~line of Section 2 to the southeast corner of Section 2,~~
 406 ~~Township 51S Range 26E, also known as the northwest~~
 407 ~~corner of Section 12, Township 51S Range 26E; thence~~
 408 ~~easterly along the north line of Section 12 to the~~
 409 ~~northeast corner of Section 12, Township 51S Range 26E,~~
 410 ~~also known as the northwest corner of Section 7,~~
 411 ~~Township 51S Range 27E; continue easterly along the~~
 412 ~~north lines of Sections 7 and 8 to the northeast corner~~
 413 ~~of Section 8, Township 51S Range 27E; thence southerly~~
 414 ~~along the east lines of Sections 8, 17, 20, 29 and 32 to~~
 415 ~~the southeast corner of Section 32, Township 51S Range~~
 416 ~~27E; thence westerly along the south line of Section 32~~
 417 ~~to the intersection of the westerly right of way of~~
 418 ~~State Road 92; thence southwestwesterly along the westerly~~
 419 ~~right of way State Road 92 through Section 5 and 8 to~~
 420 ~~the intersection of west line Section 8, Township 52S~~
 421 ~~Range 27E; thence southerly along west lines of Sections~~
 422 ~~8 and 17 to the southwest corner of Section 17, Township~~
 423 ~~52S Range 27E also known as the southeast corner of~~
 424 ~~Section 18, Township 52S Range 27E; thence westerly~~
 425 ~~along the south line of Section 18 to the intersection~~

426 ~~of Goodland; thence southerly and westerly along the~~
 427 ~~southerly boundary of Goodland, to the intersection with~~
 428 ~~the east line of Section 24 Township 52S Range 26E;~~
 429 ~~thence southerly along the east line of Section 24 to~~
 430 ~~the southeast corner of Section 24, Township 52S Range~~
 431 ~~26E; thence westerly along the south lines of Section~~
 432 ~~24, 23, 22, 21, 20 and 19 to where that line extended~~
 433 ~~intersects the western boundary of the State of Florida~~
 434 ~~in the waters of the Gulf of Mexico; thence~~
 435 ~~northwesterly along the waters of the Gulf of Mexico, to~~
 436 ~~the Point of Beginning;~~

437 And

438 ~~Beginning at the southeast corner of Section 13,~~
 439 ~~Township 47S Range 29E; thence northerly along the~~
 440 ~~easterly Section line of Sections 13, 12 and 1 to the~~
 441 ~~northeast corner of Section 1, Township 47S Range 29E~~
 442 ~~also being the southeast corner of Section 36, Township~~
 443 ~~46S Range 29E; thence continue northerly along the~~
 444 ~~easterly lines of Sections 36 and 25 to the northeast~~
 445 ~~corner of Section 25; thence westerly along the~~
 446 ~~northerly line of Sections 25, 26, 27, 28, 29 and 30 to~~
 447 ~~the northwest corner of Section 30, Township 46S Range~~
 448 ~~29E, also being the northeast corner of Section 25,~~
 449 ~~Township 46S Range 28E; thence continue westerly along~~
 450 ~~the northerly line of Sections 25 & 26 to the northwest~~

451 ~~corner of Section 26; thence southerly along the~~
 452 ~~westerly line of Sections 26 and 35 to the southwest~~
 453 ~~corner of Section 35; thence easterly along the~~
 454 ~~southerly line of Sections 35 and 36 to the southeast~~
 455 ~~corner of Section 36, Township 46S Range 28E, also being~~
 456 ~~the northwest corner of Section 6, Township 47S Range~~
 457 ~~29E; thence southerly along the westerly line of~~
 458 ~~Sections 6, 7, and 18 to the southwest corner of Section~~
 459 ~~18; thence easterly along the southerly line of Sections~~
 460 ~~18, 17, 16, 15, 14 and 13 to the southeast corner of~~
 461 ~~Section 13 and the Point of beginning.~~

462 ~~LESS AND EXCEPT the publicly owned, tax exempt property~~
 463 ~~within the boundaries of Rookery Bay National Estuarine~~
 464 ~~Research Reserve and Corkscrew Regional Ecosystem~~
 465 ~~Watershed as they may be amended from time to time.~~

467 Section 2. This boundary expansion of the Collier Mosquito
 468 Control District was approved by a majority vote of those
 469 qualified electors residing within the areas being added to the
 470 boundaries of the Collier Mosquito Control District described in
 471 section 1 voting in a referendum held August 23, 2022.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 535 Low-voltage Alarm System Projects

SPONSOR(S): Snyder

TIED BILLS: **IDEN./SIM. BILLS:** SB 496

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	13 Y, 0 N	Wright	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Burgess	Darden
3) Commerce Committee			

SUMMARY ANALYSIS

A “low-voltage electric fence” is an alarm system that consists of a fence structure and an energizer powered by a commercial storage battery not exceeding 12 volts which produces an electric charge upon contact with the fence structure. Florida law sets out a streamlined process for permitting low-voltage electric fence projects.

If a low-voltage electric fence meets certain requirements, it may be permitted as a low-voltage alarm system project, and no other permit may be required. Requirements include:

- The low-voltage electric fence will be completely enclosed by a nonelectric fence or wall. Current law is unclear if the fence must be enclosed on both sides or enclosed only on the outside perimeter.
- The low-voltage electric fence will not be installed in an area zoned exclusively for single-family or multifamily residential use.

A municipality, county, district, or other entity of local government may not adopt or maintain in effect any ordinance or rule regarding a low-voltage alarm system project that is inconsistent with Florida Statutes.

Recently, two Florida trial courts differed on when an ordinance or rule relating to a low-voltage alarm system project is preempted and inconsistent with Florida law.

The bill clarifies that a nonelectric fence or wall must only be completely enclosed on the outside perimeter of the low-voltage electric fence but does not have to be completely enclosed on both sides.

The bill provides that a local government must allow low-voltage electric fences in areas not exclusively zoned for single- or multi-family residential use and therefore may not prohibit such fences in areas zoned in multiple zoning categories.

The bill clarifies that any ordinance or rule with additional requirements beyond those set out in, or that is otherwise inconsistent, with Florida Statutes related to the installation or maintenance of a low-voltage alarm system project may not be adopted by a municipality, county, district, or other entity of local government.

The bill has no fiscal impact on state and local governments.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study's commission recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.² The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.³

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.⁴

The Florida Building Commission (Commission) was statutorily created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,⁵ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.⁶

Building Permits

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction for the protection of the public's health, safety, and welfare.⁷ Every local government must enforce the Building Code and issue building permits.⁸

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan, 11, 2024).

² *Id.*

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Jan, 11, 2024).

⁴ See s. 553.72(1), F.S.

⁵ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Jan, 11, 2024).

⁶ S. 553.73(7)(a), F.S.

⁷ S. 553.72, F.S.

⁸ Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

A building permit is an official document or certificate issued by the local building official that authorizes the performance of a specific activity.⁹ Any construction work that requires a building permit also requires plan reviews and inspections by the building official, inspector, or plans examiner to ensure the work complies with the Building Code.¹⁰

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.¹¹ A building permit is not valid until the fees for the permit have been paid.¹²

To obtain a permit, an applicant must complete an application for the proposed work on the form furnished by the local enforcing agency, which must be posted on its website.¹³ An application for a permit must include building plans.¹⁴ A local enforcing agency may not issue a permit until the building official or plans reviewer has reviewed the building plans and determined that they comply with the Building Code.¹⁵

Streamlined Permitting for Low-voltage Electric Fences

Section 553.793, F.S., sets out a streamlined process for permitting low-voltage alarm system projects, which includes low-voltage electric fence projects.

A “low-voltage alarm system project” means a project for the installation, maintenance, inspection, replacement, or service of the following new or existing alarm systems, or any ancillary components thereof, by a licensed electrical or alarm systems contractor:¹⁶

- Hardwired and low-voltage¹⁷ video cameras and closed-circuit television systems used to signal or detect a burglary, fire, robbery, or medical emergency; and
- Low-voltage electric fences.

A “low-voltage electric fence” is an alarm system that consists of a fence structure and an energizer powered by a commercial storage battery not exceeding 12 volts which produces an electric charge upon contact with the fence structure.¹⁸

If a low-voltage electric fence meets all of the following requirements, it may be permitted as a low-voltage alarm system project, and no other permit may be required:¹⁹

- The electric charge produced by the fence upon contact does not exceed the international standard for energizer characteristics.²⁰
- The low-voltage electric fence will be **completely enclosed** by a nonelectric fence or wall. The low-voltage electric fence may be up to 2 feet higher than the perimeter nonelectric fence or wall.
 - Current law is unclear if the fence must be enclosed on both sides or enclosed only on the outside perimeter.

⁹ S. 468.603(2), F.S.; § 202, FBC, Building, 7th Ed., (2020).

¹⁰ §§ 107, 110.1, and 110.3, FBC, Building, 7th Ed., (2020).

¹¹ See ss. 125.56(4)(a) and 553.79(1), F.S.

¹² § 109.1, FBC, Building, 7th Ed., (2020).

¹³ Ss. 125.56(4)(b), 553.79(1), and 713.135(5) and (6), F.S.

¹⁴ Ss. 468.603(8), and 553.79(2), F.S.

¹⁵ S. 553.79(2), F.S.

¹⁶ S. 553.793(1)(b), F.S.

¹⁷ As defined in Standard 70, NEC. S. 553.793(1)(b), F.S.

¹⁸ S. 553.793(1)(c), F.S.

¹⁹ S. 553.793(3), F.S.

²⁰ § 22.108, Figure 102, IEC 60335-2-76.

- The low-voltage electric fence is identified using warning signs attached to the fence at intervals of not more than 60 feet.
- The low-voltage electric fence will not be installed in an area zoned exclusively for **single-family or multifamily residential use**.
- The low-voltage electric fence will not enclose **residential** portions of a property.

The streamlined permitting process is as follows:

- First, instead of requiring individualized permits, the local enforcement agency must make uniform basic permit labels available for purchase in bulk by an electrical or alarm systems contractor to be used for the installation or replacement of a new or existing alarm system at a cost of not more than \$40 per label per project per unit.²¹
 - The local enforcement agency may not require a contractor, as a condition of purchasing a label, to submit any information other than identification information and proof of license.²²
- Second, before commencing a project, the contractor must post an unused uniform basic permit label in a conspicuous place on the premises of the low-voltage alarm system project site.²³
 - The contractor is not required to notify the local enforcement agency before commencing work.
- Third, within 14 days after completing the project, the contractor must submit a notice of completing the project²⁴ to the local enforcement agency.²⁵
- Fourth, to inspect the project for compliance with applicable codes and standards, a local enforcement agency may coordinate directly with the owner or customer to inspect the project.
 - If the project fails the inspection, the contractor must take corrective action as necessary to pass inspection.²⁶

A municipality, county, district, or other entity of local government may not adopt or maintain in effect any ordinance or rule regarding a low-voltage alarm system project that is inconsistent with s. 553.793, F.S.²⁷

Preemption

Florida law recognizes two types of preemption: express and implied. Express preemption requires a specific legislative statement; it cannot be implied or inferred.²⁸ To expressly preempt a subject area, the Legislature must use clear statutory language stating its intention to do so.²⁹ Implied preemption occurs when the Legislature has demonstrated an intent to preempt an area, though not expressly. Florida courts find implied preemption when “the legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature.”³⁰

Where state preemption applies, a local government may not exercise authority in that area.³¹ Whether a local government ordinance or other measure violates preemption is ultimately decided by a court. If a local government improperly enacts an ordinance or other measure on a matter preempted to the

²¹ S. 553.793(5), F.S.

²² S. 553.793(5)(b), F.S.

²³ S. 553.793(6), F.S.

²⁴ The form requirements are outlined in s. 553.793(8), F.S.

²⁵ S. 553.793(7), F.S.

²⁶ S. 553-793(9), F.S.

²⁷ S. 553.793(10), F.S.

²⁸ See *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006); *Phantom of Clearwater, Inc. v. Pinellas County*, 894 So. 2d 1011, 1018 (Fla. 2d DCA 2005).

²⁹ *Mulligan*, 934 So. 2d at 1243.

³⁰ *Tallahassee Mem. Reg. Med. Ctr., Inc. v. Tallahassee Med. Ctr., Inc.*, 681 So. 2d 826, 831 (Fla. 1st DCA 1996).

³¹ *D’Agastino v. City of Miami*, 220 So. 3d 410 (Fla. 2017); Judge James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).

state, a person may challenge the ordinance by filing a lawsuit. A court ruling against the government may declare the preempted ordinance void.³²

Recent Litigation Concerning Low-voltage Electric Fences

Recently, two Florida trial courts differed on whether an ordinance or rule relating to a low-voltage alarm system project is preempted and inconsistent with Florida law as set forth in s. 553.793, F.S.

Hillsborough County

In a case filed in Hillsborough County,³³ the trial court held that the county ordinance for low-voltage electric fences was inconsistent with and preempted by state law “to the extent that it prohibits or imposes additional requirements for low-voltage electric fences in areas of Hillsborough County other than those areas zoned exclusively for single-family or multiple-family residential use, where these fences satisfy the requirements of s. 553.793, F.S.” The ordinance imposed restrictions on such fences in mixed-use areas.³⁴

City of Orlando

In a case addressing a requirement in the City of Orlando’s zoning code which prohibited the installation of electric fences in a certain heritage zoning district,³⁵ the trial court disagreed with the finding in the Hillsborough County case. The court held that the “standard is not whether the city’s code imposes *additional* requirements, but whether those requirements *conflict* with [s. 553.793, F.S.]. That is, whether the code and the statute cannot coexist, or if the Plaintiff must violate one to comply with the other.”³⁶

The court also held that “as long as the ordinance is not inconsistent with [that section], a municipality is not prevented from enacting regulations regarding electric fences.”³⁷

The court also found that the city’s ordinance was not preempted by s. 553.793, F.S, as the ordinance at issue:

Does not require an additional permit for an electric fence--it only regulates where the electric fences can be installed. It is within Orlando’s police powers to maintain its communities, and the city has a legitimate interest in maintaining the appearance of the [heritage zoning] district with importance to the community.³⁸

Accordingly, the City of Orlando’s regulation prohibiting low-voltage electric fences in certain locations did not constitute an additional requirement for installing such fences, and the court found in favor of the City of Orlando.³⁹

Effect of the Bill

The bill clarifies that a nonelectric fence or wall must only be completely enclosed on **the outside perimeter** of the low-voltage electric fence but does not have to be completely enclosed on both sides.

³² See, e.g., *Nat’l Rifle Ass’n of Am., Inc. v. City of S. Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002).

³³ See *Electric Guard Dog, LLC v. Hillsborough Co., Fla.*, (Case No. 17-CA-010362, Fla.13th Jud. Cir. 2019), at pp. 1-2.

³⁴ *Id.* at 2.

³⁵ See *Amarok Security, LLC v. City of Orlando, Fla.*, (Case No. 2022-CA-011454-0, Div. 35, Fla. 9th Jud. Cir. 2023).

³⁶ *Id.* at p. 8.

³⁷ *Id.* at p. 9.

³⁸ *Id.*

³⁹ *Id.*

The bill provides that a local government must allow low-voltage electric fences in areas not exclusively zoned for single- or multi-family residential use and therefore may not prohibit such fences in areas zoned in multiple zoning categories.

The bill provides any ordinance or rule with additional requirements beyond those set out in, or that is otherwise inconsistent, with s. 553.793, F.S., for the installation or maintenance of a low-voltage alarm system project may not be adopted by a municipality, county, district, or other entity of local government.

B. SECTION DIRECTORY:

Section 1: Amends s. 553.793, F.S.; providing requirements for low-voltage electric fence permits.

Section 2: 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

None.

1 A bill to be entitled
 2 An act relating to low-voltage alarm system projects;
 3 amending s. 553.793, F.S.; specifying that a
 4 nonelectric fence or wall must enclose the outside
 5 perimeter of a low-voltage electric fence; permitting
 6 low-voltage electric fences to be installed in areas
 7 within more than one zoning category; prohibiting a
 8 municipality, county, district, or other entity of
 9 local government from adopting or maintaining certain
 10 ordinances or rules that provide additional
 11 requirements for low-voltage alarm system projects;
 12 providing an effective date.

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

15
 16 Section 1. Paragraphs (b) and (d) of subsection (3) and
 17 subsection (10) of section 553.793, Florida Statutes, are
 18 amended to read:

19 553.793 Streamlined low-voltage alarm system installation
 20 permitting.—

21 (3) A low-voltage electric fence must meet all of the
 22 following requirements to be permitted as a low-voltage alarm
 23 system project, and no further permit shall be required for the
 24 low-voltage alarm system project other than as provided in this
 25 section:

26 (b) A nonelectric fence or wall must completely enclose
 27 the outside perimeter of the low-voltage electric fence. The
 28 low-voltage electric fence may be up to 2 feet higher than the
 29 perimeter nonelectric fence or wall.

30 (d) A ~~The~~ low-voltage electric fence is allowed ~~shall not~~
 31 ~~be installed~~ in any ~~an~~ area unless the area is zoned exclusively
 32 for single-family or multifamily residential use. An area is not
 33 considered to be zoned exclusively for single-family or
 34 multifamily residential use if the area is within more than one
 35 zoning category.

36 (10) A municipality, county, district, or other entity of
 37 local government may not adopt or maintain in effect any
 38 ordinance or rule regarding a low-voltage alarm system project
 39 that provides additional requirements beyond those set out in
 40 this section for the installation or maintenance of a low-
 41 voltage alarm system project or that is otherwise ~~is~~
 42 inconsistent with this section.

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 535 (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

1 Committee/Subcommittee hearing bill: Local Administration,
2 Federal Affairs & Special Districts Subcommittee
3 Representative Snyder offered the following:

4

5 **Amendment**

6 Remove line 28 and insert:

7 low-voltage electric must ~~may~~ be ~~up to~~ 2 feet higher than the

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 577 Spaceport Territory
SPONSOR(S): Griffiths and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 968

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	13 Y, 0 N	Thompson	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
3) Commerce Committee			

SUMMARY ANALYSIS

Space Florida is an independent special district, a body politic and corporate, and a subdivision of the state, and is the point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector. Space Florida is authorized to purchase or construct facilities, set rates, fees, and charges for the use of facilities, and undertake joint financing with municipalities or private sector entities for any project. Space Florida's ability to develop spaceport infrastructure is statutorily limited to geographic areas called spaceport territories.

The following properties constitute "spaceport territory:"

- Certain real property located in Brevard County that is included within the 1998 boundaries of Patrick Space Force Base, formerly Patrick Air Force Base; Cape Canaveral Space Force Station, formerly Cape Canaveral Air Force Station; or John F. Kennedy Space Center. The territory consisting of areas within the John F. Kennedy Space Center and the Cape Canaveral Space Force Station may be referred to as the "Cape Canaveral Spaceport."
- Certain real property located in Santa Rosa, Okaloosa, Gulf, and Walton Counties which is included within the 1997 boundaries of Eglin Air Force Base.
- Certain real property located in Duval County which is included within the boundaries of Cecil Airport and Cecil Commerce Center.
- Real property within the state which is a spaceport licensed by the Federal Aviation Administration, as designated by the board of directors of Space Florida.
- Certain real property located in Brevard County which is included within the boundaries of Space Coast Regional Airport, Space Coast Regional Airport Industrial Park, and Spaceport Commerce Park.

Currently, Homestead Air Reserve Base and Tyndal Air Force Base are not designated in Florida Statute as "spaceport territory."

The bill designates certain real property located in the following areas, as spaceport territory:

- Miami-Dade County, which was formerly included within the boundaries of Homestead Air Force Base and is included within the boundaries of Homestead Air Reserve Base or deeded to Miami-Dade County or the City of Homestead.
- Bay County, which is included within the boundaries of Tyndall Air Force Base.

The bill does not appear to have a negative fiscal impact on state or local government, or the private sector.

The effective date of the bill is July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Commercial Space Industry

The commercial space transportation industry emerged in the 1990s and was primarily used to launch commercial satellites and transport cargo to the International Space Station (ISS). In just the last few years, growing interest in commercial space is realizing new possibilities for the industry including providing transportation to the ISS, laboratories for research, and space tourism. This rapidly growing industry is inspiring scientists, engineers, teachers, and a whole generation, to imagine entirely new possibilities for the future of space.¹

The Office of Commercial Space Transportation within the Federal Aviation Administration (FAA) is the federal agency responsible for regulating and facilitating the safe operations of the U.S. commercial space transportation industry.² The Commercial Space Launch Act of 1984 authorizes the FAA to establish licensing and regulatory requirements for launch vehicles, launch sites, and reusable suborbital rockets.³ The FAA's launch regulations and licensing procedures apply to all commercial launches taking place within U.S. territory and for launches being conducted abroad by U.S. companies. In general, the FAA does not license launch sites owned or operated by agencies of the U.S. government.⁴

Spaceports in Florida

Currently, Florida has two federally owned and operated spaceports and four FAA licensed spaceports. The spaceports, operator or licensure body, and launch type include:⁵

- Cape Canaveral Space Force Station, operated by U.S. Space Force, Vertical and Horizontal.
- Kennedy Space Center, operated by the National Aeronautics and Space Administration (NASA), Vertical and Horizontal.
- Space Florida Launch Complex 46, FAA, Vertical.
- Space Florida Launch and Landing Facility, FAA, Horizontal and Orbital Reentry.
- Cecil Air and Space Port, FAA, Horizontal.
- Space Coast Regional Airport, FAA, Horizontal.

Spaceport Territory

Currently, the following properties constitute spaceport territory under Florida law:⁶

- Certain real property located in Brevard County that is included within the 1998 boundaries of Patrick Space Force Base, formerly Patrick Air Force Base; Cape Canaveral Space Force Station, formerly Cape Canaveral Air Force Station; or John F. Kennedy Space Center. The territory consisting of areas within the John F. Kennedy Space Center and the Cape Canaveral Space Force Station may be referred to as the "Cape Canaveral Spaceport."

¹ U.S. Department of Transportation, *Federal Aviation Administration*, [https://www.faa.gov/space#:~:text=The%20commercial%20space%20transportation%20industry,International%20Space%20Station%20\(ISS\)](https://www.faa.gov/space#:~:text=The%20commercial%20space%20transportation%20industry,International%20Space%20Station%20(ISS)) (last visited Jan. 10, 2024).

² 14 C.F.R. s. 401.1-401.3.

³ 51 U.S.C. Ch. 509, §§ 50901-23.

⁴ The FAA also exempts certain classes of small rockets from licensure. See 14 C.F.R. § 400.2.

⁵ Federal Aviation Administration, *Spaceports by State*, https://www.faa.gov/space/spaceports_by_state (last visited Jan. 10, 2024).

⁶ S. 331.304, F.S.

- Certain real property located in Santa Rosa, Okaloosa, Gulf, and Walton Counties which is included within the 1997 boundaries of Eglin Air Force Base.
- Certain real property located in Duval County which is included within the boundaries of Cecil Airport and Cecil Commerce Center.
- Real property within the state which is a spaceport licensed by the Federal Aviation Administration, as designated by the board of directors of Space Florida.
- Certain real property located in Brevard County which is included within the boundaries of Space Coast Regional Airport, Space Coast Regional Airport Industrial Park, and Spaceport Commerce Park.

Space Florida

Space Florida is established as an independent special district, a body politic and corporate, and a subdivision of the state, to foster the growth and development of a sustainable and world-leading aerospace industry in the state. Space Florida has all the powers, rights, privileges, and authority as provided under the laws of this state.⁷

Space Florida acts as Florida's point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector.⁸ Space Florida is authorized to purchase or construct facilities, set rates, fees, and charges for the use of facilities, and undertake joint financing with municipalities or private sector entities for any project.⁹ Space Florida's ability to develop spaceport infrastructure is statutorily limited to geographic areas called spaceport territories.

Space Florida is authorized to exercise the following powers regarding spaceport territory:

- Own, acquire, construct, reconstruct, equip, operate, maintain, extend, or improve transportation facilities appropriate to meet the transportation requirements of Space Florida and activities conducted within spaceport territory.¹⁰
- Own, acquire, construct, reconstruct, equip, operate, maintain, extend, or improve electric power plants, transmission lines and related facilities, gas mains and facilities of any nature for the production or distribution of natural gas, transmission lines and related facilities and plants and facilities for the generation and transmission of power through traditional and new and experimental sources of power and energy; purchase electric power, natural gas, and other sources of power for distribution within any spaceport territory.¹¹
- Designate, set aside, and maintain lands and areas within or without the territorial limits of any spaceport territory as conservation areas or bird and wildlife sanctuaries.¹²
- Establish a program for the control, abatement, and elimination of mosquitoes and other noxious insects, rodents, reptiles, and other pests throughout the spaceport territory.¹³
- Own, acquire, construct, reconstruct, equip, maintain, operate, extend, and improve public safety facilities for the spaceport, including security stations, security vehicles, fire stations, water mains and plugs, and fire trucks and other vehicles and equipment; hire employees, security officers, and firefighters; and undertake such works and construct such facilities determined by the board to be necessary or desirable to promote and ensure public safety within the spaceport territory.¹⁴
- Own, acquire, construct, develop, create, maintain, equip, extend, improve, reconstruct, and operate its projects within the geographical limits of the spaceport territory. This includes any

⁷ S. 331.302, F.S.

⁸ S. 331.3011, F.S.

⁹ S. 331.305, F.S.

¹⁰ S. 331.305(12), F.S.

¹¹ S. 331.305(13), F.S.

¹² S. 331.305(14), F.S.

¹³ S. 331.305(15), F.S.

¹⁴ S. 331.305(17), F.S.

portions of the spaceport territory located inside the boundaries of any incorporated municipality or other political subdivision.¹⁵

- Within the territorial limits of any spaceport territory, acquire, through purchase or interagency agreement, or as otherwise provided in law, construct, control, and maintain, roads, connections and extensions that it deems necessary in accordance with established highway safety standards.¹⁶

Space Florida is required to regularly solicit input on Space Florida plans and activities from the aerospace industry, private sector spaceport territory stakeholders, each entity that owns or has ownership interest in a facility within spaceport territory, and other political subdivisions within spaceport territory.¹⁷

The Space Florida board of directors is authorized to take the following actions regarding comprehensive planning within spaceport territory:¹⁸

- Adopt, and from time to time review, amend, supplement, or repeal, a comprehensive general plan for the physical development of the area within the spaceport territory in accordance with the Space Florida Act, and consistent with the applicable county or municipal comprehensive plans.
- Prohibit within the spaceport territory the construction, alteration, repair, removal, or demolition, or the commencement of the construction, alteration, repair (except emergency repairs), removal, or demolition, of any building or structure, including, but not by way of limitation, public utility poles, lines, pipes, and facilities, without first obtaining a permit from the board or such other officer or agency as the board may designate, and prescribe the procedure with respect to the obtaining of such permit.
- Divide spaceport territory into zones or districts of such number, shape, and area as the board may deem best suited to carry out the purposes of the Space Florida Act, and make certain regulations and restrictions.¹⁹

The Space Florida board of directors is authorized to enter into contracts and agreements with municipalities located within a spaceport territory to help ensure effective cooperation and coordination in:²⁰

- Discharging their common functions, powers, and duties; and
- Rendering services to the respective residents and property owners.

Space Florida is authorized to apply to the Federal Government for a grant allowing the designation of any spaceport territory as a foreign trade zone pursuant to ss. 288.36 and 288.37, F.S. However, the designation of any spaceport territory as a foreign trade zone does not authorize an exemption from any tax imposed by the state or by any political subdivision, agency, or instrumentality.²¹

The Space Florida board of directors is authorized to strike out or correct the description of any land within or claimed to be within the boundary lines of any spaceport territory upon the written consent of the owners of all the land that would be included or excluded from the boundary lines of any spaceport territory or otherwise affected by the taking of such action, and of the owners of not less than the majority in acreage of all lands within any spaceport territory.²²

¹⁵ S. 331.312, F.S.

¹⁶ S. 331.313, F.S.

¹⁷ S. 331.3051(11), F.S.

¹⁸ S. 331.319, F.S.

¹⁹ S. 331.320, F.S.

²⁰ S. 331.322, F.S.

²¹ S. 331.327, F.S.

²² S. 331.329, F.S.

Homestead Air Reserve Base and Tyndall Air Force Base

Homestead Air Reserve Base is an Air Force Reserve base and combat unit in Homestead, Florida, located about 25 miles south of Miami. It is home to the 482nd Fighter Wing of the Air Force Reserve Command's Tenth Air Force, as well as the headquarters of Special Operations Command South. This wing has 1,600 members in addition to the 1,200 reservists. This combat unit supplies General Dynamics F-16 Fighting Falcon fighter aircraft, along with mission ready pilots and support personnel, for short-notice worldwide deployment. The base is utilized as a staging area for operations and palliation efforts in the southern hemisphere and provides assistance in many natural disasters.²³

Tyndall Air Force Base is located on the Gulf Coast of Florida, 12 miles east of Panama City in Bay County. Tyndall is home to the 325th Fighter Wing, which provides training for F-22 Raptor pilots, maintenance personnel, and battle managers for the combat faction of the Air Force. The 325th Fighter Wing also provides training for F-22 intelligence officers, F-22 crew members, and officer and enlisted air traffic controllers. The Fighter Wing hosts over 30 tenant organizations which are located on base. The 325th Fighter Wing is comprised of the Operations Group, Maintenance Group, Mission Support Group and the Medical Group, and tenant groups.²⁴

Currently, Homestead Air Reserve Base and Tyndal Air Force Base are not designated in Florida Statute as spaceport territories.

According to representatives of the aerospace industry, expansion of Florida's aerospace capabilities and infrastructure is needed in order to accommodate the industry's rapid growth.²⁵

Effect of Proposed Changes

The bill designates certain real property in the following areas, as spaceport territory:

- Miami-Dade County, which was formerly included within the boundaries of Homestead Air Force Base and is included within the boundaries of Homestead Air Reserve Base or deeded to Miami-Dade County or the City of Homestead.
- Bay County, which is included within the boundaries of Tyndall Air Force Base.

B. SECTION DIRECTORY:

Section 1: Amends s. 331.304, F.S., relating to spaceport territory.

Section 2: Creates 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.

²³ MILITARYBASES.com, *Homestead Air Reserve Base in Miami, FL*, <https://militarybases.com/florida/homestead/> (last visited Jan. 10, 2024).

²⁴ MILITARYBASES.com, *Tyndall Air Force Base in Panama City, FL*, <https://militarybases.com/florida/tyndall/> (last visited Jan. 10, 2024).

²⁵ Caden DeLisa, *SpaceX, Blue Origin urge Florida lawmakers for aerospace sector support*, The CAPITOLIST (Nov. 16, 2023), <https://thecapitolist.com/spacex-blue-origin-urge-florida-lawmakers-for-aerospace-sector-support/> (last visited Jan. 10, 2024).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Including additional bases in Florida's spaceport territory system may expand the development of the state's aerospace industry, and have a positive fiscal impact on individuals and businesses in the private sector and related entities in the public sector.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

HB 577

2024

1 A bill to be entitled
 2 An act relating to spaceport territory; amending s.
 3 331.304, F.S.; revising spaceport territory to include
 4 certain property; providing an effective date.

5
 6 Be It Enacted by the Legislature of the State of Florida:

7
 8 Section 1. Subsections (6) and (7) are added to section
 9 331.304, Florida Statutes, to read:

10 331.304 Spaceport territory.—The following property shall
 11 constitute spaceport territory:

12 (6) Certain real property located in Miami-Dade County
 13 which was formerly included within the boundaries of Homestead
 14 Air Force Base and is included within the boundaries of
 15 Homestead Air Reserve Base or deeded to Miami-Dade County or the
 16 City of Homestead.

17 (7) Certain real property located in Bay County which is
 18 included within the boundaries of Tyndall Air Force Base.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 665 Expedited Approval of Residential Building Permits
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, McClain
TIED BILLS: **IDEN./SIM. BILLS:** SB 812

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	11 Y, 2 N, As CS	Wright	Anstead
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
3) Commerce Committee			

SUMMARY ANALYSIS

The Florida Building Code (Building Code) must be applied and enforced uniformly and consistently across the state. Local governments are required to enforce the Building Code and are responsible for issuing building permits.

In Florida law, "plat" means a map or delineated representation of the subdivision of lands, and is generally required whenever a developer wishes to subdivide a large piece of property into smaller parcels and tracts. Generally, a preliminary plat approval is approval of the development plan, and a final plat approval is approval of a finalized development plan; engineering plans, if required; and documents confirming the parties with a property interest; which is then recorded with the clerk of the circuit court.

Some local governments allow a developer to commence construction and issue building permits after a preliminary plat has been issued, but before the plat is finalized.

The bill:

- Requires certain local governments to create a process to expedite the issuance of building permits based on a preliminary plat and to issue the number or percentage of building permits requested by an applicant, if:
 - The governing body has approved a preliminary plat for each residential building or structure.
 - The applicant provides proof to the governing body that the applicant has provided a copy of the approved preliminary plat, along with the approved plans, to the relevant electric, gas, water, and wastewater utilities.
 - The applicant holds a valid performance bond for up to 130 percent of the necessary improvements that have not been completed upon submission of the application.
- Provides that vested rights may be formed in a preliminary plat, under certain circumstances.
- Allows such applicant to contract to sell, but not transfer ownership of, a residential structure or building located in the preliminary plat before the final plat is approved.
- Requires all local governments to create a master building permit process.

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

The bill provides an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Plats

In Florida law, “plat” means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of all applicable state requirements and of any local ordinances.¹ Generally, platting is required whenever a developer wishes to subdivide a large piece of property into smaller parcels and tracts. These smaller areas become the residential lots, streets, and parks of a new residential subdivision.²

State law establishes consistent minimum requirements for the establishment of plats, and local governing bodies have the power to regulate and control the platting of lands.³ Prior to approval by the appropriate governing body, the plat must be reviewed for conformity with state and local law and sealed by a professional surveyor and mapper who is either employed by or under contract to the local governing body.⁴

Before a plat is offered for recording with the clerk of the circuit court, it must be approved by the appropriate governing body, and evidence of such approval must be placed on the plat. If not approved, the governing body must return the plat to the professional surveyor and mapper or the legal entity offering the plat for recordation.⁵

Jurisdiction over plat approval is as follows:⁶

- When the plat to be submitted for approval is located wholly within the boundaries of a municipality, the governing body of the municipality has exclusive jurisdiction to approve the plat.
- When a plat lies wholly within the unincorporated areas of a county, the governing body of the county has exclusive jurisdiction to approve the plat.
- When a plat lies within the boundaries of more than one governing body, two plats must be prepared and each governing body has exclusive jurisdiction to approve the plat within its boundaries, unless the governing bodies having said jurisdiction agree that one plat is mutually acceptable.

Every plat of a subdivision offered for recording must have certain information, including providing:⁷

- The name of the plat in bold legible letters, and the name of the subdivision, professional surveyor and mapper or legal entity, and street and mailing address on each sheet.
- The section, township, and range immediately under the name of the plat on each sheet included, along with the name of the city, town, village, county, and state in which the land being platted is situated.
- The dedications and approvals by the surveyor and mapper and local governing body, and the circuit court clerk’s certificate and the professional surveyor and mapper’s seal and statement.

¹ S. 177.031(14), F.S.

² Harry W. Carls, Florida Condo & HOA Law Blog, May 17, 2018, *Why is a Plat so Important?*, <https://www.floridacondohoalawblog.com/2018/05/17/why-is-a-plat-so-important/> (last visited Jan, 11, 2024).

³ S. 177.011, F.S.

⁴ S. 177.081(1), F.S.

⁵ S. 177.071(1), F.S.

⁶ *Id.*

⁷ S. 177.091, F.S.

- All section lines and quarter section lines occurring within the subdivision. If the description is by metes and bounds, all information called for, such as the point of commencement, course bearings and distances, and the point of beginning. If the platted lands are in a land grant or are not included in the subdivision of government surveys, then the boundaries are to be defined by metes and bounds and courses.
- Location, width, and names of all streets, waterways, or other rights-of-way.
- Location and width of proposed easements and existing easements identified in the title opinion or property information report must be shown on the plat or in the notes or legend, and their intended use.
- All lots numbered either by progressive numbers or, if in blocks, progressively numbered in each block, and the blocks progressively numbered or lettered, except that blocks in numbered additions bearing the same name may be numbered consecutively throughout the several additions.
- Sufficient survey data to positively describe the bounds of every lot, block, street easement, and all other areas shown on the plat.
- Designated park and recreation parcels.
- All interior excepted parcels clearly indicated and labeled "Not a part of this plat."
- The purpose of all areas dedicated clearly indicated or stated on the plat.
- That all platted utility easements must provide that such easements are also easements for the construction, installation, maintenance, and operation of cable television services; provided, however, no such construction, installation, maintenance, and operation of cable television services interferes with the facilities and services of an electric, telephone, gas, or other public utility.

Preliminary Plat Approval

Many local governments around the state have a process to approve a preliminary plat before approving a final plat. Generally, a preliminary plat is a technical, graphic representation of a proposed development, including plans for streets, utilities, drainage, easements, and lot lines, for a proposed subdivision. If a preliminary plat is required, it is generally a prerequisite for a final plat approval and the submission of any property improvement plans or permit applications.⁸

Generally, a preliminary plat approval is approval of the development plan, and a final plat approval is approval of a finalized development plan; engineering plans, if required; and documents confirming the parties with a property interest; which is then recorded with the clerk of the circuit court.⁹

Based on a preliminary plat approval, some local governments allow a developer to commence construction before the plat is finalized. For example, the City of Jacksonville, Village of Royal Palm Beach, and the City of Tallahassee allow for a preliminary plat approval process.¹⁰

In Jacksonville, the Planning and Development Department (Department) of the City of Jacksonville, upon request of an applicant, may allow up to 50 percent of the lots within a proposed subdivision to be developed, but not occupied, based on a preliminary plat approval so long as the developer or owner meets the following conditions for construction:¹¹

⁸ For examples, see City of Zephyrhills Code of Ordinances s. 11.03.02.01; Palm Beach County Code of Ordinances Art. 11., Ch. A.; Seminole County, SEMINOLE COUNTY PLANNING & DEVELOPMENT DIVISION, Subdivision Application, <https://www.seminolecountyfl.gov/core/fileparse.php/3307/urllt/SUBDIVISION-05-2023.ADA.pdf> (last visited Jan, 11, 2024).

⁹ Advance Surveying & Engineering, *An In-Depth Look At Preliminary and Final Plats*, <https://www.advsur.com/2019/07/an-in-depth-look-at-preliminary-and-final-plats/> (last visited Jan, 11, 2024).

¹⁰ City of Jacksonville Code of Ordinances s. 654-109, Village of Royal Palm Beach Code of Ordinances s. 22-22, City of Tallahassee Code of Ordinances s. 9-92.

¹¹ City of Jacksonville Code of Ordinances s. 654-139(d).

- Prior to Civil Plans submittal to the Department, the developer must submit the development proposal to Jacksonville Electric Authority (JEA) for review.
- Once JEA has granted preliminary approval, the Department will review the preliminary site plan, the preliminary and final engineering plans for the required improvements, and the sheet identifying the lots being requested for home construction prior to platting as approved by JEA. The Department reserves the right to deny authorization for development on a specific lot or lots to protect City interests.
- The developer or owner must provide a guarantee for required improvements and warranty of title.
- A Certificate of Occupancy may not be issued until the final plat is approved by JEA and the Department and recorded in the current public records of Duval County, Florida.
- Approval of the preliminary plat and required supplemental material are valid for 12 months from the date of approval. If the final plat is not submitted to and approved during the 12-month period, the conditional approvals are null and void.¹²

Vested Rights in Property Based on a Plat

In general, vested rights¹³ form when a property owner or developer acquires real property rights that cannot be taken by governmental regulation.¹⁴ Property owners or developers who do not have vested rights will be subject to subsequently enacted land regulations, while subsequently enacted land regulations do not apply to the property owners or developers who are determined to have vested rights.¹⁵

Florida common law provides that vested rights in a property may be established if a property owner or developer has:¹⁶

- In good faith reliance,
- Upon some act or omission of government,
- Made such a substantial change in position or has incurred such extensive obligations and expenses,
- That it would make it highly inequitable to interfere with the acquired right.

Recordation of a final plat with the clerk of the circuit court alone is not sufficient to establish vested rights¹⁷ in the land development regulations in existence at that time.¹⁸ Instead, the property owner or developer must take meaningful steps towards development of the property, such as applying for development permits or expending certain monies,¹⁹ to constitute a substantial change in position or be considered extensive obligations and expenses towards development of the property in reliance on some action by the local government.²⁰

¹² City of Jacksonville Code of Ordinances s. 654-109(b).

¹³ Florida courts have used the concepts of vested rights and equitable estoppel interchangeably in deciding fault in property rights cases. Equitable estoppel, in this instance, means focusing on whether it would be inequitable or fair to allow a local government to deny prior conduct or position on building or development decisions. Robert M. Rhodes and Cathy M. Sellers, *Equitable Estoppel and Vested Rights in Land Use*, The Florida Bar, II Florida Environmental and Land Use Law 8, (1994).

¹⁴ *Id.*; Heeter, *Zoning Estoppel: Application of the Principles of Equitable Estoppel and Vested Rights to Zoning Disputes*, Urb.L. Ann. 63, 64-65 (1971).

¹⁵ *Monroe County v. Ambrose*, 866 So.2d 707, 712 (Fla. 3d DCA 2003); Kristin Melton, de la Parte & Gilbert P.A., *When are Rights Vested in a Platted Development?*, 2016, <https://www.dgfirm.com/email/2016summer/article2.html#:~:text=Florida%20common%20law%20provides%20that,it%20would%20make%20it%20highly> (last visited Jan, 11, 2024).

¹⁶ *Monroe County*, 866 So.2d at 710.

¹⁷ *Id.*

¹⁸ Melton, *supra* note 16.

¹⁹ *Town of Largo v. Imperial Homes Corp.*, 309 So.2d 571, 573 (Fla. 2d DCA 1975).

²⁰ *Id.*; Melton, *supra* note 16.

Additionally, a property owner or developer may obtain vested rights in both a local government-approved preliminary plat and a final plat, as long as expenditures or a substantial change have been made by the property owner or developer based on such preliminary plat or plat.²¹

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.²²

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. The Governor eventually appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study's commission recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code (Building Code), and that first edition replaced all local codes on March 1, 2002.²³ The current edition of the Building Code is the eighth edition, which is referred to as the 2023 Florida Building Code.²⁴

Chapter 553, part IV, F.S., is known as the "Florida Building Codes Act" (Act). The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.²⁵

The Florida Building Commission (Commission) was created to implement the Building Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The Commission reviews several International Codes published by the International Code Council,²⁶ the National Electric Code, and other nationally adopted model codes to determine if the Building Code needs to be updated and adopts an updated Building Code every three years.²⁷

Building Permits

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.²⁸ Every local government must enforce the Building Code and issue building permits.²⁹

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.³⁰ Any construction work that requires a building permit also requires

²¹ *The Florida Companies v. Orange County*, 411 So.2d 1008, 1011 (Fla. 5th DCA 1982)

²² The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan, 11, 2024).

²³ *Id.*

²⁴ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Jan, 11, 2024).

²⁵ See s. 553.72(1), F.S.

²⁶ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to "construct safe, sustainable, affordable and resilient structures." International Code Council, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Jan. 11, 2024).

²⁷ S. 553.73(7)(a), F.S.

²⁸ S. 553.72, F.S.

²⁹ Ss. 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

³⁰ S. 468.603(2), F.S.; § 202, FBC, Building, 7th Ed., (2020).

plan reviews and inspections by the building official, inspector, or plans examiner to ensure the work complies with the Building Code.³¹

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.³² A building permit is not valid until the fees for the permit have been paid.³³

To obtain a permit, an applicant must complete an application for the proposed work on the form furnished by the local enforcing agency, which must be posted on its website.³⁴ An application for a permit must include building plans.³⁵ A local enforcing agency may not issue a permit until the building official or plans reviewer has reviewed the building plans and determined that they comply with the Building Code.³⁶

Building Permit Delays

Any delays in obtaining a building permit can delay the completion of a construction project. For example, delays in the completion of a construction project may:³⁷

- Lead to increased costs for construction projects, which may be passed onto occupants of a completed project;
- Discourage construction, which can reduce the total supply of buildings in a community and may lead to higher rents in the community;
- Reduce property tax revenue to a local government and other taxing jurisdictions resulting from the delayed start and completion of a construction project; and
- Result in delayed occupancy of a project, including single-family residences and multi-family residences.

Streamlining the process to obtain a building permit can accelerate the completion of construction projects. The goal of streamlining is to remove overlap and duplication and create more efficient administrative procedures while not reducing a building department's ability to enforce the applicable construction codes. Streamlining the building permit process may:³⁸

- Increase local government revenues by accelerating completion of a project and thus accelerating property tax collection;
- Create local construction jobs and other indirect jobs supported by local construction jobs, such as jobs at a material supplier, which may increase local tax revenue; and
- Encourage economic development by having an efficient permit system.

Master Building Permit Program

A master building permit program is a streamlined permitting process created by a local government to help builders who expect to construct identical single-family or two-family dwellings or townhomes on a repetitive basis. Such program must be designed to achieve standardization and consistency during the

³¹ §§ 107, 110.1, and 110.3, FBC, Building, 7th Ed., (2020).

³² See ss. 125.56(4)(a) and 553.79(1), F.S.

³³ § 109.1, FBC, Building, 7th Ed., (2020).

³⁴ Ss. 125.56(4)(b), 553.79(1), and 713.135(5) and (6), F.S.

³⁵ Ss. 468.603(8), and 553.79(2), F.S.

³⁶ S. 553.79(2), F.S.

³⁷ City of Austin Development Services Department, *A Program for Expedited Permitting*, http://austintexas.gov/sites/default/files/files/8-9-2016_Report_on_Expedited_Permitting_Program.pdf (last visited Jan. 11, 2024); PricewaterhouseCoopers, *The Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues*, (Dec. 7, 2005).

³⁸ *Id.*; Institute for Market Transformation, *Streamlining Compliance Processes*, (Winter 2012) <https://www.imt.org/wp-content/uploads/2018/02/CaseStudy5.pdf> (last visited Jan. 11, 2024).

permitting process and to reduce the time spent by local building departments during the site-specific building permit application process.³⁹

If a local building code administrator receives a written request from a licensed contractor for the creation of a master building permit program, the local government must create such program within 6 months after receipt.⁴⁰

To obtain a master building permit after a program has been implemented, a builder must submit the following information to the local building department:⁴¹

- A completed master building permit application.
- A general construction plan with:
 - All of the plan pages, documents, and drawings; signed and sealed by the design professional of record;⁴² and
 - A written acknowledgment from the design professional that the plan pages, documents, and drawings will be used for future site-specific building permit applications.
 - A model design, which may include up to four alternate exterior elevations, each containing the same living space footprint.⁴³
- Truss specifications.
- Energy performance calculations for all building orientations.

Once a master building permit application is approved, the local building department may only require the builder to submit the following documents for each site-specific building permit application:⁴⁴

- A completed site-specific building permit application that includes the master building permit number and identifies the model design to be built, including elevation and garage style.
- Three signed and sealed copies of the lot or parcel survey or site plan.
- An affidavit by the design professional of record affirming that the attached master building permit is a true and correct copy.
- Complete mechanical drawings of the model design.

An approved master building permit remains valid until the Florida Building Code is updated,⁴⁵ which is every 3 years.⁴⁶

Effect of the Bill

The bill requires a governing body to create:

- A two-step application process for the adoption of a preliminary plat, inclusive of any plans, in order to expedite the issuance of building permits related to such plats. The application must allow an applicant to identify the percentage of planned homes, or the number of building permits, that the governing body must issue for the residential subdivision or planned community indicated in the preliminary plat.
- A master building permit process consistent with existing master building permit application requirements for applicants seeking multiple building permits for residential subdivisions or planned communities.
 - The bill provides that a master building permit issued pursuant to this requirement is valid for 3 consecutive years after its issuance or until the adoption of a new Building Code, whichever is earlier. After a new Building Code is adopted, the applicant may

³⁹ S. 553.794(1), F.S.

⁴⁰ *Id.*

⁴¹ S. 553.794(3), F.S.

⁴² The design professional must be a licensed engineer or architect.

⁴³ S. 553.794(4)(c), F.S.

⁴⁴ S. 553.794(6), F.S.

⁴⁵ S. 553.794(5)(e), F.S.

⁴⁶ S. 553.73(7)(a), F.S.

apply for a new master building permit, which, upon approval, is valid for 3 consecutive years.

By **October 1, 2024**, the bill requires a governing body of a county that has 75,000 residents or more and a governing body of a municipality that has 30,000 residents or more to create a program to expedite the process for issuing building permits for residential subdivisions or planned communities before a final plat is recorded with the clerk of the circuit court.

- Such expedited process must include an application for an applicant to identify **up to 50 percent** of planned homes, or the number of building permits, that the governing body **must** issue for the residential subdivision or planned community. However, such a local government may issue building permits that exceed 50 percent of the residential subdivision or planned community.

By **December 31, 2027**, the bill requires such a governing body to update its expedited process to contain an application that allows an applicant to request an **increased percentage of up to 75 percent** of building permits for planned homes that the local governing body must issue for the residential subdivision or planned community. However, such a local government may issue building permits that exceed 75 percent of the residential subdivision or planned community.

The timelines for creating such applications do not apply to a county subject to the designation of the Florida Keys as an area of critical state concern in s. 380.0552, F.S., which is Monroe County.

If a governing body had a program in place **before July 1, 2023**, to expedite the building permit process, the bill requires such governing body to only update their program to approve an applicant's written application to issue up to 50 percent of the building permits for the residential subdivision or planned community. However, such a local government may issue building permits that exceed 50 percent of the residential subdivision or planned community.

In accordance with the timelines above, the bill requires the governing body to issue the number or percentage of building permits requested by an applicant, provided the residential buildings or structures are unoccupied and all of the following conditions are met:

- The governing body has approved a preliminary plat for each residential subdivision or planned community.
- The applicant provides proof to the governing body that the applicant has provided a copy of the approved preliminary plat, along with the approved plans, to the relevant electric, gas, water, and wastewater utilities.
- The applicant holds a valid performance bond for up to 130 percent of the necessary improvements⁴⁷ that have not been completed upon submission of the application under this section. For purposes of a master planned community,⁴⁸ a valid performance bond is required on a phase-by-phase basis.

The bill allows an applicant to use a **private provider** to expedite the application process therein.

The bill allows a governing body to work with appropriate local government agencies to issue an address and a temporary parcel identification number for lot lines and lot sizes based on the metes and bounds of the plat contained in an application.

⁴⁷ As defined in s. 177.031(9), F.S., improvements include, but are not limited to, street pavements, curbs and gutters, sidewalks, alley pavements, walkway pavements, water mains, sanitary sewers, storm sewers or drains, street names, signs, landscaping, permanent reference monuments (P.R.M.s), permanent control points (P.C.P.s), monuments, or any other improvement required by a governing body.

⁴⁸ "Planned unit development" or "master planned community" means an area of land that is planned and developed as a single entity or in approved stages with uses and structures substantially related to the character of the entire development, or a self-contained development in which the subdivision and zoning controls are applied to the project as a whole rather than to individual lots. S. 163.3203(5)(b), F.S.

The bill allows an applicant to contract to sell, but not transfer ownership of, a residential structure or building located in the residential subdivision or planned community until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

The bill prohibits an applicant from obtaining a final certificate of occupancy for each residential structure or building for which a building permit is issued until the final plat is approved by the governing body and recorded in the public records by the clerk of the circuit court.

The bill provides that an applicant has a vested right in a preliminary plat that has been approved by a governing body if all of the following conditions are met:

- The applicant relies in good faith on the approved preliminary plat or any amendments thereto.
- The applicant incurs obligations and expenses, commences construction of the residential subdivision or planned community, and is continuing in good faith with the development of the property.

The bill provides that upon the establishment of an applicant's vested rights, a governing body may not make substantive changes to the preliminary plat without the applicant's written consent.

The bill requires an applicant to indemnify and hold harmless the local government, its governing body, its agents, and its employees from:

- Liability or damages resulting from the issuance of a building permit or the construction, reconstruction, or improvement or repair of a residential building or structure, including any associated utilities, located in the residential subdivision or planned community.
- Liability or disputes resulting from the issuance of a certificate of occupancy for a residential building or structure that is constructed, reconstructed, improved, or repaired before the approval and recordation of the final plat of the qualified project.

This indemnification includes, but is not limited to, any liability and damage resulting from wind, fire, flood, construction defects, bodily injury, and any actions, issues, or disputes arising out of a contract or other agreement between the developer and a utility operating in the residential subdivision or planned community.

However, this indemnification does not extend to governmental actions that infringe on the applicant's vested rights.

The bill provides the following definitions:

- "Applicant" means a homebuilder or developer that files an application with the local governing body to identify the percentage of planned homes, or the number of building permits, that the local governing body must issue for a residential subdivision or planned community.
- "Final plat" means the final tracing, map, or site plan presented by the subdivider to a governing body for final approval, and, upon approval by the appropriate governing body, is submitted to the clerk of the circuit court for recording.
- "Preliminary plat" means a map or delineated representation of the subdivision of lands that is a complete and exact representation of the residential subdivision or planned community and contains required land boundary information.

Provides an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Creates s. 177.073, F.S.; relating to approval of certain building permits pursuant to a preliminary plat.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

This bill may impact local governments because they may have to hire more employees to meet the prescribed timeframes.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The streamlined permitting and development processes in the bill may expedite development across the state. However, permit fees may be raised by local governments in order to meet timing requirements.

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

On January 17, 2024, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Clarifies that an applicant must commence construction and continue to develop the property in good faith in order to obtain vested rights.
- Requires the governing body to obtain written consent of the applicant before it may make substantive changes to the preliminary plat.
- Requires the applicant to indemnify and hold harmless the local government, governing body, its agents, and its employees, from certain liability related to the improvement of the property, including to any associated utilities, and from certain disputes related to obtaining a certificate of occupancy.
 - However, such indemnification does not extend to governmental action that infringe on the applicant's vested rights.
- Changes the date by which a governing body must allow an applicant to obtain:
 - Up to 50 percent of permits pursuant to a preliminary plat, to October 1, 2024, from August 1, 2024.
 - Up to 75 percent of permits pursuant to a preliminary plat, to December 1, 2027, from December 1, 2028.
- Exempts Monroe County from the provisions which require the governing body to issue a certain percentage of permits pursuant to a preliminary plat.
- Provides that a master building permit is valid for 3 consecutive years after its issuance or until the adoption of a new Florida Building Code, whichever is earlier, instead of later.
- Requires an applicant for permits pursuant to a preliminary plat to provide a copy of the approved plat to relevant gas utilities.
- Removes provisions requiring certain reporting to the Department of Business and Professional Regulation and the Department of Commerce.
- Clarifies language and corrects grammatical errors.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.

1 A bill to be entitled
2 An act relating to expedited approval of residential
3 building permits; creating s. 177.073, F.S.; providing
4 definitions; requiring certain governing bodies, by a
5 date certain, to create a program to expedite the
6 process for issuing residential building permits
7 before a final plat is recorded; requiring the
8 expedited process to include a certain application;
9 requiring certain governing bodies to update its
10 program in a specified manner; providing
11 applicability; requiring a governing body to create
12 certain processes for purposes of the program;
13 authorizing applicants to use a private provider to
14 expedite the process for certain building permits;
15 authorizing a governing body to issue addresses and
16 temporary parcel identification numbers for specified
17 purposes; requiring a governing body to issue a
18 specified number or percentage of building permits
19 requested in an application when certain conditions
20 are met; setting forth certain conditions for
21 applicants who apply to the program; providing that an
22 applicant has a vested right in an approved
23 preliminary plat when certain conditions are met;
24 prohibiting a governing body from making substantive
25 changes to a preliminary plat without written consent;

26 requiring an applicant to indemnify and hold harmless
 27 certain entities and persons; providing an exception;
 28 providing an effective date.

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

32 Section 1. Section 177.073, Florida Statutes, is created
 33 to read:

34 177.073 Expedited approval of residential building permits
 35 before a final plat is recorded.—

36 (1) As used in this section, the term:

37 (a) "Applicant" means a homebuilder or developer who files
 38 an application with the local governing body to identify the
 39 percentage of planned homes, or the number of building permits,
 40 that the local governing body must issue for a residential
 41 subdivision or planned community.

42 (b) "Final plat" means the final tracing, map, or site
 43 plan presented by the subdivider to a governing body for final
 44 approval, and, upon approval by the appropriate governing body,
 45 is submitted to the clerk of the circuit court for recording.

46 (c) "Local building official" has the same meaning as in
 47 s. 553.791(1).

48 (d) "Plans" means any building plans, construction plans,
 49 engineering plans, or site plans, or their functional
 50 equivalent, submitted by an applicant for a building permit.

51 (e) "Preliminary plat" means a map or delineated
52 representation of the subdivision of lands that is a complete
53 and exact representation of the residential subdivision or
54 planned community and contains any additional information needed
55 to be in compliance with the requirements of this chapter.

56 (2)(a) By October 1, 2024, the governing body of a county
57 that has 75,000 residents or more and the governing body of a
58 municipality that has 30,000 residents or more shall create a
59 program to expedite the process for issuing building permits for
60 residential subdivisions or planned communities in accordance
61 with the Florida Building Code and this section before a final
62 plat is recorded with the clerk of the circuit court. The
63 expedited process must include an application for an applicant
64 to identify the percentage of planned homes, not to exceed 50
65 percent of the residential subdivision or planned community, or
66 the number of building permits that the governing body must
67 issue for the residential subdivision or planned community. This
68 paragraph does not:

69 1. Restrict the governing body from issuing more than 50
70 percent of the building permits for the residential subdivision
71 or planned community.

72 2. Apply to a county subject to s. 380.0552.

73 (b) A governing body that had a program in place before
74 July 1, 2023, to expedite the building permit process, need only
75 update their program to approve an applicant's written

76 application to issue up to 50 percent of the building permits
77 for the residential subdivision or planned community in order to
78 comply with this section. This paragraph does not restrict a
79 governing body from issuing more than 50 percent of the building
80 permits for the residential subdivision or planned community.

81 (c) By December 31, 2027, the governing body of a county
82 that has 75,000 residents or more and the governing body of a
83 municipality that has 30,000 residents or more shall update its
84 program to expedite the process for issuing building permits for
85 residential subdivisions or planned communities in accordance
86 with the Florida Building Code and this section before a final
87 plat is recorded with the clerk of the circuit court. The
88 expedited process must include an application for an applicant
89 to identify the percentage of planned homes, not to exceed 75
90 percent of the residential subdivision or planned community, or
91 the number of building permits that the governing body must
92 issue for the residential subdivision or planned community. This
93 paragraph does not:

94 1. Restrict the governing body from issuing more than 75
95 percent of the building permits for the residential subdivision
96 or planned community.

97 2. Apply to a county subject to s. 380.0552.

98 (3) A governing body shall create:

99 (a) A two-step application process for the adoption of a
100 preliminary plat, inclusive of any plans, in order to expedite

101 the issuance of building permits under this section. The
102 application must allow an applicant to identify the percentage
103 of planned homes or the number of building permits that the
104 governing body must issue for the residential subdivision or
105 planned community.

106 (b) A master building permit process consistent with s.
107 553.794 for applicants seeking multiple building permits for
108 residential subdivisions or planned communities. For purposes of
109 this paragraph, a master building permit is valid for 3
110 consecutive years after its issuance or until the adoption of a
111 new Florida Building Code, whichever is earlier. After a new
112 Florida Building Code is adopted, the applicant may apply for a
113 new master building permit, which, upon approval, is valid for 3
114 consecutive years.

115 (4) An applicant may use a private provider consistent
116 with s. 553.791 to expedite the application process as described
117 in this section.

118 (5) A governing body may work with appropriate local
119 government agencies to issue an address and a temporary parcel
120 identification number for lot lines and lot sizes based on the
121 metes and bounds of the plat contained in the application.

122 (6) The governing body must issue the number or percentage
123 of building permits requested by an applicant in accordance with
124 the Florida Building Code and this section, provided the
125 residential buildings or structures are unoccupied and all of

126 the following conditions are met:

127 (a) The governing body has approved a preliminary plat for
128 each residential subdivision or planned community.

129 (b) The applicant provides proof to the governing body
130 that the applicant has provided a copy of the approved
131 preliminary plat, along with the approved plans, to the relevant
132 electric, gas, water, and wastewater utilities.

133 (c) The applicant holds a valid performance bond for up to
134 130 percent of the necessary improvements, as defined in s.
135 177.031(9), that have not been completed upon submission of the
136 application under this section. For purposes of a master planned
137 community as defined in s. 163.3202(5)(b), a valid performance
138 bond is required on a phase-by-phase basis.

139 (7)(a) An applicant may contract to sell, but may not
140 transfer ownership of, a residential structure or building
141 located in the residential subdivision or planned community
142 until the final plat is approved by the governing body and
143 recorded in the public records by the clerk of the circuit
144 court.

145 (b) An applicant may not obtain a final certificate of
146 occupancy for each residential structure or building for which a
147 building permit is issued until the final plat is approved by
148 the governing body and recorded in the public records by the
149 clerk of the circuit court.

150 (8) For purposes of this section, an applicant has a

151 vested right in a preliminary plat that has been approved by a
152 governing body if all of the following conditions are met:

153 (a) The applicant relies in good faith on the approved
154 preliminary plat or any amendments thereto.

155 (b) The applicant incurs obligations and expenses,
156 commences construction of the residential subdivision or planned
157 community, and is continuing in good faith with the development
158 of the property.

159 (9) Upon the establishment of an applicant's vested rights
160 in accordance with subsection (8), a governing body may not make
161 substantive changes to the preliminary plat without the
162 applicant's written consent.

163 (10) An applicant must indemnify and hold harmless the
164 local government, its governing body, its employees, and its
165 agents from liability or damages resulting from the issuance of
166 a building permit or the construction, reconstruction, or
167 improvement or repair of a residential building or structure,
168 including any associated utilities, located in the residential
169 subdivision or planned community. Additionally, an applicant
170 must indemnify and hold harmless the local government, its
171 governing body, its employees, and its agents from liability or
172 disputes resulting from the issuance of a certificate of
173 occupancy for a residential building or structure that is
174 constructed, reconstructed, improved, or repaired before the
175 approval and recordation of the final plat of the qualified

176 | project. This indemnification includes, but is not limited to,
177 | any liability and damage resulting from wind, fire, flood,
178 | construction defects, bodily injury, and any actions, issues, or
179 | disputes arising out of a contract or other agreement between
180 | the developer and a utility operating in the residential
181 | subdivision or planned community. However, this indemnification
182 | does not extend to governmental actions that infringe on the
183 | applicant's vested rights.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 727 Tax Exemption for Disabled Ex-servicemembers

SPONSOR(S): Amesty and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1004

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	21 Y, 0 N	Rexford	Aldridge
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
3) State Affairs Committee			

SUMMARY ANALYSIS

Ad valorem taxes are annual taxes levied by counties, cities, school districts and certain special districts. These taxes are based on the just value of real and tangible personal property as determined by county property appraisers on January 1 of each year.

The Florida Constitution provides specific ad valorem exemptions. Article VII, Section 3 of the Florida Constitution provides for specific exemptions from property taxes for widows and widowers, blind persons, and persons who are totally and permanently disabled. Veterans with a disability rating of 10 percent or more by misfortune or during wartime service to receive an exemption on the assessed value of his or her property up to \$5,000. The veteran must have been honorably discharged and be a resident of the state. Upon the death of the veteran, the exemption carries over to the veteran's un-remarried surviving spouse.

The bill increases the exemption on the assessed value amount from \$5,000 to \$10,000 for a disabled veteran's property when he or she is disabled to a degree of 10 percent or more by misfortune or during wartime service. Upon death of the veteran, the un-remarried surviving spouse of the veteran can enjoy the increased exemption.

The Revenue Estimating Conference has not yet estimated the potential fiscal impact of the bill. Staff estimates that the bill will have a negative recurring impact on local government school and non-school tax revenues.

This bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

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

Exemptions

Article VII, Section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title, and maintains their permanent residence or the permanent residence of their dependent upon such real estate, is eligible for a \$25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional \$25,000 homestead exemption applies to homesteads that have an assessed value greater than \$50,000 and up to \$75,000, excluding school district levies.

The Florida Constitution provides other specific ad valorem exemptions. For example, Article VII, Section 3 of the Florida Constitution provides for specific exemptions from property taxes for widows and widowers, blind persons, and persons who are totally and permanently disabled.

Property Tax Exemptions for Veterans and Surviving Spouses

Florida law provides several property tax exemptions for disabled veterans and their surviving spouses. These include exemptions for the following persons:

- A veteran with a total and permanent service-connected disability is entitled to a complete exemption for property owned and used as a homestead.⁶
- A veteran with a total service-connected disability that confines him or her to a wheelchair is entitled to a complete exemption for property owned and used as a homestead.⁷ Upon the veteran's death, the exemption carries over to the veteran's un-remarried surviving spouse.⁸
- The un-remarried surviving spouse of a veteran who died while on active duty is entitled to a complete exemption for property owned and used as a homestead if the veteran was a permanent resident of Florida on the day he or she died.⁹

¹ Art. VII, s. 1(a), Fla. Const.

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

³ Art. VII, s. 4, Fla. Const.

⁴ Art. VII, ss. 3, 4, and 6, Fla. Const.

⁵ S. 196.031, F.S.

⁶ Art. VII, s. 3(b), Fla. Const.; s. 196.081, F.S.

⁷ S. 196.091(1), F.S.

⁸ S. 196.091(3), F.S.

⁹ S. 196.081(4), F.S.

- A veteran disabled to a degree of 10 percent or more by misfortune or during wartime service is entitled to an exemption on the assessed value of his or her property up to \$5,000. The veteran must have been honorably discharged and must be a resident of the state. Upon the death of the veteran, the exemption carries over to the veteran's un-remarried surviving spouse.¹⁰

Effect of Proposed Changes

The bill amends section 196.24, F.S., to increase the exemption on the assessed value amount from \$5,000 to \$10,000 for a disabled veteran's property when he or she is disabled to a degree of 10 percent or more by misfortune or during wartime service. This exemption increase carries over to the un-remarried surviving spouse of the veteran upon the veteran's death.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.24, F.S., to increase the exemption on the assessed value amount from \$5,000 to \$10,000 for property of certain partially disabled veterans.

Section 2: 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:

The Revenue Estimating Conference has not yet estimated the potential fiscal impact of the bill. Staff estimates that the bill will have a negative recurring impact on local government school and non-school tax revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the bill passes, certain partially disabled veterans would see a decrease in their property taxes over time due to an increase of the exemption on the assessed value of the veteran's property.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

¹⁰ S. 196.24, F.S. A certificate of disability from the United States Government or the United States Department of Veterans Affairs must be provided to the property appraiser of the county in which the ex-servicemember's property lies in order for the exemption to apply.

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Article VII, Section 18 of the Florida Constitution may apply because this bill may reduce the authority that counties or municipalities have to raise revenues in the aggregate to the extent it allows an increase in the exemption on the assessed value of property belonging to certain partially disabled veterans; however, an exemption may apply because the bill may have an insignificant fiscal impact.

2. Other:

Section 196.24(1), F.S., is the statutory provision being amended by the bill. It provides in part:

(1) Any ex-servicemember, as defined in s. 196.012, who is a bona fide resident of the state, who was discharged under honorable conditions, and who has been disabled to a degree of 10 percent or more by misfortune or while serving during a period of wartime service as defined in s. 1.01(14) is entitled to the exemption from taxation provided for in **s. 3(b), Art. VII of the State Constitution** as provided in this section. ... (emphasis added)

Section 3(b), Art. VII of the State Constitution provides:

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

Section 6(e)(1), Art. VII of the State Constitution provides in part:

(e)(1) Each veteran who is age 65 or older who is partially or totally permanently disabled shall receive a discount from the amount of the ad valorem tax otherwise owed on homestead property the veteran owns and resides in if the disability was combat related and the veteran was honorably discharged upon separation from military service. The discount shall be in a percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs. ...

While s. 6(e)(1), Art. VII of the state constitution provides for a property tax discount for certain partially or totally permanently disabled veterans, the state constitution, including the provision cited in s. 196.24(1), F.S., appears to lack express authority for the exemption found in s. 196.24(1), F.S.

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

None.

1 A bill to be entitled
 2 An act relating to tax exemption for disabled ex-
 3 servicemembers; amending s. 196.24, F.S.; increasing
 4 the value of a tax exemption for certain disabled ex-
 5 servicemembers; providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:
 8

9 Section 1. Subsection (1) of section 196.24, Florida
 10 Statutes, is amended to read:

11 196.24 Exemption for disabled ex-servicemember or
 12 surviving spouse; evidence of disability.—

13 (1) Any ex-servicemember, as defined in s. 196.012, who is
 14 a bona fide resident of the state, who was discharged under
 15 honorable conditions, and who has been disabled to a degree of
 16 10 percent or more by misfortune or while serving during a
 17 period of wartime service as defined in s. 1.01(14) is entitled
 18 to the exemption from taxation provided for in s. 3(b), Art. VII
 19 of the State Constitution as provided in this section. Property
 20 to the value of \$10,000 ~~\$5,000~~ of such a person is exempt from
 21 taxation. The production by him or her of a certificate of
 22 disability from the United States Government or the United
 23 States Department of Veterans Affairs or its predecessor before
 24 the property appraiser of the county wherein the ex-
 25 servicemember's property lies is prima facie evidence of the

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26 | fact that he or she is entitled to the exemption. The
27 | unremarried surviving spouse of such a disabled ex-servicemember
28 | is also entitled to the exemption.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 777 Municipal Water or Sewer Utility Rates, Fees, and Charges
SPONSOR(S): Energy, Communications & Cybersecurity Subcommittee, Brackett
TIED BILLS: **IDEN./SIM. BILLS:** SB 1088

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy, Communications & Cybersecurity Subcommittee	12 Y, 3 N, As CS	Bauldree	Keating
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Burgess	Darden
3) Commerce Committee			

SUMMARY ANALYSIS

Municipalities are authorized by general law to provide water and sewer utility services and to set the rates, fees, and charges for such services. These utility systems are exempt from the rate-setting jurisdiction of the Florida Public Service Commission. A municipality that provides water or sewer utility service outside of its municipal boundaries may impose, subject to limits specified in Florida law, higher rates, fees, and charges on consumers receiving service outside of its boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. Most municipal utility systems are governed by the municipality's governing body (i.e., the city commission).

The bill requires a municipality providing water or sewer service to consumers outside of the municipality's boundaries to charge those consumers rates, fees, and charges that are just and equitable and are the same rates, fees, and charges for consumers inside of the municipal boundaries. The bill requires a public hearing prior to the municipality fixing any rates, fees, or charges for consumers outside of the municipal boundaries. Each affected municipality must conduct a rate study prior to January 1, 2027, and every seven years thereafter. The bill eliminates the ability of a municipality providing water or sewer service outside of its boundaries to charge any surcharge.

The bill does not appear to impact state government. The bill may have an indeterminate fiscal impact on local governments. See Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2024.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may exercise any power for municipal purposes, except when expressly prohibited by law.¹ The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act with certain exceptions.² Under their home rule power and as otherwise provided or limited by law or agreement, municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even in other municipalities.

Municipalities are authorized by general law to provide water and sewer utility services.³ With respect to public works projects, including water and sewer utility services,⁴ municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare."⁵ A municipality may not extend or apply these corporate powers within the corporate limits of another municipality.⁶ However, it may permit any other municipality and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms and conditions.⁷ An informal study conducted in 2014 indicated that approximately 250 municipalities provide water service and approximately 220 municipalities provide wastewater service. Of these municipalities, the study found that approximately 140 provide water and/or wastewater services to consumers outside of their municipal boundaries, which may include consumers in unincorporated areas of counties or in other municipalities.⁸ These utility systems are exempt from the jurisdiction of the Florida Public Service Commission.

A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. The municipality can accomplish this in two ways:

¹ Section 166.021(2), F.S., provides that any activity or power which may be exercised by the state or its political subdivisions is considered a municipal purpose.

² Pursuant to s. 166.021(3), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.

³ Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes.

⁴ Other public works projects authorized under s. 180.06, F.S., include alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes, garbage collection and disposal, airports, hospitals, jails, golf courses, gas plants and distribution systems, and related facilities.

⁵ S. 180.02(2), F.S.

⁶ *Id.*

⁷ S. 180.19, F.S.

⁸ Analysis of House Bill 813 (2014), Florida House of Representatives.

- First, for consumers outside of its boundaries, it may add a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries. This mechanism does not require a public hearing.⁹
- Second, it may set separate rates, fees, and charges for consumers outside its boundaries based on the same factors used to set rates for consumers within its boundaries. It may add a surcharge of up to 25 percent of these charges, provided that the total of all such rates, fees, and charges for service to consumers outside its boundaries may not exceed the total charges to consumers within its boundaries by more than 50 percent for corresponding service. Rates set in this manner require a public hearing at which all users served or to be served by the water or sewer utilities and all other interested persons will have an opportunity to be heard concerning the proposed rates.¹⁰

There is no central repository for information concerning municipal water or sewer service rates that identifies municipalities that impose higher rates on consumers outside of the municipal boundaries, the specific mechanism used by such municipalities to establish such rates, or the level of any additional charge or surcharge imposed.

Effect of the Bill

The bill requires a municipality providing water or sewer service to consumers outside of the municipality's boundaries to charge those consumers rates, fees, and charges that are just and equitable and are the same rates, fees, and charges for consumers inside of the municipal boundaries. The bill requires a public hearing prior to the municipality fixing any rates, fees, or charges for consumers outside of the municipal boundaries. The bill eliminates the ability of a municipality providing water or sewer service outside of its boundaries to charge any surcharge.

Under the bill, each municipality that provides water or sewer service outside of its boundaries must conduct a rate study by January 1, 2027, and every seven years thereafter. The rate study must evaluate, at a minimum:

- The utility's future capital investment needs,
- Whether the utility's rates are expected to generate sufficient revenues to cover its operating and maintenance costs and support current and planned capital investment, and
- Whether costs are equitably distributed among all customer classes.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 180.191, F.S., relating to limitation on rates charged consumer outside city limits.

Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁹ S. 180.191(1)(a), F.S.

¹⁰ S. 180.191(1)(b), F.S.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. For municipalities which own and operate a water or sewer utility and serve consumers outside of municipal boundaries, the bill eliminates the ability of such municipal utilities to impose any surcharge on such consumers. However, general rates may be adjusted to mitigate revenue impacts.

2. Expenditures:

Municipalities that provide water or sewer service outside of their municipal boundaries may see increased cost due to the requirement to conduct a rate study by January 1, 2027 and every seven years thereafter.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will likely result in cost savings to municipal water and sewer utility consumers that are located outside of municipal boundaries and currently pay a surcharge for service. A municipal water or sewer utility may increase rates for other consumers to mitigate revenue impacts.

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(b), of the Florida Constitution may apply because this bill reduces the amount that a municipal water or sewer utility can charge consumers outside of the municipal boundaries and requires those utilities to conduct a rate study by January 1, 2027 and every seven years thereafter. However, revenue impacts may be mitigated through general rate adjustments. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 10, 2024, the Energy, Communications & Cybersecurity Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Clarifies that a municipality providing water or sewer utility service to consumers outside of the boundaries of such municipality must charge all consumers the same rates, fees, and charges.
- Specifies the minimum components of a rate study.

This analysis is drafted to the committee substitute as passed by the Energy, Communications & Cybersecurity Subcommittee.

1 A bill to be entitled
 2 An act relating to municipal water or sewer utility
 3 rates, fees, and charges; amending s. 180.191, F.S.;
 4 removing a provision authorizing certain
 5 municipalities serving consumers outside their
 6 boundaries to add specific surcharges to the rates,
 7 fees, and charges; removing a provision which does not
 8 require a public hearing for adding specific
 9 surcharges; requiring certain municipalities to
 10 conduct rate studies by specified dates which evaluate
 11 future capital needs, whether rates are expected to
 12 generate sufficient revenues to cover certain costs
 13 and support certain investments, and whether costs are
 14 equitably distributed; providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Subsection (1) of section 180.191, Florida
 19 Statutes, is amended, and a new subsection (5) is added to that
 20 section, to read:

21 180.191 Limitation on rates charged consumer outside city
 22 limits.—

23 (1) Any municipality within the state operating a water or
 24 sewer utility outside of the boundaries of such municipality
 25 shall charge consumers outside the boundaries rates, fees, and

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

26 | ~~charges determined in one of the following manners:~~

27 | ~~(a) It may charge the same rates, fees, and charges as~~
28 | ~~consumers inside the municipal boundaries. However, in addition~~
29 | ~~thereto, the municipality may add a surcharge of not more than~~
30 | ~~25 percent of such rates, fees, and charges to consumers outside~~
31 | ~~the boundaries. Fixing of such rates, fees, and charges in this~~
32 | ~~manner shall not require a public hearing except as may be~~
33 | ~~provided for service to consumers inside the municipality.~~

34 | ~~(b) It may charge rates, fees, and charges that are just~~
35 | ~~and equitable and which are based on the same factors used in~~
36 | ~~fixing the rates, fees, and charges for consumers inside the~~
37 | ~~municipal boundaries. In addition thereto, the municipality may~~
38 | ~~add a surcharge not to exceed 25 percent of such rates, fees,~~
39 | ~~and charges for said services to consumers outside the~~
40 | ~~boundaries. However, the total of all such rates, fees, and~~
41 | ~~charges for the services to consumers outside the boundaries~~
42 | ~~shall not be more than 50 percent in excess of the total amount~~
43 | ~~the municipality charges consumers served within the~~
44 | ~~municipality for corresponding service. No such rates, fees, and~~
45 | ~~charges shall be fixed until after a public hearing at which all~~
46 | ~~of the users of the water or sewer systems; owners, tenants, or~~
47 | ~~occupants of property served or to be served thereby; and all~~
48 | ~~others interested shall have an opportunity to be heard~~
49 | ~~concerning the proposed rates, fees, and charges. Any change or~~
50 | ~~revision of such rates, fees, or charges may be made in the same~~

51 manner as such rates, fees, or charges were originally
52 established, but if such change or revision is to be made
53 substantially pro rata as to all classes of service, both inside
54 and outside the municipality, no hearing or notice shall be
55 required.

56 (5) By January 1, 2027, and every 7 years thereafter, each
57 municipality subject to subsection (1) must conduct a rate study
58 which evaluates, at a minimum, the utility's future capital
59 investment needs, whether the utility's rates are expected to
60 generate sufficient revenues to cover its operating and
61 maintenance costs and support current and planned capital
62 investment, and whether costs are equitably distributed among
63 all customer classes.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 967 Lee County

SPONSOR(S): Botana

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

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 Lee County MCD is a mosquito control district created by special act in 1958. The charter of the district was re-codified in 1998. The district provides services to all of Lee County, except for the area that is serviced by the Fort Myers Beach MCD. The district is also authorized to take actions for the control and elimination of all species of mosquitoes and other arthropods of public health importance in a five-mile radius outside the boundaries of the district. The district levies an ad valorem tax of 0.23 mills for the current fiscal year, generating approximately \$25.9 million in revenue.

The Fort Myers Beach MCD is a mosquito control district created by county resolution in 1949. The charter of the district was re-codified in 2001. The district levies an ad valorem tax of 0.1123 mills for the current fiscal year, generating \$320,370 in revenue.

Subject to approval by the electors of Lee County voting in a referendum to be held during the 2024 general election, the bill repeals the charter of the Fort Myers Beach MCD and expands the boundaries of the Lee County MCD to include all of Lee County. The bill provides that the districts are merged as of the effective date of the act and all assets and liabilities of the Fort Myers Beach Mosquito Control District as of the effective date of the act shall be transferred to the Lee County Mosquito Control District.

According to the Economic Impact Statement (EIS), the Fort Myers Beach MCD currently pays \$60,000 to the Lee County MCD for aerial spraying and inspection services. The EIS states that a merger would result in more equitable sharing of the cost of mosquito control services and most taxpayers would see a reduction in their millage rate.

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 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.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 are governed generally by the Uniform Special District Accountability Act (USDAA).⁷ The USDAA centralizes provisions governing special districts and applies to the formation,⁸ governance,⁹ administration,¹⁰ supervision,¹¹ merger,¹² and dissolution¹³ of special districts, unless otherwise expressly provided in law.¹⁴ The USDAA requires notice and publication of tentative budgets and final budgets.¹⁵ Certain budget amendments are allowed up to 60 days following the end of the fiscal year.¹⁶

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. 189.01, F.S., but see ch. 190, F.S. (community development districts), ch. 191, F.S. (independent special fire control districts), ch. 298, F.S. (water control districts), ch. 388, F.S. (mosquito control districts), and ch. 582, F.S. (soil and water conservation districts).

⁸ See ss. 189.02 (creation of dependent special districts) and 189.031, F.S. (creation of independent special districts).

⁹ See s. 189.0311, F.S. (charter requirements for independent special districts).

¹⁰ See s. 189.019, F.S. (requiring codification of charters incorporating all special acts for the district).

¹¹ See s. 189.0651, F.S. (oversight for special districts created by special act of the Legislature).

¹² Ss. 189.071 and 189.074, F.S.

¹³ Ss. 189.071 and 189.072, F.S.

¹⁴ See, e.g., s. 190.004, F.S. (Ch. 190, F.S. as “sole authorization” for creation of community development districts).

¹⁵ S. 189.016(4), F.S.

¹⁶ S. 189.016(6), F.S.

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.¹⁷

Mosquito Control Districts

Mosquito control districts (MCDs) are created to protect health and safety, improve quality of life, promote economic development, and allow for the enjoyment of natural attractions of the state by reducing the number of insects that transmit disease within their boundaries.¹⁸ An MCD may contain part or all of a county or municipality.¹⁹ As of January 27, 2024, there were 18 mosquito control districts: 15 independent districts and three dependent districts.²⁰

The creation of new MCDs has been prohibited since July 1, 1980.²¹ In counties without a district, the board of county commissioners may exercise the rights, powers, and duties authorized by statute for an MCD or may direct the county health department to do so.²² For MCDs formed prior to July 1, 1980, the district board of commissioners may request the board of county commissioners for the county in which the district lies to approve a change in the boundaries of the district.²³

MCDs may levy an ad valorem tax of up to 10 mills on real and personal property within the district.²⁴

The Department of Agriculture and Consumer Services (DACS) is responsible for coordinating the activities of MCDs receiving state funds.²⁵ To be eligible to receive state funds for arthropod control during a local government fiscal year, each MCD must submit a tentative work plan and detailed work plan budget to DACS by July 15 of the preceding fiscal year. The work plan and budget may be amended by the district with DACS approval.²⁶ Each district is also required to submit an expenditure report for the preceding month within 30 days after the end of that month.²⁷

Lee County MCD

The Lee County MCD is a mosquito control district created by special act in 1958.²⁸ The charter of the district was re-codified in 1998.²⁹ The district provides services to all of Lee County, except for the area that is serviced by the Fort Myers Beach MCD.³⁰ The district is also authorized to take actions for the control and elimination of all species of mosquitoes and other arthropods of public health importance in a five-mile radius outside the boundaries of the district.³¹

¹⁷ See, e.g., ch. 2006-354, Laws of Fla. (Argyle Fire District may impose special assessments, but has no ad valorem tax authority).

¹⁸ Ss. 388.0101 and 388.011(5), F.S.

¹⁹ S. 388.021(1), F.S.

²⁰ Dept. of Commerce, Special District Accountability Program, *Official List of Special Districts*, available at <https://specialdistrictreports.floridajobs.org/OfficialList/CustomList> (last visited Jan. 27, 2024).

²¹ S. 388.021(2), F.S.

²² Ss. 388.241 and 388.251, F.S. The county health department must keep the books and make all reports required under ch. 388, F.S., and all purchases, whether by bid or otherwise, must be made in accordance with the procedures allowed by the board of county commissioners. The health department must also submit to the board of county commissioners itemized monthly statements of expenses incurred in carrying out the control program in the county.

²³ S. 388.211(1), F.S.

²⁴ S. 388.221(1), F.S.

²⁵ S. 388.271(1), F.S.

²⁶ S. 288.281, F.S.

²⁷ S. 388.341, F.S. The reports must detail activities and accomplishments as may be required by DACS.

²⁸ Ch. 57-2060, s. 22, Laws of Fla.

²⁹ Ch. 98-461, Laws of Fla.

³⁰ Ch. 98-461, s. 1, Laws of Fla. See also ch. 2001-335, s. 3(2), Laws of Fla.

³¹ Ch. 98-461, s. 5, Laws of Fla.

The district is governed by a seven-member board elected to serve staggered four-term years.³² Members of the board receive \$4,800 a year as compensation.³³

The district's charter authorizes an ad valorem tax levy of up to 1 mill.³⁴ The district levies an ad valorem tax of 0.23 mills for the current fiscal year,³⁵ generating approximately \$25.9 million in revenue.³⁶

Fort Myers Beach MCD

The Fort Myers Beach MCD is a mosquito control district created by county resolution in 1949.³⁷ The charter of the district was re-codified by special act in 2001.³⁸ The district is authorized to exercise all powers and authority granted to MCDs under ch. 388, F.S. and by special acts relating to the district.³⁹ The district provides services to a 25 square mile area.⁴⁰ The district is governed by a three-member board elected to serve four-term years.⁴¹

The district's charter authorizes an ad valorem tax levy of up to 1 mill.⁴² The district levies an ad valorem tax of 0.1123 mills for the current fiscal year, generating \$320,370 in revenue.⁴³

Effect of Proposed Changes

Subject to approval by the electors of Lee County voting in a referendum to be held during the 2024 general election, the bill repeals the charter of the Fort Myers Beach MCD and expands the boundaries of the Lee County MCD to include all of Lee County. The bill provides that the districts are merged as of the effective date of the act and all assets and liabilities of the Fort Myers Beach Mosquito Control District as of the effective date of the act shall be transferred to the Lee County Mosquito Control District.

According to the Economic Impact Statement (EIS), the Fort Myers Beach MCD currently pays \$60,000 to the Lee County MCD for aerial spraying and inspection services. The EIS states that a merger would result in more equitable sharing of the cost of mosquito control services and most taxpayers would see a reduction in their millage rate.

B. SECTION DIRECTORY:

Section 1: Amends ch. 98-461, Laws of Fla., to amend the boundaries of the Lee County MCD.

Section 2: Repeals ch. 2001-335, Laws of Fla., the charter of the Fort Myers Beach MCD.

Section 3: Provides for the merger of the districts and transfers all assets and liabilities of the Fort Myers Beach MCD to the Lee County MCD.

³² Ch. 98-461, s. 3, Laws of Fla.

³³ Ch. 98-461, s. 7, Laws of Fla. See also s. 388.141, F.S.

³⁴ Ch. 98-461, s. 13, Laws of Fla.

³⁵ See Lee County Property Appraiser, *Property Information*, <https://www.leepa.org/search/propertysearch.aspx> (last visited Jan. 27, 2024)

³⁶ Lee County Mosquito Control District, *Lee County Mosquito Control District 2024 Budget*, <https://lcmcd.com/wp-content/uploads/2023/09/2023-24-Adopted-Budget.pdf> (last visited Jan. 27, 2024)

³⁷ Ch. 2001-335, s. 2, Laws of Fla.

³⁸ Ch. 2001-335, Laws of Fla.

³⁹ Ch. 2001-335, s. 5, Laws of Fla.

⁴⁰ Fort Myers Beach Mosquito Control, *About Us*, <http://www.fmbmc.org/about-us/> (last visited Jan. 27, 2024). See also ch. 2001-335, s. 2, Laws of Fla.

⁴¹ Ch. 2001-335, s. 3, Laws of Fla.

⁴² Ch. 2001-335, s. 7(1), Laws of Fla.

⁴³ Fort Myers Beach Mosquito Control District, *Budget Summary Fort Myers Beach Mosquito Control District Year 2023-2024*, <http://www.fmbmc.org/wp-content/uploads/2023/09/2023-2024-Budget-Summary.pdf> (last visited Jan. 27, 2024)

Section 4: Provides for a referendum to be held during the 2024 general election and provides a ballot title and question.

Section 5: Provides that the bill shall take effect upon approval by a majority vote of the qualified electors of Lee County voting in a referendum, except that sections 4 and 5 shall take effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

WHERE?

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? November 5, 2024.

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to Lee County; amending chapter 98-
 3 461, Laws of Florida; revising the boundaries of the
 4 Lee County Mosquito Control District; repealing
 5 chapter 2001-335, Laws of Florida, relating to the
 6 Fort Myers Beach Mosquito Control District; providing
 7 for merger of the districts; transferring assets and
 8 liabilities; requiring a referendum; providing
 9 effective dates.

10

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

12

13 Section 1. Section 1 of chapter 98-461, Laws of Florida,
 14 is amended to read:

15 Section 1. Continuation of a mosquito control district.-
 16 There is hereby provided for the continuation of the Lee County
 17 Mosquito Control District, an independent special district, the
 18 boundaries of which shall include all territory of Lee County.
 19 ~~except the following described area:~~

20

21 DESCRIPTION

22

23 ~~A tract or parcel of land lying in parts of Township~~
 24 ~~46 South, Range 24 East and Township 46 South, Range~~
 25 ~~24 East and part of Township 47 South, Range 24 East,~~

26 | ~~Lee County, Florida, which tract or parcel, containing~~
 27 | ~~14,615 acres more or less, is described as follows:~~

28 |
 29 | ~~BEGINNING at the southeast corner of Section 24,~~
 30 | ~~Township 46 South, Range 24 East, running westerly~~
 31 | ~~along the south line of said section for 2,700 feet~~
 32 | ~~more or less to the waters of Estero Bay;~~

33 |
 34 | ~~THENCE run southwesterly along a northwesterly line~~
 35 | ~~across the waters of Estero Bay for 8,300 feet to a~~
 36 | ~~point of intersection;~~

37 |
 38 | ~~THENCE run southerly along a westerly line across said~~
 39 | ~~Bay and Starvation Flats for 4,200 feet more or less~~
 40 | ~~to a point of intersection;~~

41 |
 42 | ~~THENCE run southeasterly, southerly and southwesterly~~
 43 | ~~along a westerly line of said area running across said~~
 44 | ~~Bay and Big Carlos Pass for 10,000 feet more or less;~~

45 |
 46 | ~~THENCE run northwesterly across Big Carlos Pass and~~
 47 | ~~along the shoreline of Estero Island for 6,100 feet~~
 48 | ~~more or less to a point of intersection;~~

49 |
 50 | ~~THENCE continue northwesterly along said shoreline for~~

51 ~~3,200 feet more or less to a point of intersection;~~
 52
 53 ~~THENCE continue along said shoreline northwesterly for~~
 54 ~~22,800 feet more or less to a point of intersection;~~
 55
 56 ~~THENCE run northwesterly along said shoreline for~~
 57 ~~3,900 feet more or less to a point of intersection;~~
 58
 59 ~~THENCE run northwesterly along said shoreline and~~
 60 ~~across San Carlos Bay for 8,000 feet more or less to~~
 61 ~~the intersection of a westerly prolongation of the~~
 62 ~~north line of Section 13, Township 46 South, Range 23~~
 63 ~~East and the waters of San Carlos Bay;~~
 64
 65 ~~THENCE run easterly along said prolongation and said~~
 66 ~~north line and the north line of Sections 18, 17, 16,~~
 67 ~~15, 14, and 13 to the northeast corner of said Section~~
 68 ~~13, Township 46 South, Range 24 East;~~
 69
 70 ~~THENCE run southerly along the easterly line of said~~
 71 ~~Section 13 and Section 24, Township 46 South, Range 24~~
 72 ~~East, for 10,600 feet more or less to the Point of~~
 73 ~~Beginning.~~
 74 Section 2. Chapter 2001-335, Laws of Florida, is repealed.
 75 Section 3. As of the effective date of this act, the Fort

76 Myers Beach Mosquito Control District is merged into the Lee
 77 County Mosquito Control District. All assets and liabilities of
 78 the Fort Myers Beach Mosquito Control District as of that date
 79 shall be transferred to the Lee County Mosquito Control
 80 District.

81 Section 4. Referendum.—

82 (1) The referendum election called for by this act shall
 83 be held on November 5, 2024, concurrent with the 2024 general
 84 election.

85 (2) The ballot title for the referendum question shall be
 86 in substantially the following form:

87 REVISING BOUNDARIES OF LEE COUNTY MOSQUITO CONTROL
 88 DISTRICT TO INCLUDE ALL OF LEE COUNTY

89 (3) The referendum question shall be placed on the ballot
 90 in substantially the following form:

91 Shall Chapter 2024- , Laws of Florida, amending the
 92 boundaries of the Lee County Mosquito Control District
 93 to include all of Lee County, abolishing the Fort
 94 Myers Beach Mosquito Control District, and
 95 transferring the assets and liabilities of the Fort
 96 Myers Beach Mosquito Control District to the Lee
 97 County Mosquito Control District, become effective?

98 () YES.

99 () NO.

100 (4) In the event this question is answered affirmatively

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101 by a majority of the qualified voters voting in the referendum,
102 this act shall take effect. The referendum election shall be
103 conducted by the Supervisor of Elections of Lee County in
104 accordance with the Florida Election Code.

105 Section 5. This act shall take effect only upon its
106 approval by a majority vote of those qualified electors of Lee
107 County voting in a referendum conducted in accordance with the
108 provisions of law relating to elections currently in force,
109 except that this section and section 4 shall take effect upon
110 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		

1 Committee/Subcommittee hearing bill: Local Administration,
2 Federal Affairs & Special Districts Subcommittee
3 Representative Botana offered the following:
4

5 **Amendment**

6 Remove lines 105-110 and insert:

7 Section 5. This act shall take effect only upon its
8 approval by a majority vote of those qualified electors of the
9 Lee County Mosquito Control District and of the Fort Myers Beach
10 Mosquito Control District voting in a referendum conducted in
11 accordance with the provisions of law relating to elections
12 currently in force, except that this section and section 4 shall
13 take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1023 St. Lucie County
SPONSOR(S): Trabulsy
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) State Affairs Committee			

SUMMARY ANALYSIS

The Centers for Medicare & Medicaid Services (CMS) develops a fee schedule in order to reimburse health care providers who accept payment via Medicare. Relative value units (RVUs) are used to calculate physician reimbursements. The 2024 Medicare reimbursement rate is \$32.74 per RVU.

The St. Lucie County Sheriff's Office manages the St. Lucie County jail. The Detention Administration Division within the sheriff's office is responsible for inmate health care.

The bill limits the compensation of health care providers who provide medical services for inmates housed in a St. Lucie County detention center to 110 percent of the Medicare reimbursement rate if that provider does not have a contract with St. Lucie County to provide inmate medical services. The bill provides this compensation may not exceed 125 percent of the Medicare reimbursement rate if the hospital has reported a negative operating margin for the previous year to the Agency for Health Care Administration through hospital-audited financial data.

The bill also provides that compensation to an entity to provide emergency medical transportation services for an inmate housed in a St. Lucie detention center may not to exceed 110 percent of the Medicare reimbursement rate if the entity does not have a contract with St. Lucie County to provide emergency medical services.

The Economic Impact Statement states that the bill is not expected to have a fiscal impact. However, the bill may have a fiscal impact for health care providers who are not contracted with St. Lucie County to provide inmate medical services.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Medicare Fee Schedule

Medicare is the federal health insurance program for persons 65 or older, certain younger people with disabilities, and people with end-stage renal disease.¹ Payments by Medicare to doctors and other healthcare providers are made subject to a fee schedule developed by the Centers for Medicare & Medicaid Services (CMS).² The fee schedule is a complete listing of fees used and contain the fee maximums that are used to reimburse a physician or other providers on a fee-for-service basis.

The Physician Fee Schedule (PFS) is the primary method of payment for health care providers enrolled in Medicare. Medicare uses the PFS when paying professional services of physicians and other health care providers in private practice, services covered incident to physicians' services (other than certain drugs covered as incident to services), diagnostic tests (other than clinical laboratory tests), and radiology services.³ Relative value units (RVUs) are used to calculate physician reimbursements. RVUs combine components related to the physician's work, the practice's expenses, and, when desired, liability protection.⁴ The Medicare reimbursement rate for 2024 is \$32.74 per RVU, a roughly 3.4% reduction from 2023 (\$33.89).⁵

St. Lucie County Sheriff's Office

The St. Lucie County Sheriff's Office manages the St. Lucie County jail.⁶ The Detention Administration Division within the Sheriff's Office is responsible for inmate health care.⁷ For the 2023-2024 fiscal year, the Sheriff's Office had a total budget of \$103,122,949.⁸ Of this total, \$11,574,864 was used for expenses related to inmate medical costs, training, and the administration of federal, state, and local grants.⁹ The county commission made an operational investment of \$1,360,000 for inmate medical care and expenses for jail medical equipment in this year's budget including \$1,000,000 for an inmate medical facility.¹⁰

¹ Medicare.gov, *What's Medicare?*, <https://www.medicare.gov/what-medicare-covers/your-medicare-coverage-choices/whats-medicare> (last visited Jan. 26, 2024).

² Centers for Medicare & Medicaid Services, *Fee Schedules – General Information*, <https://www.cms.gov/medicare/payment/fee-schedules> (last visited Jan. 26, 2024).

³ Centers for Medicare & Medicaid Services, *Physician Fee Schedule*, <https://www.cms.gov/medicare/payment/fee-schedules/physician> (last visited Jan. 26, 2024).

⁴ AMA CPT International, *Relative Value Units*, <https://cpt-international.ama-assn.org/relative-value-units> (last visited Jan. 26, 2024).

⁵ American Academy of Family Physicians, *2024 Medicare physician fee schedule reduces conversion factor, but has positives for primary care*, <https://www.aafp.org/pubs/fpm/blogs/gettingpaid/entry/2024-medicare-fee-schedule.html> (last visited Jan. 26, 2024).

⁶ St. Lucie County Sheriff's Office, Dept. of Detention, *Department of Detention*, <https://www.stluciesheriff.com/238/Department-of-Detention> (last visited Jan. 26, 2024).

⁷ St. Lucie County Sheriff's Office, Dept. of Detention, *Detention Administration Division*, <https://www.stluciesheriff.com/256/Detention-Administration-Division> (last visited Jan. 26, 2024).

⁸ St. Lucie County, *2024 Final Budget 37*, available at <https://www.stlucieco.gov/home/showdocument?id=91113&t=638385048882649770> (last visited Jan. 26, 2024).

⁹ *Id.* at 282.

¹⁰ *Id.* at xvi and 314.

Effect of Proposed Changes

The bill limits the compensation of health care providers who provide medical services for inmates housed in a St. Lucie County detention center to 110 percent of the Medicare reimbursement rate if that provider does not have a contract with St. Lucie County to provide inmate medical services.

The bill provides that health care providers may not be compensated at a rate exceeding 125 percent of the Medicare reimbursement rate if the health care provider does not have a contract with St. Lucie County to provide inmate medical services and has reported a negative operating margin for the previous year to the Agency for Health Care Administration through hospital-audited financial data.

The bill provides that compensation to an entity to provide emergency medical transportation services for an inmate housed in a St. Lucie detention center may not to exceed 110 percent of the Medicare reimbursement rate if the entity does not have a contract with St. Lucie County to provide emergency medical services.

The bill provides definitions that are to be used in the administration of the bill.

The Economic Impact Statement states that the bill is not expected to have a fiscal impact. However, the bill may have a negative fiscal impact for health care providers who are not contracted with St. Lucie County to provide inmate medical services.

B. SECTION DIRECTORY:

Section 1: Provides for an act relating to St. Lucie County.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 12, 2023.

WHERE? *The Indian River Press Journal*, a newspaper of general circulation in St. Lucie County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes 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.

1 A bill to be entitled
 2 An act relating to St. Lucie County; providing an
 3 exception to general law; providing definitions;
 4 limiting compensation to a health care provider that
 5 provides medical services for an inmate housed in a
 6 St. Lucie County detention center if the provider does
 7 not have a contract with the county to provide such
 8 services; limiting compensation to an entity that
 9 provides emergency medical transportation services for
 10 an inmate housed in a St. Lucie County detention
 11 center if the entity does not have a contract with the
 12 county to provide such services; providing
 13 applicability; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. (1) Notwithstanding any other law to the
 18 contrary, this act and all rules adopted pursuant to this act
 19 apply to the area located within St. Lucie County.

20 (2) As used in this act, the term:

21 (a) "Air ambulance" means a fixed-wing or rotary-wing
 22 aircraft used for, or intended to be used for, air
 23 transportation of sick or injured persons requiring or likely to
 24 require medical attention during transport.

25 (b) "Ambulance" or "emergency medical services vehicle"

26 means a privately or publicly owned vehicle or vessel that is
27 designed, constructed, reconstructed, maintained, equipped, or
28 operated for, and is used for, or intended to be used for, land
29 or water transportation of sick or injured persons requiring or
30 likely to require medical attention during transport.

31 (c) "Emergency medical transportation services" includes,
32 but is not limited to, services rendered by means of an
33 ambulance, emergency medical services vehicle, or air ambulance.

34 (d) "Health care provider" means:

35 1. A hospital licensed under chapter 395, Florida
36 Statutes.

37 2. A physician or physician assistant licensed under
38 chapter 458, Florida Statutes.

39 3. An osteopathic physician or physician assistant
40 licensed under chapter 459, Florida Statutes.

41 4. A podiatric physician licensed under chapter 461,
42 Florida Statutes.

43 5. A health maintenance organization certificated under
44 part I of chapter 641, Florida Statutes.

45 6. An ambulatory surgical center licensed under chapter
46 395, Florida Statutes.

47 7. An other medical facility as defined in paragraph (e).

48 8. A professional association, partnership, corporation,
49 joint venture, or other association composed of the persons
50 provided in subparagraphs 2., 3., and 4. for professional

51 activity.

52 (e) "Other medical facility" means a facility the primary
53 purpose of which is to provide human medical diagnostic services
54 or a facility providing nonsurgical human medical treatment, to
55 which facility the patient is admitted and from which facility
56 the patient is discharged within the same working day, and which
57 facility is not part of a hospital. However, a facility existing
58 for the primary purpose of performing terminations of pregnancy
59 or an office maintained by a physician or dentist for the
60 practice of medicine may not be construed to be an "other
61 medical facility."

62 (3) Compensation to a health care provider to provide
63 medical services for an inmate housed in a St. Lucie County
64 detention center may not exceed 110 percent of the Medicare
65 allowable rate if the health care provider does not have a
66 contract with St. Lucie County to provide inmate medical
67 services. However, compensation to a health care provider may
68 not exceed 125 percent of the Medicare allowable rate if:

69 (a) The health care provider does not have a contract with
70 St. Lucie County to provide inmate medical services; and

71 (b) The health care provider reported a negative operating
72 margin for the previous year to the Agency for Health Care
73 Administration through hospital-audited financial data.

74 (4) Compensation to an entity to provide emergency medical
75 transportation services for an inmate housed in a St. Lucie

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76 County detention center may not exceed 110 percent of the
77 Medicare allowable rate if the entity does not have a contract
78 with St. Lucie County to provide inmate emergency medical
79 transportation services.

80 (5) This act does not apply to charges for medical
81 services provided at a hospital operated by St. Lucie County.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 1145 Florida National Guard
SPONSOR(S): Daley
TIED BILLS: **IDEN./SIM. BILLS:** SM 226

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

SUMMARY ANALYSIS

The Florida National Guard (FLNG) consists of organized, armed, equipped, and federally recognized enlisted personnel, commissioned officers, and warrant officers who are citizens of the United States, or who have declared their intention to become citizens of the United States. The Governor is the commander in chief of all militia of the state and is responsible for appointing the Adjutant General, who serves as the Commanding General of the state's militia. As of September 2023, the FLNG was composed of 10,371 personnel in the Army National Guard and 2,102 personnel in the Air National Guard, for total authorized personnel of 12,473.

At the federal level, the National Guard Bureau (NGB) functions as the channel of communications on all matters pertaining to the National Guard between the Departments of the Army and the Air Force and the states. The NGB is required to submit an annual report to the Secretary of Defense identifying the personnel, training, and equipment required by the non-federalized National Guard.

The memorial urges the United States Congress to require the NGB to examine the resource allocations for the FLNG and allow an increase in its force structure. The memorial calls for copies to be dispatched to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of State, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto powers and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

This memorial does not have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

National Guard

The National Defense Act of 1916¹ established the National Guard Bureau (NGB) as a separate unit of the militia division of the federal government.² In 1948, the Secretary of Defense of the United States issued an order designating the NGB as a joint bureau of the Departments of the Army and Air Force.³ The NGB functions as the channel of communications on all matters pertaining to the National Guard between the Departments of the Army and the Air Force and the states.⁴ 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.⁵ The NGB must submit an annual report to the Secretary of Defense, through the Secretaries of the Army and the Air Force, identifying the personnel, training, and equipment required by the non-federalized National Guard.⁶

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 U.S. Army or the U.S. Air Force.⁷

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.⁸ The Governor is the commander in chief of all militia of the state⁹ 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.¹⁰

As of September 2023, the FLNG was composed of 10,371 personnel in the Army National Guard and 2,102 personnel in the Air National Guard, for total authorized personnel of 12,473.¹¹ The current estimated population of Florida is 22,610,726, ranking as the third most populous state.¹² However, the percentage of FLNG personnel compared to the state population is 0.0552 percent and National Guard strength is 55.2 personnel per 100,000 civilians. The ratio of FLNG personnel to general population is

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. 10501(b).

⁵ 10 U.S.C. s. 10503.

⁶ 10 U.S.C. s. 10504.

⁷ 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. 25, 2024).

⁸ S. 250.07, F.S.

⁹ Art. IV, s. 1(a), Fla. Const.

¹⁰ 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.

¹¹ Dept. of Defense, Defense Manpower Data Center, *Number of Military and DoD Appropriated Fund (APF) Civilian Personnel* (September 2023), available at <https://dwp.dmdc.osd.mil/dwp/app/dod-data-reports/workforce-reports> (last visited Jan. 25, 2024).

¹² United States Census Bureau, *QuickFacts Florida*, <https://www.census.gov/quickfacts/FL> (last visited Jan. 25, 2024).

less than states such as Alabama, Georgia, Mississippi, or Minnesota that have similarly sized Guard contingents but significantly smaller state populations.¹³

Effect of the Memorial

The memorial urges the United States Congress to require the NGB to examine the resource allocations of the FLNG and allow an increase in its force structure. The memorial directs the Secretary of State to dispatch copies of the memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

¹³ *Supra* note 11.

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The memorial neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

House Memorial

A memorial to the Congress of the United States,
 urging Congress to impel the United States National
 Guard Bureau to examine the resource allocations of
 the Florida National Guard and allow an increase in
 its force structure.

WHEREAS, the number of soldiers and airmen allocated to
 each state's National Guard, known as its "force structure," is
 determined by the United States National Guard Bureau in
 Washington, D.C., and

WHEREAS, with approximately 21 million residents, Florida
 is the third most populous state in the nation but has a force
 structure of just over 12,000 Guardsmen, and its ratio of one
 Guardsman for every 1,833 residents ranks 53rd among the 54
 states and territories of the United States which have a
 National Guard component, and

WHEREAS, due to the unprecedented events of 2020 and 2021,
 including COVID-19 response in addition to natural disasters and
 overseas deployments, the Florida National Guard expended the
 same number of workdays in 18 months as it had expended during
 the previous 20 years, and

WHEREAS, the Florida National Guard continues to meet its
 mission goals; however, the shortage of these invaluable
 "citizen soldiers," combined with the state's growing population

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26 and increased need for National Guard activation and response,
 27 has resulted in the repeated deployment of the same soldiers,
 28 which ultimately leads to excessive stress and fatigue and
 29 negatively impacts recruitment, retention, and readiness, and

30 WHEREAS, the United States National Guard Bureau's report,
 31 "Impact of U.S. Population Trends on National Guard Force
 32 Structure," released to Congress in April of 2021, acknowledges
 33 the aforementioned concerns within Florida and other regions,
 34 stating, "...the National Guard may need to evaluate re-
 35 allocating mission sets to other geographic areas to keep pace
 36 with changing demographics across the country," NOW, THEREFORE,

37
 38 Be It Resolved by the Legislature of the State of Florida:

39
 40 That the Florida Legislature respectfully urges the United
 41 States Congress to impel the United States National Guard Bureau
 42 to examine the resource allocations of the Florida National
 43 Guard and allow an increase in its force structure.

44 BE IT FURTHER RESOLVED that the Secretary of State dispatch
 45 copies of this memorial to the President of the United States,
 46 the President of the United States Senate, the Speaker of the
 47 United States House of Representatives, and each member of the
 48 Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1165 Town of Sneads, Jackson County
SPONSOR(S): Abbott
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

The State of Florida owns lands for many purposes including preservation, conservation, recreation, water management, historic preservation, and administration of government. Most of these lands are held by the Board of Trustees of the Internal Improvement Trust Fund (Board), consisting of the Governor and Cabinet. The Board may acquire, sell, transfer, and administer state lands in the manner consistent with state law.

The Town of Sneads is a municipality of approximately 4.5 square miles in Jackson County. The town has a population of 1,687. Located on the southeastern shore of Lake Seminole, Sneads is well-known for its “rich outdoor recreation” opportunities, including freshwater fishing, boating, and hunting.

The bill directs the Board of Trustees of the Internal Improvement Trust Fund to convey in fee simple to Town of Sneads property in Jackson County consisting of approximately 13.44 acres. The bill requires the Board of Trustees of the Internal Improvement Trust Fund to convey the property within 60 days of the bill taking effect.

The bill requires a cultural resource assessment survey to be commenced within 90 days after the Town of Sneads takes legal title to the property. The assessment must be conducted in accordance with the National Historic Preservation Act of 1966 and Florida Historical Resources Act and the scope of the work and reports produced must meet the requirements of the Archaeological Historical Report Standards and Guidelines in the Florida Administrative Code. The final report must be provided to the Speaker of the House of Representatives and the President of the Senate.

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

State Lands

The State of Florida owns lands for many purposes including preservation, conservation, recreation, water management, historic preservation, and administration of government. These lands include:

- All swamp and overflowed lands held by the state or that may inure to the state;
- All lands owned by the state by right of its sovereignty;¹
- All internal improvement lands proper;
- All tidal lands;
- All lands covered by shallow waters of the ocean or gulf, or bays or lagoons thereof, and all lands owned by the state covered by fresh water;
- All parks, reservations, or lands or bottoms set aside in the name of the state, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way; and
- All lands that have accrued or may accrue to the state.²

State lands are held in trust for the use and benefit of the people of Florida by the Board of Trustees of the Internal Improvement Trust Fund.³ The board consists of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture.⁴ This body may acquire, sell, transfer, and administer state lands in the manner consistent with state law.⁵

The Department of Environmental Protection, through its Division of State Lands, generally performs all staff duties and functions related to the acquisition, administration, and disposition of state lands, although certain staff duties related to state lands may be performed by water management districts, the Department of Agriculture and Consumer Services, or the Fish and Wildlife Conservation Commission.⁶

National Historic Preservation Act of 1966 (NHPA)

The NHPA was passed to acknowledge the importance of protecting our nation's heritage from development.⁷ The NHPA requires any federal agency with jurisdiction over a proposed federal or federally-assisted project to consider the effect of the property on any historic property before expending funds or issuing any license.⁸

The NHPA requires the Governor of each state to appoint a state historic preservation officer (SHPO) to administer its historical preservation programs.⁹ The SHPO is responsible for directing and

¹ These are "sovereignty submerged lands," which include but are not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated. R. 18-21.003(67), F.A.C.

² S. 253.03(1), F.S.

³ S. 253.001, F.S.

⁴ S. 253.02(1), F.S.

⁵ *Id.*

⁶ S. 253.002(1), F.S.

⁷ National Conference of State Historic Preservation Officers, *National Historic Preservation Act of 1966*, <https://ncshpo.org/resources/national-historic-preservation-act-of-1966/> (last visited Jan, 27, 2024).

⁸ 54 U.S.C s. 306108.

⁹ 54 U.S.C s. 302301.

conducting a comprehensive statewide survey of historical property in coordination with federal and state agencies, local governments, and private organizations.¹⁰ The NHPA also requires the SHPO to:

- Identity and nominate eligible property to the National Register and otherwise administer application for listing historical property on the Register;
- Prepare and implement comprehensive statewide historical preservation plans;
- Administer the state programs of federal assistance for historic preservation within the state;
- Advise and assist federal and state agencies in carrying out historical preservation responsibilities;
- Cooperate with other federal and state agencies, local governments, and private organizations and individuals to ensure that historic property is taken into consideration at all levels of planning and development;
- Provide public information, education, and training and technical assistance in historic preservation;
- Cooperate with local governments in the development of local historic preservation programs;
- Consult with appropriate federal agencies in accordance with federal law on federal undertakings and the content and sufficiency of any plans developed to protect, manage, or reduce harm to the property; and
- Advise and assist in the evaluation of proposals for rehabilitation projects that qualify for Federal assistance.¹¹

Florida Historical Resources Act (Act)

Florida law states the rich and unique heritage of historic properties in this state, representing more than 10,000 years of human presence, is an important legacy to be valued and conserved for present and future generations.¹² The destruction of these nonrenewable historical resources will engender a significant loss to the state's quality of life, economy, and cultural environment.

Similar to requirements for federal agencies under the NHPA, the Act requires each state agency that has direct or indirect jurisdiction over a proposed state or state-assisted project to, in accordance with state policy, consider the effect of the undertaking on any historic property included or eligible for inclusion in the National Register of Historic Places before expending any state funds on the project. The agency must provide the Division of Historical Resources (Division) of the Department of State a reasonable opportunity to comment on such an undertaking.¹³

The Division may designate an archaeological site as a "state archaeological landmark" if it finds the location is of significance to the scientific study or public representation of the state's historical, prehistoric, or aboriginal past.¹⁴ In addition, the Division may publicly designate an interrelated grouping of significant archaeological sites as a "state archaeological landmark zone." However, no site or grouping of sites may be designated without the express written consent of the private owner. Upon designation of an archaeological site, the owners and occupants of each designated state archaeological landmark or landmark zone must be given written notification of such designation by the Division. Once designated, no person may conduct field investigation activities without first securing a permit from the Division.¹⁵

Archaeological and Historical Report Standards and Guidelines

The Archaeological and Historical Report Standards and Guidelines (Guidelines) specifies criteria by which the Division reviews reports of cultural resource activities on federally assisted, licensed or permitted projects; projects on state owned or controlled property or state assisted, licensed, or

¹⁰ 54 U.S.C s. 302303.

¹¹ 54 U.S.C ss. 302303(b)(2)-(10).

¹² S. 267.061(1)(a), F.S.

¹³ S. 267.061(2)(a), F.S.

¹⁴ S. 267.11, F.S.

¹⁵ *Id.*

permitted projects; and local projects for which the Division has review authority.¹⁶ The reports of the results of archaeological fieldwork and historical fieldwork activities must contain sufficient detail for the Division to review for completeness and sufficiency. For projects of limited scope, topics that are not applicable may be omitted when a justification for the decision as to the completeness and sufficiency of the report is provided.¹⁷

Town of Sneads

The Town of Sneads is a municipality of approximately 4.5 square miles in Jackson County.¹⁸ The town has a population of 1,687.¹⁹ Located on the southeastern shore of Lake Seminole, Sneads is well-known for its “rich outdoor recreation” opportunities, including freshwater fishing, boating, and hunting.

Effect of Proposed Changes

The bill directs the Board of Trustees of the Internal Improvement Trust Fund to convey in fee simple to the Town of Sneads property in Jackson County consisting of approximately 13.44 acres. The bill requires the Board of Trustees of the Internal Improvement Trust Fund to convey the property within 60 days of the bill taking effect.

The bill requires a cultural resource assessment survey to be commenced within 90 days after the Town of Sneads takes legal title to the property. The assessment must be conducted in accordance with the NHPA and Florida Historical Resources Act. The scope of the work and reports must meet the requirements of the Archaeological Historical Report Standards and Guidelines in the Florida Administrative Code. The bill requires the final report to be provided to the Speaker of the House of Representatives and the President of the Senate.

The Economic Impact Statement states that the bill is not expected to have a fiscal impact.

B. SECTION DIRECTORY:

- Section 1: Requires the Board of Trustees of the Internal Improvement Trust Fund to convey property in fee simple to the Town of Sneads, and provides a description of the property.
- Section 2: Provides a timeframe for the Internal Improvement Trust Fund to convey the land to Sneads.
- Section 3: Provides a timeframe for a cultural resource assessment survey to be commenced.
- Section 4: Provides an effective date of July 1, 2024, or upon becoming a law, whichever occurs earlier.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 12, 2023.

¹⁶ Fla. Admin. Code 1A-46.001(1)

¹⁷ Fla. Admin. Code 1A-46.001(3)

¹⁸ Town of Sneads, *Community Information*, <https://sneadsfl.com/> (last visited Jan. 24, 2024).

¹⁹ Office of Economic and Demographic Research, *Florida Population Estimates by County and Municipality April 1, 2023*, http://edr.state.fl.us/Content/population-demographics/data/2023_Pop_Estimates.pdf (last visited Jan. 27, 2024).

WHERE? *Jackson County Times*, a weekly newspaper published in Jackson County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes 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.

1 A bill to be entitled
 2 An act relating to the Town of Sneads, Jackson County;
 3 transferring real property from the Board of Trustees
 4 of the Internal Improvement Trust Fund to the Town
 5 Council of the Town of Sneads; requiring a certain
 6 survey and report; providing an effective date.

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

9
 10 Section 1. The Board of Trustees of the Internal
 11 Improvement Trust Fund shall convey to the Town Council of the
 12 Town of Sneads, in fee simple, and for all uses as permitted by
 13 law, the following described real property located in Jackson
 14 County and more particularly described as follows:

15
 16 Commence at a nail and cap in the center of the Old
 17 Spanish Trail marking the Southwest corner of Section
 18 26, Township 4 North, Range 7 West, Jackson County,
 19 Florida and thence run North 89° 29" 00' East 25.25
 20 feet to a point, thence North 00° 51" 00' West 357.12
 21 feet to a point, thence South 76° 38" 23' East 51.58
 22 feet to a concrete monument marking the intersection
 23 of the Northerly right of way line of US Highway 90
 24 (State Road 10) with the Easterly right of way line of
 25 Seminole Park Road, thence North 00° 51" 00' West,

26 along said Easterly right of way line, 583.44 feet to
 27 the POINT OF BEGINNING, thence from said Point of
 28 Beginning continue North 00° 51" 00' West along said
 29 Easterly right of way line, 328.70 feet to an iron
 30 rod, thence North 89° 09' 00' East 1003.12 feet to an
 31 iron rod, thence South 00° 51" 00' East 1093.05 feet
 32 to an iron rod on the Northerly right of way line of
 33 said US Highway 90, said iron rod being on a curve
 34 concave to the North, thence Northwesterly along said
 35 Northerly right of way line and curve having a radius
 36 of 5597.65 feet through a central angle of 03° 32" 14'
 37 for an arc length of 345.58 feet, chord of said arc
 38 being North 84° 04" 55' West 345.53 feet to a point,
 39 thence North 00° 51" 00' West 723. 63 feet to a point,
 40 thence South 89° 09" 00' West; 660.0 feet to the Point
 41 of Beginning. Containing 13.44 acres, more or less.

42
 43 TOGETHER WITH: Commence at a nail and cap in the
 44 center of Old Spanish Trail marking the Southwest
 45 corner of Section 26, Township 4 North, Range 7 West,
 46 Jackson County, Florida and run North 89 degrees 29
 47 minutes 00 seconds minutes 00 seconds West, along said
 48 Easterly right of way line, 912.14 feet to an iron rod
 49 for the POINT East 25.25 feet to a point, thence run
 50 North 00 degrees 51 minutes 00 seconds West 357.12

51 feet to a point, thence run South 76 degrees 38
 52 minutes 23 seconds East 51.58 feet to a concrete
 53 monument marking the intersection of the Northerly
 54 right of way line of U.S. Highway 90 (State Road 10)
 55 with the Easterly right of way line of Legion Road,
 56 thence run North 00 degrees 51 POINT OF BEGINNING,
 57 thence from said Point of Beginning continue North 00
 58 degrees 51. minutes 00 seconds West, along said
 59 Easterly right of way line, 978.28 feet to an iron
 60 rod, thence departing said Easterly right of way line
 61 run South 69 degrees 29 minutes 01 seconds East
 62 1435.74 feet to an iron rod, thence run South 00
 63 degrees 51 minutes 00 seconds East 455.20 feet to an
 64 iron rod, thence run South 89 degrees 09 minutes 00
 65 seconds West 333.95 feet to an iron rod, thence
 66 continue South 89 degrees 09 minutes 00 seconds West
 67 1003.12 feet to the Point of Beginning.

68
 69 TOGETHER WITH: Commence at a nail and disc in the
 70 center of the Old Spanish Trail marking the Southwest
 71 corner of Section 26 Township 4, North, Range 7 West,
 72 thence North 89 degrees 29 minutes 00 seconds East
 73 25.25 feet, thence North 00 degrees 51 minutes 00
 74 seconds West along the center line of the Seminole
 75 Park Road 357.12 feet to a nail and disc, thence South

76 76 degrees 38 minutes 23 seconds East 51.58 feet to a
 77 concrete monument at the intersection of the Northerly
 78 right of way of State Road 10 and the Easterly right
 79 of way of the Seminole Park Road and call this the
 80 POINT'- OF BEGINNING, thence North 00 degrees 51
 81 minutes 00 seconds West along the Easterly right of
 82 way of the Seminole Park Road 583.44 feet to a
 83 concrete monument, thence North 89 degrees 09 minutes
 84 00 seconds East 660.00 feet to a concrete monument,
 85 thence South 00 degrees 51 minutes 00 seconds East
 86 723.63 feet to a concrete monument on the Northerly
 87 right of way of State Road 10, thence Northwesterly
 88 along a curve concave towards the right having a delta
 89 angle of 22 degrees 26 minutes; a radius of 5597.65
 90 feet; an arc distance along said right of way of
 91 675.12 feet to the POINT OF BEGINNING.

92
 93 Section 2. The Board of Trustees of the Internal
 94 Improvement Trust Fund shall convey the above-described land to
 95 the Town Council of the Town of Sneads within 60 days after the
 96 effective date of this act.

97 Section 3. Within 90 days after the Town of Sneads takes
 98 legal title to the above-referenced land, a cultural resource
 99 assessment survey shall be commenced. This assessment shall be
 100 conducted in accordance with Section 106 of the National

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101 Historic Preservation Act of 1966, Public Law 89-655, as
102 amended, as implemented by 36 C.F.R. part 800, Protection of
103 Historic Properties, and chapter 267, Florida Statutes. The
104 scope of work and report shall meet the requirements of Chapter
105 1A-46, Archaeological and Historical Report Standards and
106 Guidelines, Florida Administrative Code. The final report shall
107 be provided to the President of the Senate and the Speaker of
108 the House of Representatives.

109 Section 4. This act shall take effect July 1, 2024, or
110 upon becoming a law, whichever occurs earlier.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Local Administration,
2 Federal Affairs & Special Districts Subcommittee
3 Representative Abbott offered the following:

Amendment (with title amendment)

Remove lines 93-110 and insert:

7 Section 2. (1) The Town Council of the Town of Sneads
8 shall manage and protect the real property described in section
9 1, and use the property continuously for recreational means and
10 purposes.

11 (2) Any sale or disposition of the real property described
12 in section 1 by the Town Council of the Town of Sneads may
13 result in ownership of the property reverting back to the Board
14 of Trustees of the Internal Improvement Trust Fund on behalf of
15 the state.

Amendment No.

16 Section 3. The Board of Trustees of the Internal
17 Improvement Trust Fund shall convey the real property described
18 in section 1 to the Town Council of the Town of Sneads within 60
19 days after the effective date of this act.

20 Section 4. This act shall take effect upon becoming a law.

21
22 -----

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

24 Remove lines 5-6 and insert:
25 Council of the Town of Sneads; providing requirements for the
26 use and the sale or disposition of the real property; providing
27 for the conveyance of real property by a specified date;
28 providing an effective date.

29

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1167 Attorney Fees and Costs in Property Rights Disputes

SPONSOR(S): Yarkosky

TIED BILLS: **IDEN./SIM. BILLS:** SB 702

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	16 Y, 1 N	Mawn	Jones
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Mwakyanjala	Darden
3) Judiciary Committee			

SUMMARY ANALYSIS

The institution of private property is a fundamental element of the economic and social structure of the United States. Within this institution, different ownership principles define the existence and limits of private property rights. One such set of principles concerns the enforcement of private land use arrangements, known as “servitudes.” A servitude is, essentially, an arrangement that ties rights and obligations to property ownership or possession so that such rights and obligations run with the land to successive owners and occupiers. Because a servitude can be terminated only by expiration of its terms, by the agreement of all involved parties, by merger of the dominant and servient estates, by court order, or by abandonment by the benefiting party, servitudes are significant for their ability to foster stable, long-term property use arrangements for a variety of purposes, including shared land uses; maintenance of the character of a residential neighborhood, commercial development, or historic property; and the establishment of infrastructure and common facilities. Some of the more commonly-created servitudes convey “use rights” (that is, the rights to use a property one does not own, typically in a specified manner, for one’s own benefit) and rights of ingress and egress (that is, the legal rights to enter upon or exit from a piece of real property).

Riparian rights are rights incident to land bordering navigable waters such as rivers, channels, and streams (“riparian land”) and include rights of ingress, egress, boating, bathing, and fishing, and to an unobstructed view. Riparian rights also include the right to erect upon the bed and shores adjacent to the riparian land docks and other structures for the riparian land owner’s private use, subject to the right of the public to use the navigable waters and applicable regulatory and environmental approval schemes. Riparian rights, which inure to the riparian land owner, are appurtenant to and inseparable from the riparian land. Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running with the land, whether or not such rights are mentioned in the deed or lease.

The traditional “English rule” entitled a prevailing party in civil litigation to attorney fees as a matter of right. However, Florida and a majority of other United States jurisdictions have adopted the “American rule,” where each party bears its own attorney fees unless a “fee-shifting statute” provides an entitlement to fees. In Florida, several such fee-shifting statutes entitle the prevailing party to have his or her fees paid by the other party.

HB 1167 provides that, in a civil action brought against the owner of a parcel of real property to resolve a property rights dispute, the court must award reasonable attorney fees and costs to the prevailing defendant if the improvements made to the property by the defendant property owner were made in substantial compliance with, or in reliance on, environmental or regulatory approvals or permits issued by a political subdivision of the state or a state agency. Under the bill, “property rights” includes, but is not limited to, use rights, ingress and egress rights, and those rights incident to land bordering on navigable waters.

The bill may have a fiscal impact on state or local governments. See Fiscal Comments.

The bill provides an effective date of upon becoming a law.

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

STORAGE NAME: h1167b.LFS

DATE: 1/29/2024

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Servitudes

The institution of private property is a fundamental element of the economic and social structure of the United States.¹ Within this institution, different ownership principles define the existence and limits of private property rights.² One such set of principles concerns the enforcement of private land use arrangements, known as “servitudes.”³

A servitude is, essentially, an arrangement that ties rights and obligations to property ownership or possession so that such rights and obligations run with the land to successive owners and occupiers.⁴ Because a servitude can be terminated only by expiration of its terms, by the agreement of all involved parties, by merger of the dominant and servient estates,⁵ by court order, or by abandonment by the benefiting party, servitudes are significant for their ability to foster stable, long-term property use arrangements for a variety of purposes, including shared land uses; the maintenance of the character of a residential neighborhood, commercial development, or historic property; and the establishment of infrastructure and common facilities.⁶

Some of the more commonly-created servitudes convey “use rights” (that is, the rights to use a property one does not own, typically in a specified manner, for one’s own benefit) and rights of ingress and egress (that is, the legal rights to enter upon or exit a piece of real property). Servitudes typically come in the form of:

- Easements, which give a person a nonpossessory right of use or enjoyment in another person’s property for a specific purpose not inconsistent with the property owner’s general rights;⁷
- Real covenants, which limit a property owner’s use of his or her own property, typically for the benefit of other property owners in the community; or
- Profits à prendre, which give a person a non-possessory right to enter upon and remove natural resources (such as minerals, timber, produce, wildlife, or grass) from the property of another.

Riparian Rights

Upon attaining statehood in 1845, Florida “assumed title to and sovereignty over the navigable waters in the state and the lands thereunder” from the submerged bed up to the “ordinary high water mark.”⁸ Under the common law Public Trust Doctrine, which recognizes the public’s right to natural resources,

¹ Ronald H. Rosenberg, *Fixing a Broken Common Law – Has the Property Law of Easements and Covenants Been Reformed by a Restatement*, William & Mary Law School Scholarship Repository, Faculty Publications (2016), <https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=2932&context=facpubs> (last visited Jan. 25, 2024).

² *Id.*

³ *Id.*

⁴ Susan French, *Servitude*, The Encyclopaedia Britannica, Dec. 19, 2003, <https://www.britannica.com/topic/servitude-property-law> (last visited Jan. 25, 2024); Michael J.D. Sweeney, *The Changing Role of Private Land Restrictions: Reforming Servitude Law*, 64 Fordham L. Rev. 661 (1995) <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=3208&context=flr> (last visited Jan. 25, 2024).

⁵ The “dominant estate” is the property that benefits from the servitude, while the “servient estate” is the property burdened by the servitude. Legal Information Institute, *Dominant Estate*, https://www.law.cornell.edu/wex/dominant_estate (last visited Jan. 25, 2024); Legal Information Institute, *Servient Estate*, https://www.law.cornell.edu/wex/servient_estate (last visited Jan. 25, 2024).

⁶ *Id.*

⁷ Michael T. Olexa, et al., *Handbook of Florida Fence and Property Law: Easements and Rights of Way*, Oct. 3, 2022, <https://edis.ifas.ufl.edu/publication/FE108> (last visited Jan. 25, 2024).

⁸ Art. X, s. 11, Fla. Const.; *Merrill-Stevens Co. v. Durkee*, 57 So. 428 (Fla. 1912).

navigable rivers, lakes, and tidelands are held in the public trust, and the state has a legal duty to preserve and control such waters for public navigation and other lawful uses.⁹

Riparian rights are rights incident to land bordering navigable waters¹⁰ such as rivers, channels, and streams¹¹ (“riparian land”) and include rights of ingress, egress, boating, bathing, and fishing, and to an unobstructed view.¹² Riparian rights also include the right to erect upon the bed and shores adjacent to the riparian land docks and other structures for the riparian land owner’s private use, subject to the right of the public to use the navigable waters and applicable regulatory and environmental approval schemes.¹³ Riparian rights, which inure to the riparian land owner, are appurtenant to and inseparable from the riparian land.¹⁴ Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running with the land, whether or not such rights are mentioned in the deed or lease.¹⁵

In order for riparian rights to attach, the riparian land must extend to the ordinary high water mark of the navigable water.¹⁶ However, courts have acknowledged that there is no one proper method for establishing riparian rights boundaries, and such rights do not necessarily extend into the waters according to riparian land boundaries.¹⁷ Instead, such boundaries must be apportioned and riparian rights determined in accordance with equitable principles, with consideration given to the lay of the shore line, the direction of the water body, and the co-relative rights of adjoining riparian land owners.¹⁸

Land Use Regulation

Local Government Regulation

Florida law requires each county and municipality to plan for future development and growth by adopting, implementing, and amending as necessary a comprehensive plan.¹⁹ All elements of a plan or plan amendment must be based on relevant, appropriate data,²⁰ and an analysis by the local government may include surveys, studies, aspirational goals, and other data available at the time of adopting the plan or amendment.²¹ The data supporting a plan or amendment must be taken from professionally accepted sources and 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.²²

Comprehensive plans adopted by local governments provide the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal

⁹ Art. X, s. 11, Fla. Const.; *Coastal Petroleum Co. v. Am. Cyanamid Co.*, 492 So. 2d 339, 342 (Fla. 1986); *State ex rel. Ellis v. Gerbing*, 56 Fla. 603 (1908).

¹⁰ The test to determine whether water is “navigable water” is whether, at the time Florida joined the United States in 1845, the waterbody was, in its ordinary and natural state, used or capable of being used by any watercraft for a sufficient part of the year as a public highway for commerce. “Navigable waters” in the state do not extend to any permanent or transient waters in the form of so-called lakes, ponds, swamps, or overflowed lands lying over and upon areas which have heretofore been conveyed to private individuals by the United States or by the state without reservation of public rights in and to said waters. *Odom v. Deltona Corp.*, 341 So. 2d 977 (Fla. 1976); s. 253.141(2), F.S.

¹¹ Riparian rights should not be confused with littoral rights, which are rights incident to land bordering non-flowing waterbodies, such as lakes, ponds, seas, oceans, and gulfs.

¹² S. 253.141, F.S.; *Hayes v. Bowman*, 91 So. 2d 795 (Fla. 1957).

¹³ The right to build such a structure does not include the right to use the structure for commercial purposes. Further, the Florida Department of Environmental Protection has established a regulatory approval scheme and setback requirements for structures built over submerged sovereign lands, including docks. *Ferry Pass Inspectors’ & Shippers’ Ass’n v. White’s River Inspectors’ & Shippers’ Ass’n*, 48 So. 643 (Fla. 1909); *Belvedere Dev. Corp. v. Dep’t of Transp.*, 476 So. 2d 649 (Fla. 1985); Fla. Admin. Code R. 18-21.

¹⁴ S. 253.141, F.S.

¹⁵ *Id.*

¹⁶ *Id.*; *Thiesen v. Gulf, Fla. & Alabama Railway Co.*, 78 So. 491 (Fla. 1917).

¹⁷ *Hayes*, 91 So. 2d at 801, 802 (Fla. 1957); *Lake Conway Shores HOA, Inc. v. Driscoll*, 476 So. 2d 1306 (Fla. 5th DCA 1985).

¹⁸ *Id.*

¹⁹ Ss. 163.3167(2), 163.3177(2), F.S.

²⁰ “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.

²¹ S. 163.3177(1)(f), F.S.

²² *Id.*

development of the area.²³ A key purpose of such plans is to establish meaningful and predictable standards for land use and development.²⁴ Accordingly, each county and municipality must adopt and enforce land use regulations (such as zoning ordinances) that are consistent with and implement their adopted comprehensive plan.²⁵ Furthermore, all public and private development must be consistent with the local comprehensive plan and all applicable land use regulations; to accomplish this, local governments implement an approval and permitting scheme for property owners wishing to make specified improvements to their properties.²⁶

State Regulation

Like local governments, the State establishes standards for land use and development through the enactment of laws and the implementation of land use regulations promulgated by state agencies; many such laws and regulations focus on state-level environmental protection and natural resource conservation.²⁷ In many instances, a state-level approval and permitting scheme governs property owners wishing to make specified improvements to their properties, thereby ensuring compliance with applicable state land use laws and regulations.²⁸

Attorney Fees

The traditional “English rule” entitled a prevailing party in civil litigation to attorney fees as a matter of right. However, Florida and a majority of other United States jurisdictions have adopted the “American rule,” where each party bears its own attorney fees unless a “fee-shifting statute” provides an entitlement to fees. In Florida, several such fee-shifting statutes entitle the prevailing party to have his or her fees paid by the other party.²⁹

Effect of Proposed Changes

HB 1167 creates s. 57.106, F.S., to provide that, in a civil action brought against the owner of a parcel of real property to resolve a property rights dispute, the court must award reasonable attorney fees and costs to the prevailing defendant if the improvements made to the property by the defendant property owner were made in substantial compliance with, or in reliance on, environmental or regulatory approvals or permits issued by a political subdivision of the state or a state agency. Under the bill:

- “Improvement” includes, but is not limited to, anything done to increase the value, use, or benefit of real property, whether physical, material, legal, or otherwise.
- “Property rights” includes, but is not limited to, use rights, ingress and egress rights, and those rights incident to land bordering on navigable waters.

The bill provides an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Creates s. 57.106, F.S., relating to recovery of attorney fees and costs in certain disputes regarding property rights.

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

²³ S. 163.3177(1), F.S.

²⁴ S. 163.3167(1)(a-c) and (2), F.S.

²⁵ S. 163.3202, F.S.

²⁶ See ss. 163.3161(6) and 163.3194(1)(a), F.S.

²⁷ See, e.g., Florida Department of Environmental Protection, *About DEP*, <https://floridadep.gov/about-dep> (last visited Jan. 25, 2024).

²⁸ *Id.*

²⁹ See, e.g., s. 400.023, F.S. (nursing home resident); s. 440.34, F.S. (claimant in a workers' compensation case in certain situations); s. 501.2105, F.S. (plaintiff in specified FDUTPA actions); ss. 626.9373 and 627.428, F.S. (prevailing insured party in a case brought against an insurer); s. 790.33, F.S. (plaintiff in a suit to enforce his or her firearm rights); see also 42 U.S.C. s. 1988(b) (federal fee-shifting statute for prevailing parties in actions to enforce certain civil rights statutes).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The bill may have a positive fiscal impact on prevailing defendants in the types of property rights disputes contemplated by the bill to the extent that such defendants recover their attorney fees and costs where they would not otherwise have been able to do so. However, the bill may have a negative fiscal impact on non-prevailing plaintiffs in such disputes, which may be state or local government entities, to the extent that such plaintiffs have to pay a prevailing defendant's attorney fees and costs where they would not have otherwise had to do so.

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:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.

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1 A bill to be entitled
 2 An act relating to attorney fees and costs in property
 3 rights disputes; creating s. 57.106, F.S.; defining
 4 terms; requiring courts to award reasonable attorney
 5 fees and costs to a prevailing defendant in certain
 6 civil actions under specified circumstances; providing
 7 an effective date.
 8

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

10
 11 Section 1. Section 57.106, Florida Statutes, is created to
 12 read:

13 57.106 Recovery of attorney fees and costs in certain
 14 disputes regarding property rights.-

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

16 (a) "Improvement" includes, but is not limited to,
 17 anything done to increase the value, use, or benefit of real
 18 property, whether physical, material, legal, or otherwise.

19 (b) "Property rights" includes, but is not limited to, use
 20 rights, ingress and egress rights, and those rights incident to
 21 land bordering upon navigable waters as described in s. 253.141.

22 (2) In a civil action brought against the owner of a
 23 parcel of real property to resolve a dispute concerning property
 24 rights, the court must award reasonable attorney fees and costs
 25 to the prevailing defendant if the improvements made to the

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26 | property by the defendant property owner were made in
27 | substantial compliance with, or in reliance on, environmental or
28 | regulatory approvals or permits issued by a political
29 | subdivision of the state or a state agency.

30 | 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		

1 Committee/Subcommittee hearing bill: Local Administration,
 2 Federal Affairs & Special Districts Subcommittee
 3 Representative Yarkosky offered the following:
 4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Section 57.106, Florida Statutes, is created to
 8 read:

9 57.106 Recovery of attorney fees and costs in certain
 10 disputes regarding property rights.-

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

12 (a) "Improvement" means an act done to increase the value
 13 or benefit of real property.

14 (b) "Property rights" means zoning, future land use
 15 designations, easement rights, ingress and egress rights,
 16 environmental resource and impact permits, and those rights

Amendment No.

17 incident to land bordering upon navigable waters as described in
18 s. 253.141.

19 (2) In a civil action brought against the owner of a
20 parcel of real property to resolve a dispute concerning property
21 rights, the court may award reasonable attorney fees and costs
22 to the prevailing defendant if the improvements made to the
23 property by the defendant property owner were made in
24 substantial compliance with, or in reliance on, environmental or
25 regulatory approvals or permits issued by a political
26 subdivision of the state or a state agency.

27 (3) This section does not apply if the environmental or
28 regulatory approval or permit was issued due to a material
29 mistake of fact or law or was not issued in compliance with law.

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

31
32 -----
33 **T I T L E A M E N D M E N T**

34 Remove everything before the enacting clause and insert:
35 An act relating to attorney fees and costs in property rights
36 disputes; creating s. 57.106, F.S.; defining terms; requiring
37 courts to award reasonable attorney fees and costs to a
38 prevailing defendant in certain civil actions under specified
39 circumstances; providing an exception; providing an effective
40 date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1195 Millage Rates
SPONSOR(S): Ways & Means Committee, Garrison
TIED BILLS: **IDEN./SIM. BILLS:** SB 1202, HB 1141, SB 1322

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	15 Y, 7 N, As CS	Rexford	Aldridge
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Roy	Darden
3) State Affairs Committee			

SUMMARY ANALYSIS

Ad valorem taxes are annual taxes levied by counties, cities, school districts and certain special districts. These taxes are based on the just value of real and tangible personal property as determined by county property appraisers on January 1 of each year. Each year, local governing boards levy millage rates (i.e., tax rates) on the taxable value of property to generate the property tax revenue contemplated in their annual budgets.

The Florida Constitution prescribes specific maximum millage rates that can be levied by each local government, except for special districts, which can levy a maximum rate as determined by voters. To ensure that local governments collect roughly the same amount of ad valorem revenue as the prior year, statute provides a formula for calculating the yearly maximum millage rates that local governments can charge without providing public notice of a proposed tax increase.

The governing body of a county, a municipality, or an independent special district votes to adopt the yearly millage rates. By a majority vote, a governing board can adopt the maximum millage rate calculated using the formula. Local governments are allowed to override this maximum rate by extraordinary votes of their governing boards or by referendum.

A higher rate may be adopted only under the following conditions:

- A rate of not more than 110 percent of the maximum rate must be adopted by a *two-thirds* vote of the governing body; or
- A rate in excess of 110 percent of the maximum rate must be adopted by a *unanimous* vote the governing body or by a *three-fourths* vote of the membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum.

The bill provides that a two-thirds vote of the governing body of a county, municipality, or independent special district is required to pass any millage rate increase, except where a higher vote threshold is already required under current law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Property Taxes in Florida

The Florida Constitution reserves ad valorem taxation to local governments and prohibits the state from levying ad valorem taxes on real and tangible personal property.¹ The ad valorem tax is an annual tax levied by counties, municipalities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.² The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,³ and it provides for specified assessment limitations, property classifications, and exemptions.⁴ After the property appraiser considers any assessment limitation or use classification affecting the just value of a property, an assessed value is produced. The assessed value is then reduced by any exemptions to produce the taxable value.⁵ Each year, local governing boards levy millage rates (i.e., tax rates) on taxable value to generate the property tax revenue contemplated in their annual budgets.

Maximum Millage Rates

The Florida Constitution prescribes specific maximum millage rates that can be levied by each local government, except for special districts.⁶ The maximum millage rate that can be charged by a special district is determined by law approved by vote of the electors.⁷ The constitution prohibits the levy of ad valorem taxes in excess of:

- Ten mills for county purposes;
- Ten mills for municipal purposes;
- Ten mills for school purposes; and
- One mill for water management district purposes, except for the Northwest Florida Water Management District, which is limited to .05 mills.⁸

Property taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations.⁹

Rolled-Back Rate

Chapter 200, F.S., “Determination of Millage,” generally governs the process, procedures, and limitations on the establishment of millage rates by units of local government with ad valorem taxing authority.

A central concept in this process is the “rolled-back rate,” as defined in s. 200.065(1), F.S., which is:

¹ Art. VII, s. 1(a), Fla. Const.

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

³ Art. VII, s. 4, Fla. Const.

⁴ Art. VII, ss. 3, 4, and 6, Fla. Const.

⁵ S. 196.031, F.S.

⁶ Art. VII, s. 9(b), Fla. Const.

⁷ *Id.*

⁸ Art. VII, s. 9, Fla. Const. A mill is equal to \$1 per \$1,000 of value, or .001. A tax rate of 10 mills is equal to 1%.

⁹ Art. VII, s. 9(b), Fla. Const.

[A] millage rate which, exclusive of new construction, additions to structures, deletions, increases in the value of improvements that have undergone a substantial rehabilitation which increased the assessed value of such improvements by at least 100 percent, property added due to geographic boundary changes, total taxable value of tangible personal property within the jurisdiction in excess of 115 percent of the previous year's total taxable value, and any dedicated increment value, will provide the same ad valorem tax revenue for each taxing authority as was levied during the prior year less the amount, if any, paid or applied as a consequence of an obligation measured by the dedicated increment value.

If a local government levies a property tax rate in excess of the rolled-back rate, such levy must be characterized as a tax increase in the authorizing resolution or ordinance and in the advertisement required prior to adoption of a final millage rate and budget.¹⁰

Millage Rates in Excess of the Rolled-back Rate

In 2007, the Legislature created a formula using the rolled-back rate to determine the maximum millage rate (and implicitly a maximum revenue) that could be levied by a non-school taxing authority governing board by a simple majority vote.¹¹

The maximum millage rate that most non-school taxing authorities can levy by a simple majority vote is the rolled-back rate assuming the previous year's maximum millage rate was actually levied, as adjusted by the change in Florida per capita personal income.¹² Local governments are allowed to override this maximum rate by extraordinary votes of their governing boards or by referendum. A higher rate may be adopted only under the following conditions:

- A rate of not more than 110 percent of the rolled-back rate based on the previous year's maximum millage rate, adjusted for change in per capita Florida personal income, may be adopted if approved by a *two-thirds* vote of the membership of the governing body of the taxing authority; or
- A rate in excess of 110 percent may be adopted if approved by a *unanimous* vote of the membership of the governing body of the taxing authority or by a *three-fourths* vote of the membership of the governing body if the governing body has nine or more members, or if the rate is approved by a referendum.¹³

Effect of Proposed Changes

The bill provides that a two-thirds vote of the governing body of a county, municipality, or independent special district is required to pass any millage rate increase, other than a millage rate increase that already requires a three-fourths, unanimous vote, or approval in a referendum under current law.

B. SECTION DIRECTORY:

Section 1: Amends s. 200.065, F.S., relating to methods of fixing millage.

Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

¹⁰ Ss. 200.065(2)(d) and (3)(a).

¹¹ Ch. 2007-321, Laws of Fla.

¹² S. 200.065(5), F.S. The calculation of Florida per capita personal income is to be provided by the Office of Economic and Demographic Research, per s. 200.001(8)(i), F.S.

¹³ S. 200.065(5)(a), F.S.

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:

Subsection 18(b), art. VII of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote, may not enact a general law if the anticipated effect of doing so would be to reduce the authority that counties or municipalities have to raise revenues in the aggregate.

It is unclear whether requiring a two-thirds vote of the governing body of a county or municipality in order to pass any millage rate increase represents a reduction in revenue raising authority as contemplated by subsection 18(b). If the purpose of subsection 18(b) is to determine whether the amount of potential revenue available to counties and municipalities was reduced, then this bill does not reduce that potential and the requirement for a two-thirds vote of the Legislature is not applicable. However, if the purpose of subsection 18(b) is to consider the methods for adopting a millage rate, then the provisions of this bill (requiring a two-thirds vote of the governing body of a county or municipality to pass any millage rate increase) may be considered a mandate requiring a two-thirds vote of the Legislature.

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

On January 22, 2024, the Ways & Means Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment clarified that the two-thirds vote requirement created by the bill does not apply to existing millage rate increases that require a three-fourths or unanimous vote of the governing body or voter approval in a referendum under current law.

This analysis is drafted to the committee substitute as passed by the Ways & Means Committee.

1 A bill to be entitled
 2 An act relating to millage rates; amending s. 200.65,
 3 F.S.; prohibiting certain increases in the millage
 4 rate from going into effect until it has been approved
 5 by a specified vote; providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:
 8

9 Section 1. Paragraph (c) is added to subsection (5) of
 10 section 200.065, Florida Statutes, to read:

11 200.065 Method of fixing millage.—

12 (5) In each fiscal year:

13 (c) Except as provided in subparagraph (a)2., the previous
 14 millage rate may only be increased if approved by a two-thirds
 15 vote of the membership of the governing body of the county,
 16 municipality, or independent district.

17
 18 Any unit of government operating under a home rule charter
 19 adopted pursuant to ss. 10, 11, and 24, Art. VIII of the State
 20 Constitution of 1885, as preserved by s. 6(e), Art. VIII of the
 21 State Constitution, which is granted the authority in the State
 22 Constitution to exercise all the powers conferred now or
 23 hereafter by general law upon municipalities and which exercises
 24 such powers in the unincorporated area shall be recognized as a
 25 municipality under this subsection. For a downtown development

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2024

26 | authority established before the effective date of the State
27 | Constitution which has a millage that must be approved by a
28 | municipality, the governing body of that municipality shall be
29 | considered the governing body of the downtown development
30 | authority for purposes of this subsection.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1277 Municipal Utilities

SPONSOR(S): Energy, Communications & Cybersecurity Subcommittee, Busatta Cabrera

TIED BILLS: IDEN./SIM. **BILLS:** SB 1510

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy, Communications & Cybersecurity Subcommittee	13 Y, 2 N, As CS	Bauldree	Keating
2) Local Administration, Federal Affairs & Special Districts Subcommittee		Burgess	Darden
3) Commerce Committee			

SUMMARY ANALYSIS

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries and, by agreement, in unincorporated areas and in other municipalities.

Many municipalities own and operate electric and natural gas utilities. Municipalities are also authorized by general law to provide water and sewer utility services. A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its corporate boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. Municipalities routinely transfer a portion of their utility earnings to their general funds for non-utility purposes, though the amounts and percentages vary widely among municipalities.

Under the bill, a municipality that intends to offer utility service under a new, extended, renewed, or materially amended agreement must, in conjunction with the local government of the area to be served, conduct a public meeting within the area to be served. The bill also requires municipalities that provide such service to conduct an annual customer meeting in the areas served outside the municipal boundaries. The bill limits the portion of municipal utility revenues earned from service provided outside the municipal boundaries that may be used to fund or finance the municipality's non-utility related general government functions. The bill requires each municipality which provides utility service outside of its municipal boundaries to report annually certain information to the Florida Public Service Commission (PSC) for each type of utility service it provides and requires the PSC to compile and report this data to the Legislature and the Governor.

The bill limits the rates, fees, and charges that a municipal water or sewer utility may impose on consumers outside its boundaries to no more than 25 percent above the total amount the municipal water or sewer utility charges consumers within the municipal boundaries, provided rates for outside consumers are set in a public hearing using the same methods as rates for other consumers. The bill prohibits a municipal water or sewer utility that serves consumers within the boundaries of a separate municipality, using a water treatment plant or sewer treatment plant located within the boundaries of that separate municipality, from imposing rates, fees, and charges higher than those imposed on consumers inside its own municipal boundaries.

The bill does not impact state government revenues or state or local government expenditures. The bill may have a negative fiscal impact on certain local revenues. See Fiscal Analysis & Economic Impact Statement.

The bill provides an effective date of July 1, 2025.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Local Government Utility Services

Pursuant to s. 2(b), Art. VIII of the State Constitution, municipalities have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services. Municipalities may exercise any power for municipal purposes, except when expressly prohibited by law.¹ The legislative body of each municipality has the power to enact legislation on any subject upon which the state Legislature may act with certain exceptions.² Under their home rule power and as otherwise provided or limited by law or agreement, municipalities may provide utilities to citizens and entities within the municipality's corporate boundaries, in unincorporated areas, and even in other municipalities.

Many municipalities own and operate electric utilities and natural gas utilities and govern the operation of those utilities through ordinance, code, or policies. Currently, there are 33 municipal electric utilities in the state.³ Municipal electric and natural gas utility rates are not directly regulated by the Florida Public Service Commission (PSC), however, the PSC does have jurisdiction over municipal electric utilities for matters related to rate structure, power plant transmission line site certification, general reporting jurisdiction, service territory and territory disputes, energy efficiency reporting, ten-year site plans, reporting on system hardening and resiliency, reporting on net metering, audits related to regulatory assessment fees, monitoring renewable energy, reporting on facilities inspection and vegetation management, and grid bill jurisdiction.⁴

Municipalities are authorized by general law to provide water and sewer utility services.⁵ With respect to public works projects, including water and sewer utility services,⁶ municipalities may extend and execute their corporate powers outside of their corporate limits as "desirable or necessary for the promotion of the public health, safety and welfare."⁷ A municipality may not extend or apply these corporate powers within the corporate limits of another municipality.⁸ In general, however, local governments may enter into mutually advantageous agreements to provide services or facilities to other localities.⁹ Further, the law specifically authorizes a municipality to permit any other municipality

¹ Section 166.021(2), F.S., provides that any activity or power which may be exercised by the state or its political subdivisions is considered a municipal purpose.

² Pursuant to s. 166.021(3), F.S., a municipality may not enact legislation on the following: the subjects of annexation, merger, and exercise of extraterritorial power, which require general law or special law; any subject expressly prohibited by the constitution; any subject expressly preempted to state or county government by the constitution or by general law; and any subject preempted to a county pursuant to a county charter adopted under the authority of the State constitution.

³ Presentation on *Florida Public Power*, Florida Municipal Electric Association (Feb. 9, 2023), slide 2, available at <https://www.myfloridahouse.gov/Sections/Documents/publications.aspx?Committeeld=3226&PublicationType=Committee&DocumentType=Meeting%20Packets&SessionId=99> (last visited Jan. 16, 2024)

⁴ *Id.* at slide 3.

⁵ Pursuant to s. 180.06, F.S., a municipality may "provide water and alternative water supplies;" "provide for the collection and disposal of sewage, including wastewater reuse, and other liquid wastes;" and "construct reservoirs, sewerage systems, trunk sewers, intercepting sewers, pumping stations, wells, siphons, intakes, pipelines, distribution systems, purification works, collection systems, treatment and disposal works" to accomplish these purposes.

⁶ Other public works projects authorized under s. 180.06, F.S., include alternative water supplies, maintenance of water flow and bodies of water for sanitary purposes, garbage collection and disposal, airports, hospitals, jails, golf courses, gas plants and distribution systems, and related facilities.

⁷ S. 180.02(2), F.S.

⁸ *Id.*

⁹ See s. 163.01, F.S.

and the owners of lands outside its corporate limits or within the limits of another municipality to connect with its water and sewer utility facilities and use its services upon agreed terms and conditions.¹⁰ An informal study conducted in 2014 indicated that approximately 250 municipalities provide water service and approximately 220 municipalities provide wastewater service. Of these municipalities, the study found that approximately 140 provide water and/or waste water services to customers outside of their municipal boundaries, which may include customers in unincorporated areas of counties or in other municipalities.¹¹ These utility systems are exempt from PSC jurisdiction.

A municipality that operates a water or sewer utility outside of its municipal boundaries may impose higher rates, fees, and charges on consumers receiving service outside of its corporate boundaries as compared to the rates, fees, and charges imposed on consumers within its boundaries. The municipality can accomplish this in two ways:

- First, for consumers outside of its boundaries, it may add a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries. This mechanism does not require a public hearing.¹²
- Second, it may set separate rates, fees, and charges for consumers outside its boundaries based on the same factors used to set rates for consumers within its boundaries. It may add a surcharge of up to 25 percent of these charges, provided that the total of all such rates, fees, and charges for service to consumers outside its boundaries may not exceed the total charges to consumers within its boundaries by more than 50 percent for corresponding service. Rates set in this manner require a public hearing at which all users served or to be served by the water or sewer utilities and all other interested persons will have an opportunity to be heard concerning the proposed rates.¹³

There is no central repository for information concerning municipal water or sewer service rates that identifies municipalities that impose higher rates on consumers outside of the municipal boundaries, the specific mechanism used by such municipalities to establish such rates, or the level of any additional charge or surcharge imposed.

Most municipal utility systems are governed by the municipality's governing body (i.e., the city commission). Six municipal electric utility systems in Florida are governed by separate utility boards, or "authorities," which are typically appointed by the municipality's governing body.¹⁴ These utility authorities vary in structure, though the charter documents for each generally address the powers and duties of the authority (including terms related to rate-setting, financing, acquisitions, and eminent domain), the selection process for authority members (including qualifications and terms of office), the management and personnel of the authority, the transfer of revenues from utility operations to the municipality, and the degree of continuing oversight by the municipal governing body.

Current law authorizes municipalities to raise amounts of money which are necessary for the conduct of the municipal government. A municipality may do so by taxation and licenses authorized by Florida's constitution or general law, or by user charges or fees authorized by ordinance.¹⁵ Municipalities routinely transfer a portion of their utility earnings to their general funds for non-utility purposes, though the amounts and percentages may vary widely among municipalities.¹⁶ These transfers may be limited in some circumstances by ordinance, but they are not governed by state law.

¹⁰ S. 180.19, F.S.

¹¹ Analysis of House Bill 813 (2014), Florida House of Representatives.

¹² S. 180.191(1)(a), F.S.

¹³ S. 180.191(1)(b), F.S.

¹⁴ The Keys Energy Services Utility Board is the only utility authority in the state with elected board members. Key West has an elected board, with 2 of the 5 members from outside the city limits. Presentation on *Florida Public Power*, Florida Municipal Electric Association *supra* n. 3, slide 8.

¹⁵ S. 166.201, F.S.

¹⁶ Presentation on *Florida Public Power*, Florida Municipal Electric Association *supra* n. 3, slide 6.

Effect of the Bill

Under the bill, a municipality that intends to offer retail electric, natural gas, water, or sewer utility service in another municipality or unincorporated area outside of the municipality's boundaries must hold a public meeting in conjunction with the governing body of each municipality or unincorporated area to be served before a new agreement to provide such service, or a renewal, extension, or material amendment of an existing agreement, may take effect. The public meeting must be held within each municipality and unincorporated area to be served for the purpose of providing information and soliciting public input on:

- The nature of the service to be provided or changes to the service being provided;
- The rates, fees, and charges to be imposed for the services provided or intended to be provided, including any differential with the rates, fees, and charges imposed for the same service on customers located within the boundaries of the serving municipality, the basis for the differential, and the length of time that the differential is expected to exist;
- The extent to which revenues generated from the provision of the service will be used to fund or finance non-utility government functions or services; and
- Any other matters deemed relevant by the parties to the agreement.

Further, the bill requires that a new agreement to provide these utility services beyond a municipality's boundaries, or an extension, renewal, or material amendment to an existing agreement, must be in writing. Under the bill, any agreement to provide water or sewer utility service must comply with the other provisions of the bill limiting rates charged to consumers outside city limits when providing such services.

The bill requires that each municipality providing utility service in another municipality or unincorporated area outside of the municipality's boundaries must conduct an annual customer meeting in conjunction with the governing body of each municipality and unincorporated area in which it provides service. The purpose of this meeting is to receive public input on utility-related matters, including rates and service.

Under the bill, a municipality may not transfer more than 10 percent of the gross revenues it generates from electric, natural gas, water, or sewer service provided to consumers outside its municipal boundaries to fund or finance non-utility governmental functions.

The bill requires that by November 1, 2024, and annually thereafter, each municipality which provides utility service outside its municipal boundaries report to the PSC, for each type of utility service it provides outside of municipal boundaries, the following information:

- The number and percentage of customers that receive utility service provided by the municipality at a location outside the boundaries of the municipality;
- The volume and percentage of sales made to such customers, and the gross revenues generated from such sales; and
- Whether the rates, fees, and charges imposed on customers that receive service at a location outside the municipality's boundaries are different than the rates, fees, and charges imposed on customers within the boundaries of the municipality, and, if so, the amount and percentage of the differential.

The bill requires the PSC to compile this information and report it to the Speaker of the House of Representatives, the Senate President, and the Governor by January 31, 2025, and annually thereafter. The bill provides that it does not modify or extend the authority of the PSC otherwise provided by law with respect to any municipal utility that must report this information.

The bill removes the provision from current law allowing water or sewer utilities to add, for consumers outside of its boundaries, a surcharge of up to 25 percent of the rates, fees, and charges imposed on consumers within its boundaries without a public meeting. Furthermore, the bill changes the limit on the rates, fees, and charges such utilities can impose on customers outside of municipal boundaries to no more than 25 percent above the total amount the municipal water or sewer utility charges customers

within the municipal boundaries, provided rates for outside customers are set in a public hearing using the same methods as rates for other customers.

The bill limits the rates, fees, and charges that a municipal water or sewer utility that provides service to consumers within the boundaries of a separate municipality, using a water treatment plant or sewer treatment plant located within the boundaries of that separate municipality, by requiring that such charges are no more than the rates, fees, and charges imposed on consumers inside its own municipal boundaries.

The bill provides an effective date of July 1, 2025.

B. SECTION DIRECTORY:

Section 1: Amends s. 180.19, F.S., relating to use by other municipalities and by individuals outside corporate limits.

Section 2: Amends s. 180.191, F.S., relating to limitation on rates charged consumer outside city limits.

Section 3: Provides an effective date of July 1, 2025.

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 will likely have a negative fiscal impact on some local governments which own and operate water or wastewater utilities, as it reduces the maximum amount that municipal water and sewer utilities can charge customers outside the municipal boundaries.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in cost savings to municipal water and sewer utility customers located outside of municipal boundaries. A municipal water or sewer utility may increase rates for other customers to mitigate revenue impacts.

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(b), of the Florida Constitution may apply because this bill reduces the maximum amount that municipal water and sewer utilities can charge customers outside the municipal boundaries. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 19, 2024, the Energy, Communications & Cybersecurity Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Provided that a new, extended, renewed, or materially amended agreement for the provision of municipal utility service at retail to customers located in another municipality or in an unincorporated area must be written and may not become effective before a public meeting is held in the service area for the purpose of providing certain information and soliciting public input on matters related to the agreement.
- Required annual customer meetings to be held in such service areas for the purpose of soliciting public input on utility-related matters.
- Required that these meetings be held in conjunction with specified governing bodies for the areas in which service is provided.
- Provided that a municipality that generates revenue from the provision of utility service to customers located in another municipality or in an unincorporated area may not use more than 10 percent of the gross revenues generated from such services to fund or finance general government functions.
- Removed provisions of the bill that limited transfers from municipal utility revenues based on rates of return on equity approved by the Public Service Commission for investor-owned utilities and based on the proportion of customers served beyond municipal boundaries.
- Required annual data reporting regarding the provision of municipal utility service to customers located in another municipality or in an unincorporated area.
- Retained provisions of the bill that reduce the maximum rate differential between municipal water and sewer utility customers located within and outside the municipal boundaries.
- Retained provisions of the bill that prohibit the imposition of a surcharge on customers located in certain other municipalities.

This analysis is drafted to the committee substitute as passed by the Energy, Communications & Cybersecurity Subcommittee

1 A bill to be entitled
2 An act relating to municipal utilities; amending s.
3 180.19, F.S.; requiring certain public meetings as a
4 condition precedent to the effectiveness of a new or
5 extended agreement under which a municipality will
6 provide specified utility services in other
7 municipalities or unincorporated areas; specifying the
8 matters to be addressed in such public meetings;
9 requiring such agreements to be written; requiring
10 annual customer meetings; defining "governing body"
11 for specified purposes; limiting the portion of
12 certain utility revenues that a municipality may use
13 to fund or finance general government functions;
14 requiring municipalities that provide specified
15 utility services to report certain information by a
16 specified date to the Public Service Commission on an
17 annual basis; requiring the commission to compile
18 certain information and submit a report containing
19 such information to the Governor and the Legislature
20 by a specified date; providing construction; amending
21 s. 180.191, F.S.; revising provisions relating to
22 permissible rates, fees, and charges imposed by
23 municipal water and sewer utilities on customers
24 located outside the municipal boundaries; providing an
25 effective date.

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

Section 1. Section 180.19, Florida Statutes, is amended to read:

180.19 Use by other municipalities and by individuals outside corporate limits.—

(1) A municipality which constructs any works as are authorized by this chapter, may permit any other municipality and the owners or association of owners of lots or lands outside of its corporate limits or within the limits of any other municipality, to connect with or use the utilities mentioned in this chapter upon such terms and conditions as may be agreed between such municipalities, and the owners or association of owners of such outside lots or lands.

(2) Any private company or corporation organized to accomplish the purposes set forth in this chapter, which has been granted a privilege or franchise by a municipality, may permit the owners or association of owners of lots or lands outside of the boundaries of said municipality granting said privilege or franchise, or other municipality, to connect with and use the utility operated by the said private company or corporation upon such terms as may be agreed between the said private company or corporation and the owners or association of owners of said lots or lands or the said municipality.

51 (3) (a) A new agreement, or an extension, renewal, or
52 material amendment of an existing agreement, to provide
53 electric, natural gas, water, or sewer utility service at retail
54 pursuant to subsection (1) must be written and may not become
55 effective before the municipality that provides service or
56 intends to provide the service, in conjunction with the
57 governing body of each municipality and unincorporated area
58 served or to be served, has conducted a public meeting within
59 each municipality and unincorporated area served or to be served
60 for purposes of providing information and soliciting public
61 input on:

62 1. The nature of the service to be provided or changes to
63 the service being provided;

64 2. The rates, fees, and charges to be imposed for the
65 services provided or intended to be provided, including any
66 differential with the rates, fees, and charges imposed for the
67 same service on customers located within the boundaries of the
68 serving municipality, the basis for the differential, and the
69 length of time that the differential is expected to exist;

70 3. The extent to which revenues generated from the
71 provision of the service will be used to fund or finance non-
72 utility government functions or services; and

73 4. Any other matters deemed relevant by the parties to the
74 agreement.

75 (b) Rates, fees, and charges imposed for water or sewer

76 utility service provided pursuant to subsection (1) shall comply
77 with s. 180.191.

78 (c) Each municipality that provides electric, natural gas,
79 water, or sewer utility service pursuant to subsection (1), in
80 conjunction with the governing body of each municipality and
81 unincorporated area in which it provides service, must annually
82 conduct a customer meeting within each such municipality and
83 unincorporated area for purposes of soliciting public input on
84 utility-related matters, including rates and service.

85 (d) For purposes of this subsection, "governing body"
86 refers to each:

87 1. Governing body of a municipality in which service is
88 provided or proposed to be extended.

89 2. Board of county commissioners of a county in which
90 service is provided or proposed to be extended, if service is
91 provided or will be extended in an unincorporated area within
92 the county.

93 (4) A municipality that generates revenue from the
94 provision of electric, natural gas, water, or sewer utility
95 service pursuant to subsection (1) may not use more than 10
96 percent of the gross revenues generated from such services to
97 fund or finance general government functions.

98 (5) (a) By November 1, 2024, and annually thereafter, each
99 municipality that provides electric, natural gas, water, or
100 sewer utility service pursuant to subsection (1) must provide a

101 report to the Florida Public Service Commission that identifies,
 102 for each type of utility service provided by the municipality:

103 1. The number and percentage of customers that receive
 104 utility service provided by the municipality at a location
 105 outside the boundaries of the municipality;

106 2. The volume and percentage of sales made to such
 107 customers, and the gross revenues generated from such sales; and

108 3. Whether the rates, fees, and charges imposed on
 109 customers that receive service at a location outside the
 110 municipality's boundaries are different than the rates, fees,
 111 and charges imposed on customers within the boundaries of the
 112 municipality, and, if so, the amount and percentage of the
 113 differential.

114 (b) The commission shall compile the information provided
 115 pursuant to paragraph (a) and submit a report containing this
 116 information to the Governor, the President of the Senate, and
 117 the Speaker of the House of Representatives by January 31, 2025,
 118 and annually thereafter.

119 (c) This subsection does not modify or extend the
 120 authority of the commission otherwise provided by law with
 121 respect to any municipal utility that is required to comply with
 122 paragraph (a).

123 Section 2. Subsection (1) of section 180.191, Florida
 124 Statutes, is amended to read:

125 180.191 Limitation on rates charged consumer outside city

126 | limits.-

127 | (1) Any municipality within the state operating a water or
 128 | sewer utility outside of the boundaries of such municipality
 129 | shall charge consumers outside the boundaries rates, fees, and
 130 | charges determined in one of the following manners:

131 | (a) It may charge the same rates, fees, and charges as
 132 | consumers inside the municipal boundaries. ~~However, in addition~~
 133 | ~~thereto, the municipality may add a surcharge of not more than~~
 134 | ~~25 percent of such rates, fees, and charges to consumers outside~~
 135 | ~~the boundaries.~~ Fixing of such rates, fees, and charges in this
 136 | manner shall not require a public hearing except as may be
 137 | provided for service to consumers inside the municipality.

138 | (b)1. It may charge rates, fees, and charges that are just
 139 | and equitable and which are based on the same factors used in
 140 | fixing the rates, fees, and charges for consumers inside the
 141 | municipal boundaries. ~~In addition thereto, the municipality may~~
 142 | ~~add a surcharge not to exceed 25 percent of such rates, fees,~~
 143 | ~~and charges for said services to consumers outside the~~
 144 | ~~boundaries. However, the total of all~~ Such rates, fees, and
 145 | charges for the services to consumers outside the boundaries may
 146 | shall not exceed 25 ~~be more than 50 percent in excess~~ of the
 147 | total amount the municipality charges consumers served within
 148 | the municipality for corresponding service. No such rates, fees,
 149 | and charges shall be fixed until after a public hearing at which
 150 | all of the users of the water or sewer systems; owners, tenants,

151 or occupants of property served or to be served thereby; and all
152 others interested shall have an opportunity to be heard
153 concerning the proposed rates, fees, and charges. Any change or
154 revision of such rates, fees, or charges may be made in the same
155 manner as such rates, fees, or charges were originally
156 established, but if such change or revision is to be made
157 substantially pro rata as to all classes of service, both inside
158 and outside the municipality, no hearing or notice shall be
159 required.

160 2. Any municipality within the state operating a water or
161 sewer utility that provides service to consumers within the
162 boundaries of a separate municipality through the use of a water
163 treatment plant or sewer treatment plant located within the
164 boundaries of that separate municipality may charge consumers in
165 the separate municipality no more than the rates, fees, and
166 charges imposed on consumers inside its own municipal
167 boundaries.

168 Section 3. This act shall take effect July 1, 2025.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Local Administration,
2 Federal Affairs & Special Districts Subcommittee
3 Representative Busatta Cabrera offered the following:
4

5 **Amendment**

6 Remove lines 55-97 and insert:

7 effective before an appointed representative of the municipality
8 that provides service or intends to provide the service, in
9 conjunction with the governing body of each municipality and
10 unincorporated area served or to be served, has participated in
11 a public meeting, which need not be a separate public meeting,
12 within each municipality and unincorporated area served or to be
13 served for purposes of providing information and soliciting
14 public input on:

15 1. The nature of the service to be provided or changes to
16 the service being provided;

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Amendment No.

17 2. The rates, fees, and charges to be imposed for the
18 services provided or intended to be provided, including any
19 differential with the rates, fees, and charges imposed for the
20 same service on customers located within the boundaries of the
21 serving municipality, the basis for the differential, and the
22 length of time that the differential is expected to exist;

23 3. The extent to which revenues generated from the
24 provision of the service will be used to fund or finance non-
25 utility government functions or services; and

26 4. Any other matters deemed relevant by the parties to the
27 agreement.

28 (b) Rates, fees, and charges imposed for water or sewer
29 utility service provided pursuant to subsection (1) shall comply
30 with s. 180.191.

31 (c) A representative of each municipality that provides
32 electric, natural gas, water, or sewer utility service pursuant
33 to subsection (1), in conjunction with the governing body of
34 each municipality and unincorporated area in which it provides
35 service, must annually conduct a public customer meeting, which
36 need not be a separate public meeting, within each such
37 municipality and unincorporated area for purposes of soliciting
38 public input on utility-related matters, including rates and
39 service.

40 (d) For purposes of this subsection,

41 1. "Governing body" refers to each:

Amendment No.

42 a. Governing body of a municipality in which service is
43 provided or proposed to be extended.

44 b. Board of county commissioners of a county in which
45 service is provided or proposed to be extended, if service is
46 provided or will be extended in an unincorporated area within
47 the county.

48 2. "Appointed representative" refers to the executive
49 level leadership employee of a municipality, or such
50 municipality's related and separate utility authority, board, or
51 commission, specifically appointed by the governing body to
52 serve as its representative for purposes of this subsection.

53 (4) A municipality that generates revenue from the
54 provision of electric, natural gas, water, or sewer utility
55 service to locations beyond its corporate limits may not use
56 more than 10 percent of the gross revenues generated from such
57 services to fund or finance general government functions. After
58 the transfer of such revenues to fund or finance general
59 government functions, if any revenues from such service remain
60 after payment of the municipal utility's costs to provide
61 service, these excess revenues must be reinvested into the
62 municipal utility or returned to customers who received service
63 at locations beyond the municipality's corporate limits.
64

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1297 Affordable Housing in Counties Designated as Areas of Critical State Concern
SPONSOR(S): Mooney
TIED BILLS: **IDEN./SIM. BILLS:** SB 1456

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

SUMMARY ANALYSIS

The Governor and Cabinet, acting as the Administration Commission, are authorized to designate certain areas within the state that contain resources of statewide significance as areas of critical state concern. In 1975, the Florida Keys were designated as an area of critical state concern. The designation includes the municipalities of Key West, Islamorada, Marathon, Layton and Key Colony Beach, and unincorporated Monroe County. State, regional, and local governments in the Florida Keys Area of Critical State Concern are required to coordinate development plans and carry out programs and activities in accordance with development principles.

The bill:

- Provides that the authorization for a local government to approve the development that would otherwise be precluded by state or local law or regulation does not apply in the Florida Keys Area of Critical State Concern;
- Revises eligibility for the local option affordable housing ad valorem tax exemption by allowing a county or municipality located in the Florida Keys Area of Critical State Concern or the Key West Area of Critical State Concern to provide an ad valorem property tax exemption up to 100 percent of the assessed value for single-family residential units or residential duplexes used to provide affordable housing;
- Revises hurricane evacuation clearance time modeling criteria;
- Authorizes land authorities to require compliance with income limitations on land conveyed for affordable housing by memorializing the original land authority funding or donation in a recordable perpetual deed restriction; and
- Exempts a county or municipality whose land has been designated by the Legislature as an area of critical state concern within the past five years, and for which the Legislature has declared an intent to provide affordable housing, from a requirement to specified portions of the local housing assistance trust fund to provide assistance to very-low-income and low-income persons.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Areas of Critical State Concern

The Governor and Cabinet, acting as the Administration Commission,¹ are authorized to designate certain areas within the state that contain resources of statewide significance as areas of critical state concern.² An area of critical state concern may be designated for an area:

- Containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources;³
- Containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts;⁴ or
- Having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment, including highways, ports, airports, energy facilities, and water management projects.⁵

The designated areas of critical state concern in the state are: the Big Cypress Area,⁶ the Green Swamp Area,⁷ the Florida Keys Area, the City of Key West Area,⁸ and the Apalachicola Bay Area.⁹

Florida Keys Area of Critical State Concern

In 1975, the Florida Keys were designated as an area of critical state concern. The designation includes the municipalities of Key West,¹⁰ Islamorada, Marathon, Layton and Key Colony Beach, and unincorporated Monroe County.¹¹ The designation is intended to:

- Establish a land use management system that protects the natural environment of the Florida Keys; conserves and promotes the community character of the Florida Keys; promotes orderly and balanced growth in accordance with the capacity of available and planned public facilities and services; and promotes and supports a diverse and sound economic base;
- Provide affordable housing in close proximity to places of employment in the Florida Keys;
- Protect the constitutional rights of property owners to own, use, and dispose of their real property;

¹ See ss. 380.031(1) and 14.202, F.S.

² S. 380.05, F.S.

³ S. 380.05(2)(a), F.S.

⁴ S. 380.05(2)(b), F.S.

⁵ S. 380.05(2)(c), F.S.

⁶ S. 380.055, F.S.

⁷ S. 380.0551, F.S.

⁸ S. 380.0552, F.S.

⁹ S. 380.0555, F.S.

¹⁰ The City of Key West challenged the designation as a critical area and after litigation in 1984 was given its own area of critical state concern designation. See *2020 Florida Keys Area of Critical State Concern Annual Report* available at https://floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/2020keysacsannualreport.pdf?sfvrsn=51c94eb0_2 (last visited Jan. 27, 2024).

¹¹ S. 380.0552, F.S.; *2020 Florida Keys Area of Critical State Concern Annual Report* available at https://floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/2020keysacsannualreport.pdf?sfvrsn=51c94eb0_2 (last visited Jan. 27, 2024).

- Promote coordination and efficiency among governmental agencies that have permitting jurisdiction over land use activities in the Florida Keys;
- Promote an appropriate land acquisition and protection strategy for environmentally sensitive lands within the Florida Keys;
- Protect and improve the nearshore water quality of the Florida Keys through the construction and operation of wastewater management facilities, as applicable; and
- Ensure that the population of the Florida Keys can be safely evacuated.¹²

State, regional, and local governments in the Florida Keys Area of Critical State Concern are required to coordinate development plans and conduct programs and activities consistent with principles for guiding development that:

- Strengthen local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation;
- Protect shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat;
- Protect upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (e.g., hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat;
- Ensure the maximum well-being of the Florida Keys and its citizens through sound economic development;
- Limit the adverse impacts of development on the quality of water throughout the Florida Keys;
- Enhance natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys;
- Protect the historical heritage of the Florida Keys;
- Protect the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
 - The Florida Keys Aqueduct and water supply facilities;
 - Sewage collection, treatment, and disposal facilities;
 - Solid waste treatment, collection, and disposal facilities;
 - Key West Naval Air Station and other military facilities;
 - Transportation facilities;
 - Federal parks, wildlife refuges, and marine sanctuaries;
 - State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
 - City electric service and the Florida Keys Electric Co-op; and
 - Other utilities, as appropriate;
- Protect and improve water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems;
- Ensure the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems;
- Limit the adverse impacts of public investments on the environmental resources of the Florida Keys;
- Make available adequate affordable housing for all sectors of the population of the Florida Keys;
- Provide adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post-disaster reconstruction plan; and
- Protect the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.¹³

¹² S. 380.0552(2)(a)-(j), F.S.

¹³ S. 380.0552(7), F.S.

A land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the Department of Commerce (Commerce).¹⁴

Amendments to local comprehensive plans must also be reviewed for compliance with the following:

- Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or collection systems that meet or exceed criteria for wastewater treatment and disposal facilities or onsite sewage treatment and disposal systems; and
- Goals, objectives, and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours. The hurricane evacuation clearance time must be determined by a hurricane evacuation study conducted in accordance with a professionally accepted methodology and approved by Commerce.¹⁵

In 2011, the Administration Commission directed Commerce and the Division of Emergency Management to enter into a Memorandum of Understanding (MOU) with Monroe County, the Village of Islamorada, and the cities of Marathon, Key West, Key Colony Beach, and Layton regarding hurricane evacuation modeling.¹⁶ The MOU is the basis for an analysis on the maximum build-out capacity of the Florida Keys while maintaining the ability of the permanent population to evacuate within 24 hours.¹⁷

Land Authorities

Current law authorizes each county in which one or more designated areas of critical state concern are located to create a land authority by ordinance.¹⁸ The Legislature authorized the creation of land authorities to equitably address the challenges of implementing comprehensive land use plans developed pursuant to the area of critical state concern program, which can be complicated by the environmental sensitivity of such areas.¹⁹ Monroe County is the only county in the state that has established a land authority pursuant to this statutory authority.²⁰

Land authorities are intended to provide stable funding, be flexible enough to address plan implementation innovatively, and to act as intermediaries between individual landowners and the governmental entities regulating land use.²¹ The governing body of the land authority is the governing board of the county.²²

Land authorities' powers are statutorily enumerated and include, among other powers, the powers to sue and be sued; to make and execute contracts and other instruments; to commission studies and analyses of county land planning needs within areas of critical state concern; to acquire and dispose of real and personal property under specified conditions; to contribute tourist impact tax revenues to certain authorized government and state agency recipients for specified purposes under certain conditions; to borrow money through the issuance of bonds and to buy, hold, cancel, or resell such

¹⁴ S. 380.552(9)(a), F.S.

¹⁵ S. 380.0552(9)(a)1. and 2., F.S.

¹⁶ Dept. of Commerce, *Florida Keys Hurricane Evacuation Modeling Report*, available at <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/city-of-key-west-and-the-florida-keys/florida-keys-hurricane-evacuation> (last visited Jan. 27, 2024).

¹⁷ *Id.*

¹⁸ S. 380.0663(1), F.S.

¹⁹ S. 380.0661(1), F.S.

²⁰ See *Monroe County, Monroe County Land Authority*, <https://www.monroecounty-fl.gov/272/Land-Authority> (last visited Jan. 27, 2024).

²¹ S. 380.0661(2), F.S.

²² S. 380.0663(1), F.S.

bonds; and to do any and all things otherwise necessary or convenient to carry out the purposes of the land authority.²³

Monroe County Land Authority

The Monroe County Comprehensive Plan Land Authority, known as the Monroe County Land Authority (Authority), has a core mission of acquiring property for conservation use.²⁴ The Authority also provides funding for affordable housing projects, prevention or satisfaction of private property acquisition, and maintains the conservation land stewardship program in Monroe County within the Florida Keys and Key West Areas of Critical State Concern.²⁵

The Authority was established to assist in the implementation of land use plans and to serve as an intermediary between landowners and government agencies that regulate land use. The Authority is a component of Monroe County government created in 1986 and governed by the Monroe County Board of County Commissioners.²⁶

Affordable Housing

Affordable housing is defined in terms of household income. Resident eligibility for Florida's state and federally-funded housing programs is governed by area median income (AMI) or statewide median family income,²⁷ published annually by the United States Department of Housing and Urban Development (HUD).²⁸ The following are standard household income level definitions and their relationship to the 2023 Florida statewide AMI of \$85,500 for a family of four (as family size changes, the income range also varies):²⁹

- Extremely low income – earning up to 30 percent AMI (at or below \$ 24,850);³⁰
- Very low income – earning from 30.01 to 50 percent AMI (\$24,851 to \$41,450);³¹
- Low income – earning from 50.01 to 80 percent AMI (\$41,451 to \$66,350);³² and
- Moderate income – earning from 80.01 to 120 percent of AMI (\$66,351 to \$102,600).³³

Zoning and Land Use Preemption for Affordable Developments

The Growth Management Act requires every county and municipality to create and implement a comprehensive plan to guide future development.³⁴ All development, both public and private, and all development orders³⁵ approved by local governments must be consistent with the local government's comprehensive plan unless otherwise provided by law.³⁶ The future land use element in a comprehensive plan establishes a range of allowable uses and densities and intensities over large

²³ S. 380.0666, F.S.

²⁴ Monroe County, *Monroe County Land Authority*, <https://www.monroecounty-fl.gov/272/Land-Authority> (last visited Jan. 27, 2024).

²⁵ *Id.*

²⁶ *Id.*

²⁷ The 2023 Florida SMI for a family of four was \$ 85,500. U.S. Dept. of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas*, available at <https://www.huduser.gov/portal/datasets/il.html#2022> (last visited Jan. 27, 2024).

²⁸ HUD User, Office of Policy Development and Research, "Income Limits," available at <https://www.huduser.gov/portal/datasets/il.html#2022> (last visited Jan. 24, 2024) (SMI and AMI available under the "Access Individual Income Limits Area" dataset).

²⁹ U.S. Dept. of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas*, available at <https://www.huduser.gov/portal/datasets/il.html#2023> (last visited Jan. 24, 2024).

³⁰ S. 420.0004(9), F.S.

³¹ S. 420.0004(17), F.S.

³² S. 420.0004(11), F.S.

³³ S. 420.0004(12), F.S.

³⁴ S. 163.3167(2), F.S.

³⁵ "Development order" means any order granting, denying, or granting with conditions an application for a development permit. See s. 163.3164(15), F.S. "Development permit" includes 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. See s. 163.3164(16), F.S.

³⁶ S. 163.3194(3), F.S.

areas, and the specific use and intensities for specific parcels³⁷ within that range are decided by a more detailed, implementing zoning map.³⁸

Counties and municipalities may, notwithstanding any other law or local ordinance or regulation to the contrary, may approve the development of affordable housing, including mixed-use residential development, on any parcel zoned for commercial or industrial use where state or local law or regulation would otherwise preclude such development.³⁹ At least 10 percent of the units in a project on a commercial or industrial parcel must be affordable.⁴⁰

This provision allowed local governments to expedite the development of affordable housing by allowing locals to bypass state law and their comprehensive plans and zoning regulations that would otherwise preclude or delay such development.

Local Option Affordable Housing Exemption

The ad valorem tax is an annual tax levied by counties, municipalities, school districts, and some special districts based on the taxable value of real and tangible personal property as of January 1 of each year.⁴¹ The Florida Constitution allows the Legislature to exempt from ad valorem taxation portions of property that are used predominantly for educational, literary, scientific, religious or charitable purposes.⁴² The Legislature has implemented these exemptions and set forth criteria to determine whether property is entitled to an exemption.⁴³

The Live Local Act authorized the counties and municipalities to enact an ad valorem tax exemption for certain property used for providing affordable housing.⁴⁴

Portions of property eligible for the exemption must be utilized to house persons or families meeting the extremely-low- limit⁴⁵ or with incomes between 30 to 60 percent of AMI, be contained in a multifamily project of at least 50 units where at least 20 percent are reserved for affordable housing, and have rent set such that it provides affordable housing to people in the target income bracket, or no higher than 90 percent of the fair market rent value as determined by a rental market study, whichever is less.⁴⁶ Additionally, the property must not have been cited for code violations on three or more occasions in the preceding 24 months and must not have outstanding code violations or related fines.⁴⁷

In adopting this exemption, a local government may choose to offer either or both an exemption for extremely-low-income (up to 30 percent AMI) and for incomes between 30 to 60 percent AMI targets. The value of the exemption is up to 75 percent of the assessed value of each unit if less than 100 percent of the multifamily project's units are used to provide affordable housing, or up to 100 percent of the assessed value if all of the project's units are used to provide affordable housing.⁴⁸

³⁷ When local governments make changes to their zoning regulations or comprehensive plans some structures may no longer be in compliance with the newly approved zoning and may be deemed a "nonconforming use." A nonconforming use or structure is one in which the use or structure was legally permitted prior to a change in the law, and the change in law would no longer permit the re-establishment of such structure or use. Mark A. Rothenberg, *The Status of Nonconforming Use Law in Florida*, Florida B.J. Vol 79, no. 3 (2005), <https://www.floridabar.org/the-florida-bar-journal/the-status-of-nonconforming-use-law-in-florida> (last visited Jan. 27, 2024).

³⁸ Richard Grosso, A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215, 34 J. Envtl. L. & Litig. 129, 154 (2019) *citing* Brevard Cty. v. Snyder, 627 So. 2d 469, 475 (Fla. 1993).

³⁹ Ss. 125.01055(6) and 166.04151(6), F.S.

⁴⁰ *Id.*

⁴¹ S. 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. S. 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in Art. VII, s. 1(b), Fla. Const., and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.

⁴² Art. VII, s. 3(a), Fla. Const.

⁴³ S. 196.196, F.S.

⁴⁴ Ch. 2023-17, s. 9, Laws of Fla., codified as s. 196.1979, F.S.

⁴⁵ S. 420.0004(9), F.S.

⁴⁶ S. 196.1979(1)(a)1.-3., F.S.

⁴⁷ S. 196.1979(1)(a)4., F.S.

⁴⁸ S. 196.1979(1)(b), F.S.

An ordinance enacting such an exemption must:

- Be adopted under normal non-emergency procedures;
- Designate the local entity under the supervision of the governing body which must develop, receive, and review applications for certification and develop notices of determination of eligibility;
- Require the property owner to apply for certification on a form including the most recent market study, which must have been conducted by an independent certified general appraiser in the preceding three years; a list of units for which the exemption is sought; and the rent amount received for each unit;
- Require the designated entity to verify and certify the property as having met the requirements for the exemption, and to notify unsuccessful applicants with the reasons for denial;
- Set out the requirements for each unit discussed above;
- Require the property owner to submit an application for exemption accompanied by certification to the property appraiser by March 1;
- Specify that such exemption only applies to taxes levied by the unit of government granting the exemption;
- Specify that the property may not receive such an exemption after the expiration of the ordinance granting the exemption;
- Identify the percentage of assessed value to be exempted, and whether such exemption applies to very-low-income, extremely-low-income, or both; and
- Require that the deadline to submit an application and a list of certified properties be published on the government's website.⁴⁹

The ordinance must expire before the fourth January 1 after adoption; however, the governing body may adopt a new ordinance renewing the exemption.⁵⁰

If the property appraiser determines that such an exemption has been improperly granted within the last 10 years, the property appraiser must serve the owner with a notice of intent to record a tax lien. Such property will be subject to the taxes improperly exempted, plus a penalty of 50 percent and 15 percent annual interest. Penalty and interest amounts do not apply to exemptions erroneously granted due to clerical mistake or omission by the property appraiser.⁵¹

Keys Workforce Housing Initiative

The Florida Keys Area Protection Act⁵² provides, in part, that comprehensive plan amendments within the covered area, which includes the majority of Monroe County, must comply with "goals, objectives and policies to protect public safety and welfare in the event of a natural disaster by maintaining a hurricane evacuation clearance time for permanent residents of no more than 24 hours."⁵³ Monroe County, applicable municipalities, and DEO have agreed to use a multi-phase evacuation model and limit residential building permits going forward in order to comply with these standards.⁵⁴

In response to need for affordable housing, DEO developed, and the Administration Commission approved in 2018, the Keys Workforce Housing Initiative ("Initiative"), which provided for up to 1,300 building permit allocations for deed-restricted affordable housing properties agreeing to evacuate at least 48 hours in advance of a hurricane making landfall.⁵⁵

⁴⁹ S. 196.1979(3), F.S.

⁵⁰ S. 196.1979(5), F.S.

⁵¹ S. 196.1979(6), F.S.

⁵² S. 380.0552, F.S.

⁵³ S. 380.0052(9)(a)2.

⁵⁴ See *Mattino v. City of Marathon*, 345 So.3d 939 (Fla. 3d DCA 2022).

⁵⁵ These residents would be part of the first evacuation phase, which under most circumstances evacuates in the 48 to 24-hour window before a hurricane. Florida Administration Commission, Exhibit b, Supporting Documentation for Agenda Item 2., Presentation of the

In 2023, the Live Local Act passed an uncodified provision that states the Initiative is an exception to the evacuation time constraints of the Florida Keys Protection Act.⁵⁶ Instead, deed-restricted affordable workforce housing properties receiving permit allocations under the Initiative must agree to evacuate at least 48 hours in advance of hurricane landfall. The bill provides that the comprehensive plan amendment approved by Commerce to implement the Initiative is valid and authorizes the respective local government to adopt ordinances or regulations to implement the plan amendment.

State Housing Initiatives Program (SHIP)

The SHIP program was created in 1992⁵⁷ to provide funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The SHIP program provides funds to all 67 counties and 52 Community Development Block Grant⁵⁸ entitlement cities on a population-based formula to finance and preserve affordable housing based on locally adopted housing plans.⁵⁹ The program was designed to serve very-low, low-, and moderate-income families and is administered by FHFC. SHIP program funds may be used to pay for emergency repairs, rehabilitation, down payment and closing cost assistance, impact fees, construction and gap financing, mortgage buydowns, acquisition of property for affordable housing, matching dollars for federal housing grants and programs, and homeownership counseling.⁶⁰

Funds are expended per each local government's adopted Local Housing Assistance Plan (LHAP), which details the housing strategies it will use.⁶¹ Local governments submit their LHAPs to FHFC for review to ensure they meet the broad statutory guidelines and the requirements of the program rules. FHFC must approve an LHAP before a local government may receive SHIP program funding.

Certain statutory requirements restrict a local government's use of funds made available under the SHIP program (excluding amounts set aside for administrative costs):

- At least 75 percent of SHIP program funds must be reserved for construction, rehabilitation, or emergency repair of affordable, eligible housing;⁶² and
- Up to 25 percent of SHIP program funds may be reserved for allowed rental services.⁶³

Within those distributions by local governments, additional requirements must be met:

- At least 65 percent of SHIP program funds must be reserved for home ownership for eligible persons;⁶⁴
- At least 20 percent of SHIP program funds must serve persons with special needs;⁶⁵
- Up to 20 percent of SHIP program funds may be used for manufactured housing,⁶⁶ and

Department of Economic Opportunity's Keys Workforce Housing Initiative, *available at* <https://www.myflorida.com/myflorida/cabinet/agenda18/0515/ADCOM051518.pdf> (last visited Jan. 27, 2024).

⁵⁶ Ch. 2023-17, s. 42, Laws of Fla.

⁵⁷ Ch. 92-317, Laws of Fla.

⁵⁸ The CDBG program is a federal program created in 1974 that provides funding for housing and community development activities.

⁵⁹ See ss. 420.907-420.9089, F.S.

⁶⁰ S. 420.072(7), F.S.

⁶¹ Sections 420.9075 and 420.9075(3), F.S., outline a list of strategies LHAPs are encouraged to employ, such as helping those affected by mobile home park closures, encouraging innovative housing design to reduce long-term housing costs, preserving assisted housing, and reducing homelessness.

⁶² S. 420.9075(5)(c), F.S.

⁶³ S. 420.9075(5)(b), F.S. However, a local government may not expend money distributed to it to provide ongoing rent subsidies, except for: security and utility deposit assistance; eviction prevention not to exceed six months' rent; or a rent subsidy program for very-low-income households with at least one adult who is a person with special needs or is homeless, not to exceed 12 months' rental assistance.

⁶⁴ S. 420.9075(5)(a), F.S. "Eligible person" or "eligible household" means one or more natural persons or a family determined by the county or eligible municipality to be of very low income, low income, or moderate income based upon the annual gross income of the household.

⁶⁵ S. 420.9075(5)(d), F.S.

⁶⁶ S. 420.9075(5)(e), F.S.

- At least 30 percent of SHIP program funds must be used for awards to very-low-income persons or eligible sponsors serving very-low-income persons, and another 30 percent must be used for awards for low-income-persons or eligible sponsors serving low-income persons.⁶⁷

Tourist Development Taxes

The Local Option Tourist Development Act⁶⁸ authorizes counties to levy five separate taxes on transient rental⁶⁹ transactions (tourist development taxes or TDTs). Depending on a county's eligibility to levy such taxes, the maximum potential tax rate varies:

- The original TDT may be levied at the rate of 1 or 2 percent.
- An additional 1 percent tax may be levied by counties who have previously levied the original TDT at the 1 or 2 percent rate for at least three years.
- A high tourism impact tax may be levied at an additional 1 percent.
- A professional sports franchise facility tax may be levied up to an additional 1 percent.
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.⁷⁰

Tourist Development Tax Uses

Current law authorizes counties to levy and spend TDTs as a mechanism for funding a variety of tourist-related uses, including tourism promotion, financing and constructing of public facilities needed to increase tourist-related business activities in the county, beach restoration and maintenance projects, convention centers, and professional sports franchise facilities.⁷¹ Such uses are tied to the specific TDT being levied.

For example, the revenue derived from the original 1 or 2% TDT and from the additional 1% TDT levied by counties who have previously levied the original TDT may be used to:

- Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote a:
 - Publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium;
 - Auditoriums that are publicly owned but operated by a 501(c)(3) organization; or
 - Aquarium or museum that is publicly owned and operated or owned and operated by a not-for-profit organization.⁷²
- Promote zoos that are publicly owned and operated or owned and operated by not-for-profit organizations;⁷³
- Promote or advertise tourism in the state;⁷⁴
- Fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies, or by contract with chambers of commerce or similar associations in the county;⁷⁵
- Finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup or restoration of

⁶⁷ S. 420.9075(5)(g)2., F.S.

⁶⁸ S. 125.0104, F.S.

⁶⁹ S. 125.0104(3)(a)(1), F.S. considers "transient rental" to be the rental or lease of any accommodation for a term of six months or less.

⁷⁰ S. 125.0104(3)(c)-(d), (l), and (m)-(n), F.S.

⁷¹ S. 125.0104, F.S.

⁷² S. 125.0104(5)(a)1., F.S.

⁷³ S. 125.0104(5)(a)2., F.S.

⁷⁴ S. 125.0104(5)(a)3., F.S.

⁷⁵ S. 125.0104(5)(a)4., F.S.

inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river;⁷⁶ or

- Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or finance public facilities needed to increase tourist-related business activities in the area, including any related land acquisition, land improvement, design and engineering costs, and all other professional and related costs required to bring the facilities into service.⁷⁷
- In counties with populations less than 950,000, the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.⁷⁸
- In certain coastal counties, up to 10% of the revenues can be used to reimburse the county for public safety services necessary to address impact related to increased tourism.⁷⁹
- Secure revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum, or financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.⁸⁰

Tourist Impact Tax

In addition to tourist development tax, any county that has created a land authority may levy a tourist impact tax of 1 percent on all transient rental facilities within the county located in areas designated as an area of critical state concern.⁸¹ If more than 50 percent of the land area of the county is located in an area of critical state concern, the tax may be levied countywide. The proceeds of the tax are used to purchase property in the area of critical state concern and to offset the loss of ad valorem taxes due to those land acquisitions.⁸² Currently, Monroe County is the only county eligible to levy this tax.⁸³

Effect of Proposed Changes

The bill provides the authorization for a local government to approve a development that would otherwise be precluded by state or local law or regulation does not apply to local governments located in the Florida Keys Area of Critical State Concern.

The bill revises eligibility for the local option affordable housing ad valorem tax exemption by allowing a county or municipality located in the Florida Keys Area of Critical State Concern or the Key West Area of Critical State Concern to provide an ad valorem property tax exemption up to 100 percent of the assessed value for single-family residential units or residential duplexes used to provide affordable housing. This provision would apply starting with the 2025 tax roll.

⁷⁶ In counties with populations less than 100,000, up to 10 percent of tourist development tax revenues may be used for financing beach park facilities. See s. 125.0104(5)(a)5., F.S.

⁷⁷ S. 125.0104(5)(a)6., F.S. This provision is limited to counties in which \$10 million in tourist development tax revenues were received in the prior year, the county governing board approves such used by a 2/3 vote, no more than 70% of the proposed public facilities will be funded with TDT revenue, at least 40% of all TDT revenue collected in the county are spent to promote and advertise tourism, and an independent analysis demonstrates the positive impact the infrastructure project will have on tourist-related businesses.

⁷⁸ S. 125.0104(5)(b), F.S.

⁷⁹ S. 125.0104(5)(c), F.S. The counties must have more than \$10 million in TDT revenue, have three or more municipalities, and have a population of less than 225,000.

⁸⁰ S. 125.0104(5)(d), F.S.

⁸¹ S. 125.0108, F.S.

⁸² S. 125.0108(3), F.S.

⁸³ Office of Economic and Demographic Research, *2023 Florida Tax Handbook*, 306 <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited Jan. 27, 2024).

As it pertains to hurricane evacuation clearance time modeling, the bill provides that mobile home residents are not considered permanent residents and clarifies that the Key West Area of Critical State Concern will be included in the hurricane evaluation study.

The bill authorizes land authorities to require compliance with income limitations on land conveyed for affordable housing by memorializing the original land authority funding or donation in a recordable perpetual deed restriction. The bill provides that if a purchase receives state or federal funding that requires a priority lien position over the land authority deed restriction, the land authority funding or contribution may be subordinate to a first purchase money mortgage and the state or federal funding lien.

The bill provides that a county or municipality that includes or has included within the previous five years an area of critical state concern designated by the Legislature for which the Legislature has declared its intent to provide affordable housing is exempt from the following requirements for awards made under the SHIP program:

- At least 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to very-low-income persons or eligible sponsors who will serve very-low-income persons; and
- At least an additional 30 percent of the funds deposited into the local housing assistance trust fund must be reserved for awards to low-income persons or eligible sponsors who will serve low-income persons.

This provision expires on July 1, 2029, and applies retroactively.

The bill allows for a county that has been designated as an area of critical state concern that levies a tourist development tax and a tourist impact tax to transfer its cumulative surplus tourist development tax revenue through the fiscal year ending September 30, 2024, to provide for workforce housing for employees due to impacts from tourist-related businesses within the county.

B. SECTION DIRECTORY:

- Section 1: Amends s. 125.01055, F.S., relating to county affordable housing.
- Section 2: Amends s. 166.04151, F.S., relating to municipal affordable housing.
- Section 3: Amends s. 196.1979, F.S., relating to county and municipal affordable housing property exemption.
- Section 4: Amends s. 380.0552, F.S., relating to requirements to local comprehensive plans relating to the hurricane evaluation study.
- Section 5: Amends s. 680.0666, F.S., relating to powers of land authorities.
- Section 6: Amends s. 420.9075, F.S., relating to local housing assistance plans.
- Section 7: Provides for the one-time transfer of certain tourist development tax proceeds for certain purposes.
- 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 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 provides authority for nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled

2 An act relating to affordable housing in counties
3 designated as areas of critical state concern;
4 amending ss. 125.01055 and 166.04151, F.S.; excluding
5 land designated as an area of critical state concern
6 from county and municipality affordable housing
7 provisions; amending s. 196.1979, F.S.; providing for
8 an ad valorem property tax exemption of a specified
9 amount for certain property used to provide affordable
10 housing; specifying that certain housing units may be
11 eligible for tax exemptions if certain requirements
12 are met; providing applicability; conforming
13 provisions to changes made by the act; amending s.
14 380.0552, F.S.; adding certain requirements to local
15 comprehensive plans relating to the hurricane
16 evaluation study; amending s. 380.0666, F.S.; revising
17 the powers of the land authority; providing
18 requirements for conveying affordable housing
19 homeownership units; providing lien status
20 prioritization for certain purposes; amending s.
21 420.9075, F.S.; excluding land designated as an area
22 of critical state concern within a specified time
23 period from award requirements made to specified
24 sponsors or persons for the purpose of providing

25 eligible housing as a part of a local housing
 26 assistance plan; providing for expiration and
 27 retroactive applicability; authorizing counties that
 28 have been designated as areas of critical state
 29 concern to use tourist development tax revenue for
 30 affordable workforce or employee housing; providing an
 31 effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Subsection (5) of section 125.01055, Florida
 36 Statutes, is amended to read:

37 125.01055 Affordable housing.—

38 (5) Subsections ~~Subsection~~ (4) and (6) do ~~does~~ not apply
 39 in an area of critical state concern, as designated in s.
 40 380.0552.

41 Section 2. Subsection (5) of section 166.04151, Florida
 42 Statutes, is amended to read:

43 166.04151 Affordable housing.—

44 (5) Subsections ~~Subsection~~ (4) and (6) do ~~does~~ not apply
 45 in an area of critical state concern, as designated by s.
 46 380.0552 or chapter 28-36, Florida Administrative Code.

47 Section 3. Paragraph (b) of subsection (1) and paragraph
 48 (e) of subsection (3) of section 196.1979, Florida Statutes, are

49 amended, and paragraph (d) is added to subsection (1) of that
 50 section, to read:

51 196.1979 County and municipal affordable housing property
 52 exemption.—

53 (1)

54 (b) Qualified property may receive an ad valorem property
 55 tax exemption of:

56 1. Up to 75 percent of the assessed value of each
 57 residential unit used to provide affordable housing if fewer
 58 than 100 percent of the multifamily project's residential units
 59 are used to provide affordable housing meeting the requirements
 60 of this section.

61 2. Up to 100 percent of the assessed value if 100 percent
 62 of the multifamily project's residential units are used to
 63 provide affordable housing meeting the requirements of this
 64 section.

65 3. Up to 100 percent of the assessed value if the
 66 residential unit is a single-family residential unit or a
 67 residential duplex, and such property is used to provide
 68 affordable housing meeting the requirements of this section.

69 (d)1. Notwithstanding subparagraph (1)(a)2., a housing
 70 unit located within the Florida Keys Area pursuant to s.
 71 380.0552 or the Key West Area pursuant to chapter 28-36, Florida
 72 Administrative Code, as amended, effective August 23, 1984, may

73 be eligible for a tax exemption under this section if the
 74 housing unit meets the requirements of this section and the unit
 75 is being offered for rent.

76 2. This paragraph first applies to the 2025 tax roll.

77 (3) An ordinance granting the exemption authorized by this
 78 section must:

79 (e) Require the eligible unit to meet the eligibility
 80 criteria of paragraph (1) (a) or paragraph (1) (d).

81 Section 4. Paragraph (a) of subsection (9) of section
 82 380.0552, Florida Statutes, is amended to read:

83 380.0552 Florida Keys Area; protection and designation as
 84 area of critical state concern.—

85 (9) MODIFICATION TO PLANS AND REGULATIONS.—

86 (a) Any land development regulation or element of a local
 87 comprehensive plan in the Florida Keys Area may be enacted,
 88 amended, or rescinded by a local government, but the enactment,
 89 amendment, or rescission becomes effective only upon approval by
 90 the state land planning agency. The state land planning agency
 91 shall review the proposed change to determine if it is in
 92 compliance with the principles for guiding development specified
 93 in chapter 27F-8, Florida Administrative Code, as amended
 94 effective August 23, 1984, and must approve or reject the
 95 requested changes within 60 days after receipt. Amendments to
 96 local comprehensive plans in the Florida Keys Area must also be

97 reviewed for compliance with the following:

98 1. Construction schedules and detailed capital financing
99 plans for wastewater management improvements in the annually
100 adopted capital improvements element, and standards for the
101 construction of wastewater treatment and disposal facilities or
102 collection systems that meet or exceed the criteria in s.
103 403.086(11) for wastewater treatment and disposal facilities or
104 s. 381.0065(4)(1) for onsite sewage treatment and disposal
105 systems.

106 2. Goals, objectives, and policies to protect public
107 safety and welfare in the event of a natural disaster by
108 maintaining a hurricane evacuation clearance time for permanent
109 residents of no more than 24 hours. The hurricane evacuation
110 clearance time shall be determined by a hurricane evacuation
111 study conducted in accordance with a professionally accepted
112 methodology and approved by the state land planning agency. For
113 purposes of hurricane evacuation clearance time modeling:

114 a. Mobile home residents are not considered permanent
115 residents.

116 b. The Key West Area pursuant to chapter 28-36, Florida
117 Administrative Code, as amended, effective August 23, 1984,
118 shall be included in the hurricane evaluation study.

119 Section 5. Subsection (14) of section 380.0666, Florida
120 Statutes, is added to read:

121 380.0666 Powers of land authority.—The land authority
 122 shall have all the powers necessary or convenient to carry out
 123 and effectuate the purposes and provisions of this act,
 124 including the following powers, which are in addition to all
 125 other powers granted by other provisions of this act:

126 (14) For affordable housing homeownership units, to
 127 require compliance with the income requirements under paragraph
 128 (3) (a) at the time of conveyance each time a unit is conveyed.
 129 The original land authority funding or contribution shall be
 130 memorialized in a recordable perpetual deed restriction. If the
 131 purchase receives state or federal funding and that state or
 132 federal funding program requires a priority lien position over
 133 the land authority deed restriction, the land authority funding
 134 or contribution may be subordinate to a first purchase money
 135 mortgage and the state or federal funding lien.

136 Section 6. Paragraph (g) of subsection (5) of section
 137 420.9075, Florida Statutes, is amended to read:

138 420.9075 Local housing assistance plans; partnerships.—

139 (5) The following criteria apply to awards made to
 140 eligible sponsors or eligible persons for the purpose of
 141 providing eligible housing:

142 (g)1. All units constructed, rehabilitated, or otherwise
 143 assisted with the funds provided from the local housing
 144 assistance trust fund must be occupied by very-low-income

145 persons, low-income persons, and moderate-income persons except
146 as otherwise provided in this section.

147 2.a. At least 30 percent of the funds deposited into the
148 local housing assistance trust fund must be reserved for awards
149 to very-low-income persons or eligible sponsors who will serve
150 very-low-income persons, and at least an additional 30 percent
151 of the funds deposited into the local housing assistance trust
152 fund must be reserved for awards to low-income persons or
153 eligible sponsors who will serve low-income persons.

154 b. This subparagraph does not apply to a county or an
155 eligible municipality that includes or has included within the
156 previous 5 years an area of critical state concern designated by
157 the Legislature for which the Legislature has declared its
158 intent to provide affordable housing. This sub-subparagraph
159 expires on July 1, 2029, and applies retroactively.

160 Section 7. A county that has been designated as an area of
161 critical state concern by the Legislature and which levies a
162 tourist development tax pursuant to s. 125.0104, Florida
163 Statutes, and a tourist impact tax pursuant to s. 125.0108,
164 Florida Statutes, may transfer its cumulative surplus tourist
165 development tax revenue through the fiscal year ending September
166 30, 2024, which shall be distributed pursuant to s. 125.0108(3),
167 Florida Statutes, to provide for and support workforce housing
168 for employees due to impacts from tourist-related businesses

HB 1297

2024

169 | within the county.

170 | Section 8. 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		

1 Committee/Subcommittee hearing bill: Local Administration,
2 Federal Affairs & Special Districts Subcommittee
3 Representative Mooney offered the following:

Amendment

Remove lines 160-169 and insert:

7 Section 7. A county that has been designated as an area of
8 critical state concern by law or by action of the Administration
9 Commission pursuant to s. 380.05 and that levies a tourist
10 development tax pursuant to s. 125.0104 and a tourist impact tax
11 pursuant to s. 125.0108 may transfer its cumulative surplus from
12 such taxes incurred through September 30, 2024, for the purpose
13 of providing affordable housing as defined in s. 420.0004 for
14 employees whose housing opportunities are impacted by the
15 operation of tourist-related businesses in the county. Any
16 housing financed with funds from this surplus shall maintain its

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1297 (2024)

Amendment No.

17 | status as affordable housing for a period of no less than 99
18 | years. The transferred surplus shall be distributed pursuant to
19 | s. 125.0108(3).

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1307 Housing Developments
SPONSOR(S): Redondo
TIED BILLS: **IDEN./SIM. BILLS:** SB 1552

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

State affordable housing programs are administered by the Florida Housing Finance Corporation (FHFC). Among the programs operated by FHFC is the State Apartment Incentive Loan (SAIL) Program. FHFC draws and administers funds from federal programs through federal tax credits, United States Department of Housing and Urban Development grants, and from the state through the State Housing Trust Fund and Local Government Housing Trust Fund. Both state trust funds are funded by documentary stamp taxes, ad hoc individual legislative appropriations, and through program income, which consists primarily of funds from successful loan repayments that are recycled into the program from which they originate.

The bill amends the definition of “urban infill” in the Community Planning Act to include the development or redevelopment of mobile home parks and manufactured home communities that otherwise meet the criteria to be considered urban infill.

The bill revises eligibility criteria for grants under the Resilient Florida Grant Program and the Statewide Flooding and Sea Level Rise Resilience Plan to allow community development districts that were authorized to fund the construction or reconstruction of critical assets, either in the enabling ordinance that created the district or by a county or municipal development order, to be added to the list of governmental entities eligible for grants.

The bill makes the following changes to affordable housing programs:

- Amends the definition of “moderate income persons” to include households with incomes up to the greater of 140 percent of the statewide median income or area median income in counties with a population in excess of 1,000,000;
- Requires FHFC to review certain projects based on plans presented by the developer which includes factors related to existing or proposed zoning, financing, and the housing supply needs of the county in which the project is located;
- Provides that projects funded under the Live Local Program and general revenue service charge funds redirected to the SAIL program may not be required to use federal low-income housing tax credits or tax-exempt bond financing as part of the financing structure for the project; and
- Revises eligibility for the property tax exemption for the use of property in certain multifamily projects as affordable housing to apply to properties used for moderate-income housing.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Community Planning Act

The Community Planning Act¹ 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

Resilient Florida Grant Program

Established within the Department of Environmental Protection (DEP) in 2021, the Resilient Florida Program enhances efforts to protect Florida's inland waterways, coastlines, and shores, which serve as invaluable natural defenses against sea level rise (SLR).⁶ The program includes a selection of grants that are available to counties, municipalities, water management districts, flood control districts, and regional resilience entities.⁷ To effectively address the impacts of flooding and SLR that the state faces, eligible applicants may receive funding assistance to analyze and plan for vulnerabilities as well as implement projects for adaptation and mitigation. The Resilient Florida Program creates grant funding opportunities under the Resilient Florida Grant Program and the Statewide Flooding and Sea Level Rise Resilience Plan.⁸

Under the Resilient Florida Grant Program, subject to appropriation, the DEP may provide grants to a county or municipality to fund:

- Costs of community resilience planning and necessary data collection for such planning, including comprehensive plan amendments and necessary corresponding analyses that address Peril of Flood requirements;
- Vulnerability assessments that identify or address risks of inland or coastal flooding and SLR;⁹
- The development of projects, plans, and policies that allow communities to prepare for threats from flooding and SLR; and
- Preconstruction activities for projects to be submitted for inclusion in the Statewide Flooding and Sea Level Rise Resilience Plan that are located in a municipality that has a population of 10,000 or fewer or a county that has a population of 50,000 or fewer.¹⁰

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 DEP, *Resilient Florida Program*, <https://floridadep.gov/ResilientFlorida> (last visited Jan. 29, 2024).

⁷ DEP, *Resilient Florida Grants*, <https://floridadep.gov/Resilient-Florida-Program/Grants> (last visited Jan. 29, 2024).

⁸ Ss. 380.093(3) and 380.093(5), F.S.

⁹ Ss. 380.093(3)(b)(2) and 380.093(3)(c), F.S.

Affordable Housing

Housing is considered affordable when it costs less than 30 percent of a family's gross income.¹¹ A family paying more than 30 percent of its income for housing is considered "cost burdened," while those paying more than 50 percent are considered "extremely cost burdened." Severely cost burdened households are more likely to sacrifice other necessities such as healthy food and healthcare to pay for housing, and to experience unstable housing situations such as eviction.

Affordable housing is defined in terms of household income. Resident eligibility for Florida's state and federally-funded housing programs is governed by area median income (AMI) or statewide median family income,¹² published annually by the United States Department of Housing and Urban Development (HUD).¹³ The following are standard household income level definitions and their relationship to the 2023 Florida statewide AMI of \$85,500 for a family of four (as family size changes, the income range also varies):¹⁴

- Extremely low income – earning up to 30 percent AMI (at or below \$ 24,850);¹⁵
- Very low income – earning from 30.01 to 50 percent AMI (\$24,851 to \$41,450);¹⁶
- Low income – earning from 50.01 to 80 percent AMI (\$41,451 to \$66,350);¹⁷ and
- Moderate income – earning from 80.01 to 120 percent of AMI (\$66,351 to \$102,600).¹⁸

Florida Housing Finance Corporation¹⁹

The Florida Housing Finance Corporation (FHFC) was created in 1997 as a public-private entity to assist in providing a range of affordable housing opportunities for Floridians.²⁰ FHFC is a corporation held by the state and housed within the Department of Commerce. FHFC is a separate budget entity and its operations are not subject to control, supervision, or direction by the department.²¹

The goal of FHFC is to increase the supply of safe, affordable housing for individuals and families with very low to moderate incomes by stimulating investment of private capital and encouraging public and private sector housing partnerships. As a financial institution, FHFC administers federal and state resources to finance the development and preservation of affordable rental housing and assist homebuyers with financing and down payment assistance.²²

¹⁰ S. 380.093(3), F.S.

¹¹ S. 420.0004(3), F.S.

¹² The 2023 Florida SMI for a family of four was \$ 85,500. U.S. Dept. of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas*, available at <https://www.huduser.gov/portal/datasets/il.html#2022> (last visited Jan. 29, 2024).

¹³ HUD User, Office of Policy Development and Research, "Income Limits," available at <https://www.huduser.gov/portal/datasets/il.html#2022> (last visited Jan. 29, 2024) (SMI and AMI available under the "Access Individual Income Limits Area" dataset).

¹⁴ U.S. Dept. of Housing and Urban Development, *Income Limits, Access Individual Income Limits Areas*, available at <https://www.huduser.gov/portal/datasets/il.html#2023> (last visited Jan. 29, 2024).

¹⁵ S. 420.0004(9), F.S.

¹⁶ S. 420.0004(17), F.S.

¹⁷ S. 420.0004(11), F.S.

¹⁸ S. 420.0004(12), F.S.

¹⁹ See generally National Council of State Housing Agencies, *About HFAs*, <https://www.ncsha.org/about-us/about-hfas/> (last visited Jan. 29, 2024); See generally State of Florida Auditor General, *Florida Housing Finance Corporation Audit Performed Pursuant to Chapter 2013-83, Laws of Florida*, available at https://flauditor.gov/pages/pdf_files/2017-047.pdf (last visited Jan. 29, 2024) (pursuant to Ch. 2013-83, Laws of Fla., codified as s. 420.511(5), F.S., the Florida Auditor General conducted an operational audit of the accounts and records of FHFC in November 2016).

²⁰ Ch. 97-167, Laws of Fla. From 1980 through 1997, the former Florida Housing Finance Agency, placed within the former Department of Community Affairs, performed similar duties.

²¹ S. 420.504(1), F.S.

²² See Fla. Housing Finance Corp., *About Florida Housing*, <https://www.floridahousing.org/about-florida-housing> (last visited Jan. 29, 2024).

State Apartment Incentive Loan (SAIL) Program

The SAIL program is administered by FHFC and provides low-interest loans on a competitive basis to multifamily affordable housing developers.²³ These funds often serve to bridge the gap between the development's primary financing and the total cost of the development. SAIL program dollars are available for developers proposing to construct or substantially rehabilitate multifamily rental housing.²⁴

At a minimum, developments financed by the SAIL program must set aside 20 percent of units for households at or below 50 percent of AMI, or if the development also receives Low Income Housing Tax Credits²⁵ (LIHTC), 40 percent of units for households up to 60 percent of AMI.²⁶ Loan interest rates are set at 0 percent for those developments that maintain 80 percent of their occupancy for farmworkers, commercial fishing workers, or homeless people. The interest rates are set at 1 percent for all other developments. Generally, loans are issued for 15 years and cover approximately 25 to 35 percent of the total development cost.

SAIL program funding is distributed by FHFC through a competitive solicitation process.²⁷ Each year FHFC issues several requests for application, formal offers of funding that require aspirant developers to give FHFC detailed information related to the development. These requests for application vary by geography and the needs of the community, based on a statewide market study.²⁸ Applications are then reviewed and scored by FHFC based on a number of criteria, and awards are made from the highest scoring applications.²⁹

Set-asides for affordable housing set two limits on an apartment: the rent is limited to make the apartment affordable to someone at the target income, and potential renters must submit proof of income beneath the target before becoming eligible renters. Set-asides are generally governed by a Land Use Restrictive Agreement (LURA), which is recorded by the county clerk's office and runs with the land. A LURA can also include a time period associated with restriction compliance enforced by the Internal Revenue Service (IRS), HUD, or other housing authority.³⁰ Both FHFC and local governments utilize LURAs to enforce requirements that developers receiving funding do go on to provide affordable housing.

The same competitive solicitation process is used to distribute many different types of funding routed through FHFC. FHFC is the state's administrator for all federal affordable housing programs, which include LIHTC, HOME Investment Partnerships Programs, the National Housing Trust Fund program through HUD, and Multifamily Mortgage Revenue Bonds. The process is also used for other state programs such as the Elderly Housing Community Loan Program.³¹ Certain funding sources can also be paired to ensure a greater number of projects are funded.

Funding for Affordable Housing

FHFC draws and administers funds from federal programs through federal tax credits and HUD³² and from the state through the State Housing Trust Fund and Local Government Housing Trust Fund.³³

²³ S. 420.5087, F.S.

²⁴ See Florida Housing Finance Corporation, *State Apartment Incentive Loan*, available at <https://floridahousing.org/programs/developers-multifamily-programs/state-apartment-incentive-loan> (last visited Jan. 29, 2024).

²⁵ Low Income Housing Tax Credits are a financial instrument administered by the Department of Housing and Urban Development that provide financing for low income housing developments. Credits are allocated to states on a per capita basis and state-level administration is performed by FHFC. Eligible developments are income-limited similarly to SAIL requirements.

²⁶ S. 420.5087(2), F.S.

²⁷ S. 420.5087(1), F.S.

²⁸ *Id.*, see also Fla. Admin. Code R. Ch. 67-60.

²⁹ For the full list of statutory criteria, see s. 420.5087(6)(c), F.S. Additional criteria and scoring mechanics can be set by FHFC.

³⁰ Commercial Real Estate Finance Company of America, *Multifamily Housing – Land Use Restrictive Agreement (LURA) LIHTC*, available at <https://www.crefcoa.com/land-use-restrictive-agreement.html> (last visited Jan. 29, 2023).

³¹ See generally Florida Housing Finance Corporation, *2021 Annual Report*, Jan. 30, 2022, available at https://issuu.com/fhfc/docs/2021_annual_report (last visited Jan. 29, 2024).

³² See ss. 420.507(33) and 159.608, F.S.

Both state trust funds are funded by documentary stamp taxes, ad hoc individual legislative appropriations, and through program income, which consists primarily of funds from successful loan repayments that are recycled into the program from which they originate.

Documentary Stamp Tax

The documentary stamp tax imposes an excise tax on deeds or other documents that convey an interest in Florida real property. The tax comprises two taxes imposed on different bases at different tax rates. The first tax rate is 70 cents on each \$100 of consideration for deeds, instruments, or writings whereby lands, tenements, or other real property or interests are granted, assigned, transferred, conveyed, or vested in a purchaser.³⁴ The second tax rate is 35 cents per each \$100 of consideration for certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements.³⁵ Revenue collected from the documentary stamp tax is divided between the General Revenue Fund and various trust funds³⁶ according to the statutory formula in ch. 201, F.S.

Housing Trust Funds

The State Housing Trust Fund, administered by FHFC,³⁷ is “to be used for new construction and substantial rehabilitation of housing, to improve the state’s ability to serve first-time homebuyers, and to increase the affordability and availability of the housing stock in the State of Florida.”³⁸ The 1992 Sadowski Act increased documentary stamp tax rates and provided for a certain proportion of documentary stamp tax revenues to be distributed to the State Housing Trust Fund. A large portion of these funds are utilized in the State Apartment Incentive Loan (SAIL) Program.

The Local Government Housing Trust Fund, administered by FHFC,³⁹ is used to fund the State Housing Initiatives Partnership (SHIP) Program, which was created “for the purpose of providing funds to local governments as an incentive for the creation of partnerships to produce and preserve affordable housing.”⁴⁰ A certain proportion of documentary stamp tax revenues are distributed to the Local Government Housing Trust Fund.

General Revenue Service Charge

Current law prescribes the distribution of revenues from the excise tax on documents.⁴¹ After payments on certain outstanding bonds and a distribution to the Land Acquisition Trust Fund, 8 percent of total collections are deducted as the General Revenue service charge.⁴² This charge is intended to represent a share of the cost of general government. The remaining revenues from the excise tax on documents are distributed to various trust funds, including the State Housing and Local Government Housing Trust Funds.⁴³

However, for fiscal years 2023-2024 through 2032-2033, up to \$150 million of the General Revenue service charge is redirected to the State Housing Trust Fund for use in the SAIL program.⁴⁴ For those years, after documentary stamp tax revenue is distributed to the Land Acquisition Trust Fund, the State Housing Trust Fund must receive the lesser of 8 percent of the remainder or \$150 million. If 8 percent

³³ S. 201.15, F.S.

³⁴ S. 201.02(1), F.S.

³⁵ Ss. 201.07 and 201.08, F.S.

³⁶ The Land Acquisition Trust Fund, the State Transportation Trust Fund, the State Economic Enhancement and Development Trust Fund, the General Inspection Trust Fund, the Water Protection and Sustainability Program Trust Fund, the Resilient Florida Trust Fund, the State Housing Trust Fund, and the Local Government Housing Trust Fund.

³⁷ Ch. 92-317, ss. 1-35, Laws of Fla.; s. 420.0005, F.S.

³⁸ Ch. 88-376, s. 2, Laws of Fla.; s. 420.003(5), F.S. (1988).

³⁹ S. 420.9079, F.S.

⁴⁰ Ch. 92-317, s. 32, Laws of Fla.; s. 420.9072, F.S. (1992).

⁴¹ S. 201.15, F.S.

⁴² S. 215.20(1), F.S.

⁴³ S. 215.15, F.S.

⁴⁴ S. 210.15(4), F.S.

of the remainder is greater than \$150 million, the amount in excess must be paid into the General Revenue Fund. FHFC must use 70 percent of the redirected funds to issue competitive requests for applications to finance projects that:

- Redevelop an existing affordable housing development while also allowing for the construction of a new development within close proximity to the existing development to be rehabilitated. This process entails first constructing a new affordable housing development, then relocating the tenants from the existing development to the new development, and finally demolishing the existing development to allow for reconstruction of an affordable housing development with more overall units and affordable units;
- Address urban infill, including conversions of vacant, dilapidated, or functionally obsolete buildings or the use of underused commercial property;
- Provide for mixed use of the location, incorporating nonresidential uses, such as retail, office, institutional, or other appropriate commercial or nonresidential uses; or
- Provide housing near military installations in this state.⁴⁵

The remaining 30 percent must be used to finance projects that:

- Propose using or leasing public lands. Projects that propose to use or lease public lands must include a resolution or other agreement with the unit of government owning the land to use the land for affordable housing purposes;
- Address needs of young adults who age out of the foster care system;
- Meet the needs of elderly persons; or
- Provide housing to meet the needs in areas of rural opportunity.⁴⁶

FHFC must coordinate with the appropriate state department or agency for each goal, and to prioritize projects that provide for mixed-income developments.⁴⁷ Any allocated funds remaining at the end of a given fiscal year may be used to supplement future applications for the same types of projects.⁴⁸

Low Income Housing Tax Credits

Of the affordable housing financing options provided by the federal government, LIHTC⁴⁹ are among the most commonly used. When a property is financed using LIHTC, the federal government typically requires the property be utilized for affordable housing for at least 30 years.⁵⁰ This period is divided into the first 15 years, the “initial compliance period,” and the rest, an “extended use period.”

After 14 years, the owner of an affordable housing development may request that FHFC seek a purchaser who will continue to operate the affordable portions of the development as affordable housing, which is referred to as the “qualified contract process.” Many developments, particularly those that receive the most lucrative LIHTC, waive the right to enter this process, and must remain affordable housing for the duration of the agreed upon time. After a developer requests a qualified contract, if the FHFC is unable to present a buyer during the subsequent one-year period, the extended use period of the property as affordable housing will end, and the property can be utilized for market-rate housing.⁵¹

This “qualified contract process” relies on FHFC marketing the property and returning to the owner with a “bona fide contract,” showing that it has found a buyer in order to maintain the affordable housing requirement. The price for the affordable housing portion of the sale is set according to a formula

⁴⁵ S. 420.50871(1), F.S.

⁴⁶ S. 420.50871(2), F.S.

⁴⁷ S. 420.50871(3), F.S.

⁴⁸ S. 420.50871(4), F.S.

⁴⁹ Low Income Housing Tax Credits are provided by the federal government to rental housing developers in exchange for a commitment to provide affordable rents and are usually sold to investors to raise project equity. The LIHTC program is governed by the U.S. Department of Treasury and Florida’s allocation is administered by Florida Housing. Under the LIHTC program, successful applicants are provided with a dollar-for-dollar reduction in federal tax liability in exchange for the development or rehabilitation of units to be occupied by very low- and low-income households.

⁵⁰ Internal Revenue Code Section 42(h)(6)(A).

⁵¹ Internal Revenue Code Section 42(h)(6)(E)(i)(II).

designed to give the owner an inflation adjusted return on its original equity contribution.⁵² The bona fide contract, as provided by administrative rule is:

...a contract for sale signed by the purchaser, which states that acceptance of the contract is contingent upon approval by the Corporation, and must provide for an initial earnest money deposit (the initial deposit) from the purchaser in the minimum amount of \$50,000 and obligate the purchaser to make a second earnest money deposit (the second deposit) (the initial and second deposits shall be refundable in the event of the seller's failure to deliver insurable title or in the event of seller's default, otherwise the deposits shall be non-refundable) equal to three (3) percent of the qualified contract price.⁵³

If FHFC is able to secure a purchaser and present the owner with a bona fide contract within the one-year period, regardless of whether the owner accepts, rejects, or fails to act upon the contract, the property continues to be subject to its extended use agreement as affordable housing.⁵⁴ If the owner accepts the offer, the property is sold to the purchaser. If the owner rejects the offer or fails to act upon the offer, the owner continues to be subject to the extended use agreement and cannot submit another qualified contract request for the development.

Live Local Program

In 2023, the Legislature established the Live Local Program, a tax credit program benefiting the SAIL program.⁵⁵ Under the Live Local Program, businesses that make monetary donations to FHFC to fund the SAIL program may receive a dollar-for-dollar credit against either corporate income or insurance premium taxes.⁵⁶ The annual tax credit cap for all credits under the program is \$100 million.

FHFC must expend all of the contributions received under the Live Local Program for the SAIL program.⁵⁷ From the amount received, FHFC may use up to \$25 million to provide loans for the construction of large-scale projects of significant regional impact. These projects must include a substantial civic, educational, or health care component, and may incorporate commercial use. These loans must be made in accordance with the practices and policies of the SAIL program, through a competitive application process, and must not exceed 25 percent of the development's total costs. FHFC must find that the loan provides a unique opportunity for investment alongside local government participation that enables the creation of a significant amount of affordable and workforce housing.

Affordable Housing Property Tax Exemption

Current law provides that the use of property in certain multifamily projects for affordable housing will be considered a charitable purpose and qualify for an exemption from ad valorem taxation beginning on January 1 of the year following the 15th completed year from the earliest of:

- The effective date of the recorded agreement with the FHFC;
- The first day of the first taxable year in which the property was placed in service as an affordable housing property; or
- The date such property received a certificate of occupancy, or certificate of substantial completion, as applicable, and could be used to provide affordable housing.⁵⁸

To qualify, a multifamily project must:

- Provide affordable housing to natural persons or families meeting the extremely-low, very-low, or low-income limits specified in s. 420.0004, F.S.;

⁵² Internal Revenue Code Section 42(h)(6)(F).

⁵³ Fla. Admin. Code R. 67-48.031.

⁵⁴ Fla. Admin. Code R. 67-48.031(11).

⁵⁵ Ch. 2023-17, s. 34, Laws of Fla., codified as s. 420.50872, F.S.

⁵⁶ S. 420.50872(3), F.S.

⁵⁷ S. 420.50872(2), F.S.

⁵⁸ S. 196.1978(2)(a), F.S.

- Contain more than 70 units used to provide affordable housing to the above group; and
- Be subject to an agreement with the Florida Housing Finance Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.⁵⁹

The exemption terminates when the property is no longer serving extremely-low, very-low, or low-income persons pursuant to the recorded agreement.

Effect of Proposed Changes

Definitions

The bill amends the definition of “urban infill” in the Community Planning Act to include the development or redevelopment of mobile home parks and manufactured home communities that otherwise meet the criteria to be considered urban infill.

The bill expands the definition of “moderate income persons” for affordable housing programs in a county with a population of 1,000,000 or more to include households with incomes up to the greater of 140 percent of statewide median family income or 140 percent of AMI.

Resilient Florida Grant Program

The bill adds community development districts that were authorized to fund the construction or reconstruction of critical assets in the enabling ordinance that created the district or by a county or municipal development order to the list of governmental entities eligible for grants under the Resilient Florida Grant Program and the Statewide Flooding and Sea Level Rise Resilience Plan.

General Revenue Service Charge Funds

The bill provides that when FHFC reviews a proposal to redevelop an existing affordable housing development while also allowing for the construction of a new development within close proximity to the existing development to be rehabilitated, the consideration of the total number of units which includes more overall and affordable units must be based on plans presented by the developer which include factors related to existing or proposed zoning, financing, and the housing supply needs of the county in which the project is located.

The bill provides that urban infill projects using redirected funds must use the definition of urban infill provided in the Community Planning Act.

The bill also provides that a project financed using the redirected funds may not be required to use federal low-income housing tax credits or tax-exempt bond financing as part of the financing structure for the project.

Live Local Program

The bill authorizes FHFC to use funds set aside for the construction of large-scale projects of significant regional impact to be used for new construction projects that have received development assistance from the federal government to replace obsolete homes in mobile home parks and manufactured home communities based on a comprehensive redevelopment plan.

The bill provides that a project financed as part of the Live Local Program may not be required to use federal low-income housing tax credits or tax-exempt bond financing as part of the financing structure

for the project.

Affordable Housing Property Exemption

The bill revises eligibility for the property tax exemption for the use of property in certain multifamily projects as affordable housing to apply to properties used for moderate-income housing.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3164, F.S., relating to the Community Planning Act.

Section 2: Amends s. 196.1978, F.S., relating to affordable housing property exemption.

Section 3: Amends s. 380.093, F.S., relating to Resilient Florida Grant Program.

Section 4: Amends s. 420.0004, F.S., relating to definitions.

Section 5: Amends s. 420.50871, F.S., relating to allocation of increased revenues derived from amendments to s. 201.15, F.S. made by ch. 2023-17, Laws of Fla.

Section 6: Amends s. 420.50872, F.S., relating to Live Local Program.

Section 7: 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:

The bill may reduce local government revenues by expanding the eligibility for a property tax exemption for the use of property in certain multifamily projects as affordable housing to apply to properties used for moderate-income housing.

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:

The county/municipality mandates provision of Art. VII, s. 18(b) of the Florida Constitution may apply because the provision in the bill that provides a property tax exception for certain property used to provide affordable housing may reduce county and municipal government authority to raise revenue. The bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

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:

Lines 42-68 of the bill provide that property in certain multifamily projects used for affordable housing may be eligible for an ad valorem tax exemption at the earliest of the date of a recording agreement between the developer and FHFC, the first day of the taxable year in which the property was placed into service as affordable housing, or the date the property received a certificate of occupancy. The bill does not, however, amend other provisions contained in the same section which require the property to be subject to an agreement between the developer and FHFC to be eligible for the agreement.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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A bill to be entitled
 An act relating to housing developments; amending s. 163.3164, F.S.; revising the definition of the term "urban infill"; amending s. 196.1978, F.S.; conforming provisions to changes made by the act; amending s. 380.093, F.S.; authorizing the Department of Environmental Protection to provide certain grants to community development districts for specified purposes; authorizing community development districts to submit a list of certain proposed projects to the department; amending s. 420.0004, F.S.; revising the definition of the term "moderate-income persons"; amending s. 420.50871, F.S.; requiring the total number of units for certain new developments or redevelopments to be based on plans that include certain factors; prohibiting certain projects from requiring certain tax credits or bond financing; amending s. 420.50872, F.S.; authorizing the corporation to use certain contributions for certain new construction projects to replace obsolete homes in mobile home parks and manufactured home communities; prohibiting such projects from requiring certain tax credits or bond financing; providing an effective date.

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

27

28 Section 1. Subsection (49) of section 163.3164, Florida
 29 Statutes, is amended to read:

30 163.3164 Community Planning Act; definitions.—As used in
 31 this act:

32 (49) "Urban infill" means the development of vacant
 33 parcels in otherwise built-up areas where public facilities such
 34 as sewer systems, roads, schools, and recreation areas are
 35 already in place and the average residential density is at least
 36 five dwelling units per acre, the average nonresidential
 37 intensity is at least a floor area ratio of 1.0, and vacant,
 38 developable land does not constitute more than 10 percent of the
 39 area. The term also includes the development or redevelopment of
 40 mobile home parks and manufactured home communities that meet
 41 the urban infill criteria.

42 Section 2. Paragraph (a) of subsection (2) of section
 43 196.1978, Florida Statutes, is amended to read:

44 196.1978 Affordable housing property exemption.—

45 (2)(a) Notwithstanding ss. 196.195 and 196.196, property
 46 in a multifamily project that meets the requirements of this
 47 subsection is considered property used for a charitable purpose
 48 and is exempt from ad valorem tax beginning with the January 1
 49 assessment after the 15th completed year from the earliest of:

50 1. The effective date of the recorded agreement on those

51 portions of the affordable housing property that provide housing
 52 to natural persons or families meeting the extremely-low-income,
 53 very-low-income, ~~or~~ low-income, or moderate-income limits
 54 specified in s. 420.0004;

55 2. The first day of the first taxable year in which the
 56 property was placed in service as an affordable housing property
 57 that provides housing to natural persons or families meeting the
 58 extremely-low-income, very-low-income, ~~or~~ low-income, or
 59 moderate-income limits specified in s. 420.0004; or

60 3. The date the property received a certificate of
 61 occupancy or a certificate of substantial completion, as
 62 applicable, allowing the property to be used as an affordable
 63 housing property that provides housing to natural persons or
 64 families meeting the extremely-low-income, very-low-income, ~~or~~
 65 low-income, or moderate-income limits specified in s. 420.0004.

66 Section 3. Paragraph (b) of subsection (3) and paragraph
 67 (d) of subsection (5) of section 380.093, Florida Statutes, are
 68 amended to read:

69 380.093 Resilient Florida Grant Program; comprehensive
 70 statewide flood vulnerability and sea level rise data set and
 71 assessment; Statewide Flooding and Sea Level Rise Resilience
 72 Plan; regional resilience entities.—

73 (3) RESILIENT FLORIDA GRANT PROGRAM.—

74 (b) Subject to appropriation, the department may provide
 75 grants to each of the following entities:

- 76 | 1. A county or municipality to fund:
- 77 | a. The costs of community resilience planning and
- 78 | necessary data collection for such planning, including
- 79 | comprehensive plan amendments and necessary corresponding
- 80 | analyses that address the requirements of s. 163.3178(2)(f).
- 81 | b. Vulnerability assessments that identify or address
- 82 | risks of inland or coastal flooding and sea level rise.
- 83 | c. The development of projects, plans, and policies that
- 84 | allow communities to prepare for threats from flooding and sea
- 85 | level rise.
- 86 | d. Preconstruction activities for projects to be submitted
- 87 | for inclusion in the Statewide Flooding and Sea Level Rise
- 88 | Resilience Plan that are located in a municipality that has a
- 89 | population of 10,000 or fewer or a county that has a population
- 90 | of 50,000 or fewer, according to the most recent April 1
- 91 | population estimates posted on the Office of Economic and
- 92 | Demographic Research's website.
- 93 | e. Feasibility studies and the cost of permitting for
- 94 | nature-based solutions that reduce the impact of flooding and
- 95 | sea level rise.
- 96 | 2. A water management district identified in s. 373.069 to
- 97 | support local government adaptation planning, which may be
- 98 | conducted by the water management district or by a third party
- 99 | on behalf of the water management district. Such grants must be
- 100 | used for the express purpose of supporting the Florida Flood Hub

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101 for Applied Research and Innovation and the department in
102 implementing this section through data creation and collection,
103 modeling, and the implementation of statewide standards.
104 Priority must be given to filling critical data gaps identified
105 by the Florida Flood Hub for Applied Research and Innovation
106 under s. 380.0933(2)(a).

107 3. A community development district, as defined in s.
108 190.003, which is authorized under chapter 190 to fund the
109 construction or reconstruction of critical assets as authorized
110 by the enabling ordinance that created the community development
111 district or as required by a county or municipal development
112 order.

113 (5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE
114 PLAN.—

115 (d)1. By September 1, 2021, and each September 1
116 thereafter, the following entities may submit to the department
117 a list of proposed projects that address risks of flooding or
118 sea level rise identified in vulnerability assessments that meet
119 the requirements of subsection (3):

120 a. Counties.

121 b. Municipalities.

122 c. Special districts as defined in s. 189.012 that are
123 responsible for the management and maintenance of inlets and
124 intracoastal waterways or for the operation and maintenance of a
125 potable water facility, a wastewater facility, an airport, or a

126 seaport facility.

127 d. A community development district, as defined in s.
 128 190.003, which is authorized under chapter 190 to fund the
 129 construction or reconstruction of critical assets as authorized
 130 by the enabling ordinance that created the community development
 131 district or as required by a county or municipal development
 132 order.

133
 134 For the plans submitted by December 1, 2021; December 1, 2022;
 135 and December 1, 2023, such entities may submit projects
 136 identified in existing vulnerability assessments that do not
 137 comply with subsection (3). A regional resilience entity may
 138 also submit proposed projects to the department pursuant to this
 139 subparagraph on behalf of one or more member counties or
 140 municipalities.

141 2. By September 1, 2021, and each September 1 thereafter,
 142 the following entities may submit to the department a list of
 143 any proposed projects that mitigate the risks of flooding or sea
 144 level rise on water supplies or water resources of the state and
 145 a corresponding evaluation of each project:

- 146 a. Water management districts.
- 147 b. Drainage districts.
- 148 c. Erosion control districts.
- 149 d. Flood control districts.
- 150 e. Regional water supply authorities.

151 f. A community development district, as defined in s.
 152 190.003, which is authorized under chapter 190 to fund the
 153 construction or reconstruction of critical assets as authorized
 154 by the enabling ordinance that created the community development
 155 district or as required by a county or municipal development
 156 order.

157 3. Each project submitted to the department pursuant to
 158 this paragraph for consideration by the department for inclusion
 159 in the plan must include:

- 160 a. A description of the project.
- 161 b. The location of the project.
- 162 c. An estimate of how long the project will take to
 163 complete.
- 164 d. An estimate of the cost of the project.
- 165 e. The cost-share percentage available for the project.
- 166 f. The project sponsor.

167 Section 4. Subsection (12) of section 420.0004, Florida
 168 Statutes, is amended to read:

169 420.0004 Definitions.—As used in this part, unless the
 170 context otherwise indicates:

171 (12) "Moderate-income persons" means one or more natural
 172 persons or a family, the total annual adjusted gross household
 173 income of which is less than 120 percent of the median annual
 174 adjusted gross income for households within the state, or 120
 175 percent of the median annual adjusted gross income for

176 households within the metropolitan statistical area (MSA) or, if
177 not within an MSA, within the county in which the person or
178 family resides, whichever is greater. In counties with a
179 population of 1 million or more, the term means one or more
180 natural persons or a family, the total annual adjusted gross
181 household income of which is less than 140 percent of the median
182 annual adjusted gross income for households within the state or
183 140 percent of the median annual adjusted gross income for
184 households within the MSA, whichever is greater.

185 Section 5. Subsection (5) of section 420.50871, Florida
186 Statutes, is renumbered as subsection (6), paragraphs (a) and
187 (b) of subsection (1) are amended, and a new subsection (5) is
188 added to that section, to read:

189 420.50871 Allocation of increased revenues derived from
190 amendments to s. 201.15 made by ch. 2023-17.—Funds that result
191 from increased revenues to the State Housing Trust Fund derived
192 from amendments made to s. 201.15 made by chapter 2023-17, Laws
193 of Florida, must be used annually for projects under the State
194 Apartment Incentive Loan Program under s. 420.5087 as set forth
195 in this section, notwithstanding ss. 420.507(48) and (50) and
196 420.5087(1) and (3). The Legislature intends for these funds to
197 provide for innovative projects that provide affordable and
198 attainable housing for persons and families working, going to
199 school, or living in this state. Projects approved under this
200 section are intended to provide housing that is affordable as

201 defined in s. 420.0004, notwithstanding the income limitations
202 in s. 420.5087(2). Beginning in the 2023-2024 fiscal year and
203 annually for 10 years thereafter:

204 (1) The corporation shall allocate 70 percent of the funds
205 provided by this section to issue competitive requests for
206 application for the affordable housing project purposes
207 specified in this subsection. The corporation shall finance
208 projects that:

209 (a) Both redevelop an existing affordable housing
210 development and provide for the construction of a new
211 development within close proximity to the existing development
212 to be rehabilitated. Each project must provide for building the
213 new affordable housing development first, relocating the tenants
214 of the existing development to the new development, and then
215 demolishing the existing development for reconstruction of an
216 affordable housing development with more overall and affordable
217 units. The total number of units for a new development or the
218 redevelopment of an existing affordable housing development
219 which includes more overall and affordable units must be based
220 on plans presented by the developer which include factors
221 related to existing or proposed zoning, financing, and housing
222 supply needs of the county in which the project is located.

223 (b) Address urban infill, as defined in s. 163.3164,
224 including conversions of vacant, dilapidated, or functionally
225 obsolete buildings or the use of underused commercial property.

226 (5) A project financed under this section may not require
 227 that low-income housing tax credits under s. 42 of the Internal
 228 Revenue Code or tax-exempt bond financing be a part of the
 229 financing structure for the project.

230 Section 6. Subsection (2) of section 420.50872, Florida
 231 Statutes, is amended to read:

232 420.50872 Live Local Program.—

233 (2) RESPONSIBILITIES OF THE CORPORATION; PROHIBITIONS.—

234 (a) The corporation shall:

235 1. ~~(a)~~ Expend 100 percent of eligible contributions
 236 received under this section for the State Apartment Incentive
 237 Loan Program under s. 420.5087. However, the corporation may use
 238 up to \$25 million of eligible contributions to provide loans for
 239 the construction of large-scale projects of significant regional
 240 impact, including new construction projects that have received
 241 development assistance from the federal government to replace
 242 obsolete homes in mobile home parks and manufactured home
 243 communities based on a comprehensive redevelopment plan. Such
 244 projects must include a substantial civic, educational, or
 245 health care use and may include a commercial use, any of which
 246 must be incorporated within or contiguous to the project
 247 property. Such a loan must be made, except as otherwise provided
 248 in this subsection, in accordance with the practices and
 249 policies of the State Apartment Incentive Loan Program. Such a
 250 loan is subject to the competitive application process and may

251 not exceed 25 percent of the total project cost. The corporation
 252 must find that the loan provides a unique opportunity for
 253 investment alongside local government participation that would
 254 enable creation of a significant amount of affordable housing.
 255 Projects approved under this section are intended to provide
 256 housing that is affordable as defined in s. 420.0004,
 257 notwithstanding the income limitations in s. 420.5087(2).

258 2.~~(b)~~ Upon receipt of an eligible contribution, provide
 259 the taxpayer that made the contribution with a certificate of
 260 contribution. A certificate of contribution must include the
 261 taxpayer's name; its federal employer identification number, if
 262 available; the amount contributed; and the date of contribution.

263 3.~~(e)~~ Within 10 days after issuing a certificate of
 264 contribution, provide a copy to the Department of Revenue.

265 (b) A project financed under this section may not require
 266 that low-income housing tax credits under s. 42 of the Internal
 267 Revenue Code or tax-exempt bond financing be a part of the
 268 financing structure for the project.

269 Section 7. This act shall take effect July 1, 2024.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1329 Veterans
SPONSOR(S): Redondo and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1666

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

SUMMARY ANALYSIS

Florida is home to 21 military installations and more than 69,000 military personnel. Florida also has the nation's third-largest veteran population with almost 1.5 million veterans. Many of these veterans are recently transitioned servicemembers. Each year, about 250,000 servicemembers end military service as veterans and either reenter the civilian workforce or enroll in higher education.

The bill revises provisions relating to veterans and the transition of veterans to civilian life by:

- Expanding employment outreach, marketing, and support services activities of Florida is for Veterans, Inc. (Veterans Florida);
- Revising the appointment process for the governing board of Veterans Florida;
- Providing definitions for terms used in law relating to Veterans Florida and the Veterans Employment and Training Services Program (VETSP);
- Revising the duties of Veterans Florida relating to the administration of VETSP;
- Allowing an educational stipend for veterans while training at specified locations;
- Expanding the role of Veterans Florida in assisting with industry certification;
- Prohibiting the Department of State from charging veterans who are residents of the state various filing fees;
- Creating an exemption on fees related to hunting and fishing permits and licenses;
- Revising the structure, appointment of members, and frequency of meetings of the Advisory Council on Brain and Spinal Cord Injuries; and
- Adding required material that must be instructed to middle and high school students.

The bill may have an indeterminable negative fiscal impact on state government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

SkillBridge Program

The Department of Defense (DoD) SkillBridge program grants servicemembers¹ an opportunity to “gain valuable civilian work experience through specific industry training, apprenticeships, or internships” by matching civilian opportunities to a servicemember’s job training and work experience.² The goal of providing these opportunities is to enhance the servicemember’s marketability and post-separation career prospects following separation from duty.³ Servicemembers are eligible for the program regardless of rank. Military spouses and veterans may also participate in programs with some partners; however, the DoD will not provide pay, allowances, benefits, or other program support to the military spouse or veteran.⁴

The servicemember is permitted to use up to the last 180 days of service to train and learn with an industry partner that best matches that applicant’s job training and work experience. The training must offer the servicemember a high probability of employment. Throughout the SkillBridge program partnership, the servicemember continues to receive military compensation and benefits. Eligibility for the SkillBridge program is mission-dependent and must be authorized by the unit commander prior to entering into any agreement with interested industry employment partners.⁵

Florida Department of Veterans’ Affairs

The Florida Department of Veterans’ Affairs (FDVA) is a nearly 1,500-member constitutionally chartered⁶ department with a budget of \$201 million for FY 2023-24.⁷ FDVA operates a network of nine state veterans’ homes and provides statewide outreach to connect veterans and their spouses with services, benefits and support.⁸ FDVA is currently required to provide benefits and services in the fields of health care, mental health and substance abuse, claims support, education, employment, housing, burial benefits, and legal assistance to veterans and their spouses.⁹ Current law does not require FDVA to provide these benefits and services to the spouses of veterans.

Each year, about 250,000 servicemembers end military service as veterans and either reenter the civilian workforce or enroll in higher education.¹⁰ Florida is home to 21 military installations¹¹ and

¹ The term “servicemember” is generally referred to as being on “active duty.” 10 USC s. 101 defines “active duty” as full-time duty in the active military service of the United States. The term includes full-time training duty, annual training duty, and attendance, while in the active military service. The term does not include full-time National Guard duty.

² Dept. of Defense, SkillBridge, *Program Overview*, <https://skillbridge.osd.mil/program-overview.htm> (last visited Jan. 26, 2024).

³ Dept. of Defense, SkillBridge, *Military Members*, <https://skillbridge.osd.mil/military-members.htm> (last visited Jan. 26, 2024).

⁴ Dept. of Defense, SkillBridge, *Frequently Asked Questions*, <https://skillbridge.osd.mil/faq.htm> (last visited Jan. 26, 2024).

⁵ *Supra* note 3.

⁶ Art. IV, s. 11, Fla. Const.

⁷ Ch. 2023-239, Laws of Fla., pg. 143.

⁸ Florida Department of Veterans Affairs, *Florida Department of Veterans’ Affairs – Our Vision and Mission*, <https://www.floridavets.org/leadership/> (last visited Jan. 26, 2024).

⁹ Florida Department of Veterans Affairs, *Benefits & Services*, <https://www.floridavets.org/benefits-services/> (last visited Jan. 26, 2024).

¹⁰ U.S. Department of Veterans Affairs, *Your VA Transition Assistance Program (TAP)*, <https://www.benefits.va.gov/transition/tap.asp> (last visited Jan. 26, 2024).

¹¹ Select Florida, *Defense & Homeland Security*, 2, <https://selectflorida.org/wp-content/uploads/defense-and-homeland-security-industry-profile.pdf> (last visited Jan. 26, 2024).

69,290 military personnel.¹² Florida also has the nation's third-largest veteran¹³ population with almost 1.4 million veterans.¹⁴ Many of these veterans are recently transitioned servicemembers.

Veterans Florida

Florida is for Veterans, Inc. (Veterans Florida),¹⁵ a non-profit corporation within the Florida Department of Veterans' Affairs, was created to promote Florida as a veteran-friendly state.¹⁶ Veterans Florida encourages and assists retired and recently separated military personnel to keep or make Florida their permanent residence, helps equip veterans for employment opportunities, and promotes the hiring of veterans.¹⁷ In fiscal year 2022-2023, Veterans Florida assisted 2,307 veterans with career assistance and job placement.¹⁸ Current law does not require Veterans Florida to provide assistance or services to the spouses of veterans.

Veterans Florida is governed by a nine-member board of directors (Board). The Governor, the Senate President, and the Speaker of the House of Representatives each appoint three members to the Board. Members serve four-year staggered terms and each member may be reappointed to another four-year term once. Vacancies are filled in the same manner of appointment and members of the Board are not compensated but may be reimbursed for travel and per diem expenses.¹⁹

Duties of Veterans Florida include:

- Contracting with at least one entity to research and identify the target market and the educational and employment needs of veterans and their spouses;
- Advising the Florida Tourism Industry Marketing Corporation regarding:
 - The target market;
 - Developing and implementing a marketing campaign to encourage servicemembers to remain in Florida or make Florida their permanent residence; and
 - Methods for disseminating information to the target market that relate to interests and needs of veterans and their spouses and facilitate veterans' knowledge of and access to benefits;
- Promoting and enhancing the value of military skill sets to businesses;
- Implementing and administering the Veterans Employment and Training Services Program;
- Managing all appropriated funds to ensure the use of such funds conforms to all applicable laws, bylaws, or contractual requirements; and
- Serve as the state's principal assistance organization under the United States Department of Defense's SkillBridge program for employers and transitioning service members.²⁰

¹² Data from September 2021. Florida Military & Defense, *Economic Impact Summary* (2022), 2, available at <https://selectflorida.org/wp-content/uploads/Florida-2022-EIS-Summary-Book-Final.pdf> (last visited Jan. 26, 2024).

¹³ S. 1.01(14), F.S., defines a "veteran" as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions, or who later received an upgraded discharge under honorable conditions. The definition in s. 1.01(14), F.S., is cited in numerous statutes, including ss. 117.02, 265.003, 292.055, 295.02, 295.07, 295.187, 295.188, 296.02, 296.08, 296.33, 296.36, 409.1664, 548.06, 943.17, and 1009.26, F.S.

¹⁴ U.S. Department of Veterans Affairs (VA), National Center for Veterans Analysis and Statistics, *VetPop2020 by State, Age Group, Gender, 2020-2050*, available at https://www.va.gov/vetdata/veteran_population.asp (last visited Jan. 25, 2024). The Veteran Population Projection Model 2020 (VetPop2020) provides an official veteran population projection from the U.S. Department of Veterans Affairs.

¹⁵ In 2015, the Florida is for Veterans, Inc., Board of Directors approved the fictitious name "Veterans Florida" and rebranded as such. See <http://dos.sunbiz.org/scripts/ficidet.exe?action=DETREG&docnum=G15000027981&rdocnum=G15000027981> (last visited Jan. 26, 2024). See also s. 295.21(5)(e), F.S.

¹⁶ S. 295.21(1), F.S.

¹⁷ S. 295.21(2), F.S.

¹⁸ Veterans Florida, *Annual Report* (2023), 15, https://www.veteransflorida.org/wp-content/uploads/2023/11/FIFV-Annual-Report-2023_.pdf (last visited Jan. 26, 2024).

¹⁹ S. 295.21(4), F.S.

²⁰ S. 295.21(3), F.S.

Veterans Employment and Training Services Program (VETSP)

Veterans Florida administers VETSP to assist in connecting veterans in search of employment with businesses seeking to hire dedicated, well-trained workers.²¹ The purpose of the program is to meet the workforce demands of businesses in the state by facilitating access to training and education in high-demand fields for veterans or their spouses.²²

Functions of the program include:

- Conducting marketing and recruiting efforts directed at veterans or their spouses who are seeking employment and who reside in or who have an interest in relocating to Florida;
- Assisting veterans or their spouses seeking employment who reside in Florida or who relocate to Florida;
- Assisting Florida businesses in recruiting and hiring veterans and their spouses;
- Creating a grant program to provide funding to assist veterans in meeting the workforce-skill needs of businesses seeking to hire, promote, or generally improve specialized skills of veterans, establishing criteria for approval of requests for funding, and maximizing the use of funding for the grant program;²³
 - Costs and expenditures for each veteran trainee is capped at \$8,000. Qualified businesses may receive reimbursement equal to 50 percent of the cost to train a permanently, full-time employed veteran, however the business must cover the entire cost of the training initially. Eligible costs and expenditures that may be reimbursed include:
 - Tuition and fees;
 - Books and classroom materials; and
 - Rental fees for facilities.
- Contracting with one or more entities to administer an entrepreneur initiative program for veterans in Florida that connects business leaders with veterans seeking to become entrepreneurs.²⁴

Advisory Council on Brain and Spinal Cord Injuries (Council)

The Council is part of the Florida Department of Health (Health) and administers the Brain and Spinal Cord Injury Program (BSCIP). BSCIP's purpose is to provide all eligible residents²⁵ who sustain a traumatic brain or spinal cord injury the opportunity to obtain the necessary services that will enable them to return to an appropriate level of functioning in their community.²⁶

The Council is a 16-member body appointed by the state Surgeon General, comprised of:

- Four members must have a brain injury or are family members of individuals who have a brain injury;
- Four members must have a spinal cord injury or are family members of individuals who have a spinal cord injury;
- Two members who represent the special needs children who have a brain or spinal cord injury; and

²¹ S. 295.22, F.S.

²² S. 295.22(2), F.S.

²³ Grant funds may only be used in the absence of available veteran-specific federally funded programs. S. 295.22(3)(d), F.S.

²⁴ S. 295.22(3), F.S.

²⁵ All hospitals, attending physicians, public, private, or social agencies must refer all new traumatic moderate-to-severe brain or spinal cord injuries to the Department of Health's (Central Registry). S. 381.74, F.S. Caseworkers within the Central Registry work with affected individuals and their families and determine which individuals meet the eligibility criteria and require services and supports to sustain their health and safety. Fla. Dept. of Health, *Central Registry*, <https://www.floridahealth.gov/provider-and-partner-resources/brain-and-spinal-cord-injury-program/applicants/central-registry.html> (last visited Jan. 26, 2024).

²⁶ Fla. Dept. of Health, *Brain and Spinal Cord Injury Program*, <https://www.floridahealth.gov/provider-and-partner-resources/brain-and-spinal-cord-injury-program/index.html> (last visited Jan. 26, 2024).

- Six members who physicians, other allied health professionals, administrators of brain and spinal cord injury programs, or representatives from support groups that have expertise in areas related to the rehabilitation of individuals who have brain or spinal cord injuries.²⁷

Members of the Council serve four-year terms. Members may not serve more than two terms, however if a vacancy occurs for a member with less than 18 months remaining in their term, the member appointed to fill the vacancy may be reappointed twice.²⁸ The Council meets at least twice annually and provides advice and expertise to Health in the preparation, implementation, and periodic review of the BSCIP.²⁹ Members of the Council are not compensated but may be reimbursed for per diem and travel expenses.³⁰

Department of State (DOS) and Incorporation

The DOS is responsible for receiving and maintaining incorporation and business filings required in law, such as service of process for legal proceedings,³¹ articles of incorporation,³² and registration of fictitious names.³³ A person who wants to file incorporation and business filings with the DOS must pay the appropriate fee. Amongst the filings received and maintained by the DOS, and the appropriate filing fee associated with them, are those identified in:

- Chapter 605, Florida Revised Limited Liability Company Act: limited liability companies file with the DOS a registration with their name, registered agent, and registered office location;³⁴
- Chapter 607, Florida Business Corporation Act: corporations file their articles of incorporation, changes to their registered office or registered agent, and must file an annual report, among other documents;³⁵
- Chapter 617, Corporations not for profit: requires not for profit corporations to file with the DOS their articles of incorporation, changes to their registered office or registered agent, and must file an annual report, among other documents;³⁶ and
- Chapter 620, Partnership laws: limited partnerships must file a certificate of limited partnership with the DOS containing the name of the limited partnership, the address, and the business address of each general partner³⁷ as well as an annual report, among other documents.³⁸ General partnerships must file a partnership registration statement and an annual report, among other documents.³⁹

Recreational Licenses and Permits

The Florida Fish and Wildlife Conservation Commission (FWC) regulates hunting and fishing seasons, means of take, bag limits, and areas authorized for hunting or fishing. Florida residents and visitors are required to possess a Florida hunting, freshwater fishing, or saltwater fishing license when engaged in fishing and hunting activities.⁴⁰ Fees for licenses and permits typically range from \$17 to \$151⁴¹

²⁷ S. 381.78(1), F.S.

²⁸ S. 381.78(2), F.S.

²⁹ S. 381.78(3)-(4), F.S.

³⁰ S. 381.78(5), F.S.

³¹ See, e.g., ss. 48.061, 48.062, and 48.181, F.S.

³² S. 607.0203, F.S.

³³ S. 865.09, F.S.

³⁴ S. 605.0112(5), 605.113(4), and 605.113(5), F.S. See s. 605.0206, F.S.

³⁵ Ss. 607.0203, 607.0502, and 607.1622, F.S. See 607.0120(9), F.S.

³⁶ Ss. 617.0203, 617.0502, and 617.1622, F.S.

³⁷ Ss. 620.1109 and 620.1201(1)(a)-(e), F.S.

³⁸ S. 620.1210, F.S.

³⁹ Ss. 620.8105 and 620.9003, F.S.

⁴⁰ This includes individuals who are aiding in the take. FWC, *Exemptions*, <https://myfwc.com/license/recreational/do-i-need-one/> (last visited Jan. 23, 2024).

⁴¹ Outside of this range, FWC offers a five-year resident gold sportsman's license that includes freshwater fishing, hunting, and saltwater fishing licenses and wildlife management area, archery, muzzleloading gun, crossbow, deer, turkey, Florida waterfowl, snook, and lobster permits for \$494.

depending on the type and duration of the license, as well as if the individual is a Florida resident.⁴² Certain individuals are exempt from the permitting requirements.⁴³ Individuals can obtain hunting and fishing permits online,⁴⁴ in person at a license agent⁴⁵ or tax collector's office, by calling toll-free numbers, and through the FWC Fish|Hunt FL app.⁴⁶ Licenses expire a year from the date they are issued.⁴⁷

Required Instruction in Florida Schools

The law requires each district school board to provide all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet State Board of Education (SBE) adopted standards in the following subject areas:

- Reading and other language arts;
- Mathematics;
- Science;
- Social studies;
- Foreign languages;
- Health and physical education; and
- The arts.⁴⁸

In addition, the following specific topics must be taught:

- The history and content of the Declaration of Independence, including national sovereignty, natural law, self-evident truth, equality of all persons, limited government, popular sovereignty, and inalienable rights of life, liberty, and property, and how they form the philosophical foundation of our government.
- The history, meaning, significance, and effect of the U.S. Constitution, with emphasis on the Bill of Rights and how the Constitution provides the structure of our government.
- The arguments in support of adopting our republican form of government, as they are embodied in the most important of the Federalist Papers.
- Flag education, including proper flag display and flag salute.
- The elements of civil government, including the primary functions of and interrelationships between the federal government, the state, and its local entities.
- U.S. history, including the period of discovery, early colonies, the War for Independence, the Civil War, the expansion of the United States to its present boundaries, the world wars, and the civil rights movement to the present.
- The history of the Holocaust.
- The history of African Americans, including the history of African peoples before the political conflicts that led to the development of slavery, the passage to America, the enslavement experience, abolition, and the history and contributions of Americans of the African diaspora to society.
- The history of Asian Americans and Pacific Islanders, including the history of Japanese internment camps and the incarceration of Japanese-Americans during World War II; the

⁴² See, FWC, *Recreational Freshwater Licenses & Permits*, <https://myfwc.com/license/recreational/freshwater-fishing/> (last visited January 8, 2024); FWC, *Recreational Saltwater Licenses & Permits*, <https://myfwc.com/license/recreational/saltwater-fishing/> (last visited January 8, 2024); FWC, *Recreational Hunting Licenses & Permits*, <https://myfwc.com/license/recreational/hunting/> (last visited January 8, 2024).

⁴³ See s. 379.353, F.S., for a list of individuals who are exempt from permitting requirements. See also, FWC, *Exemptions*, <https://myfwc.com/license/recreational/do-i-need-one/> (last visited January 8, 2024).

⁴⁴ FWC, *Go Outdoors Florida – The official Licensing and Permitting site of the FWC!*, <https://license.gooutdoorsflorida.com/Licensing/CustomLookup.aspx> (last visited January 8, 2024).

⁴⁵ Licensing agents often include bait-and-tackle shops and sports retailers like Wal-Mart and Bass Pro Shop. FWC, *FAQs: Recreational Licenses*, <https://myfwc.com/license/recreational/faqs/> (last visited January 8, 2024). Individuals can look up local agents through FWC's locate an agent portal. FWC, *Locate an Agent*, available at <https://license.gooutdoorsflorida.com/Licensing/LocateAgent.aspx> (last visited January 8, 2024).

⁴⁶ FWC, *How to Order*, <https://myfwc.com/license/recreational/how-to-order/> (last visited January 8, 2024).

⁴⁷ FWC, *FAQs: Recreational Licenses*, <https://myfwc.com/license/recreational/faqs/> (last visited January 8, 2024).

⁴⁸ Ss. 1003.42(1)(a), F.S.

immigration, citizenship, civil rights, identity, and culture of Asian Americans and Pacific Islanders; and the contributions of Asian Americans and Pacific Islanders to American society.

- The study of Hispanic contributions to the United States.
- The study of women’s contributions to the United States.
- The sacrifices that veterans and Medal of Honor recipients have made in serving our country and protecting democratic values worldwide, with instruction occurring on or before Medal of Honor Day, Veterans’ Day, and Memorial Day. Instructional staff is encouraged to use the assistance of local veterans and Medal of Honor recipients.⁴⁹

Teachers must teach the topics specified in law efficiently and faithfully, using books and materials meeting the highest standards for professionalism and historical accuracy, following the prescribed courses of study, and employing approved methods of instruction.⁵⁰ Unless otherwise specified, the law generally does not prescribe grade level, instructional hours, or instructional materials requirements for these topics.

Effect of Proposed Changes

Veterans Florida

The bill provides that Veterans Florida is to serve as the state’s initial point of military transition assistance for veterans and their spouses. The bill directs Veterans Florida to connect veterans or their spouses with opportunities for entrepreneurship education, training, and resources and also inspire the growth and development of veteran-owned small businesses. The bill requires Veterans Florida to conduct marketing and recruiting efforts directed at veterans or their spouses within the target market. The bill provides a definition for “target market” as:

- Members and spouses of members of the United States Armed Forces with 24 months or less until discharge;
- Veterans with 36 months or less since discharge; and
- Members of the Florida National Guard or reserves.

The bill provides that the Senate President and the Speaker of the House of Representatives may appoint only one member from the body over which he or she presides. The bill removes the requirement that Veterans Florida must contract with at least one entity to research and identify its target market and the educational and employment needs of veterans and their spouses.

VETSP

The bill provides the following definitions:

- “Secondary industry business” to mean a business that the state has an additional interest in supporting and for which veterans and their spouses may have directly transferrable skills.
- “Spouse” to mean a person who is married to a veteran, or a person who was married to a veteran killed in action and is not remarried.
- “Target industry business” to mean a business that is engaged in one of the target industries identified pursuant to criteria developed by the Department of Commerce.⁵¹
- “Target market” to have the same meaning as the term is used for Veterans Florida programs.

The bill revises the duties of VETSP to focus on efforts within their target market and to assist those veterans and spouses with finding employment in target industries or secondary industries. The bill modifies VETSP’s grant program that provides funding to assist veterans in meeting the workforce-skill needs by providing that the program must prioritize funding certificate, license, or nondegree training

⁴⁹ S. 1003.42(2)(a)-(u), F.S.

⁵⁰ S. 1003.42(2), F.S.

⁵¹ See s. 288.005(7), F.S., for the criteria developed by Department of Commerce, a list of business activities that would not be included under the term, and qualifying conditions certain businesses must meet in order to be included under the term.

from the Master Credentials list,⁵² federally created certifications or licenses, and any skills-based industry certifications or licenses deemed relevant or necessary by Veterans Florida. The bill provides that the list of training expenses for which a qualified business may be reimbursed includes, but is not limited to, the items enumerated in statute, but maintains an \$8,000 maximum cost per veteran trainee.

- The bill also provides that grant funds may be used to provide grants to non-active duty members of the United States Armed Forces for educational stipends while training at any location of the University of Florida's Institute of Food and Agricultural Sciences within the state. The bill requires Veterans Florida and the University of Florida to enter into a grant agreement before any use of funds and provides the training must be between four to six months in duration; and

The bill encourages Veterans Florida to collaborate with state agencies and other entities in order to provide information on a website that links to state agencies and other entities that maintain benefits, services, training, education, and other resources that are available to veterans and their spouses. The bill provides a non-exhaustive list of entities and programs that Veterans Florida is encouraged to collaborate with and promote.

Fees

Department of State

The bill provides that the Department of State may not charge veterans residing within the state fees for filing articles of organization or incorporation, a certificate of limited partnership, a partnership registration statement, or for the designation of a registered agent as required by general law.

Fish and Wildlife Conservation

The bill provides that honorably discharged disabled veterans of the United States who are separated from service and are certified by the United State Department of Veterans Affairs or by any branch of the United States Armed Forces as having a 50 percent or greater service-connected disability do not have to pay a fee in order to be issued a license or permit for hunting, freshwater fishing, or saltwater fishing.

Council

The bill revises the membership of the Council in the following manner:

- Eight members shall be appointed by the Speaker of the House of Representatives:
 - Two members must have a brain injury or are family members of individuals who have a brain injury;
 - Two members must have a spinal cord injury or are family members of individuals who have a spinal cord injury;
 - Two members of the Council to be individuals who have, or who are family members of individuals who have or had, a traumatic injury, chronic encephalopathy, or subconcussive impacts due to sports; and
 - Two veterans who have or have had a traumatic brain injury, chronic traumatic encephalopathy, or subconcussive impacts due to military service, or family members of such veterans.
- Six members shall be appointed by the state Surgeon General who are physicians, other allied health professionals, administrators of brain and spinal cord injury programs, and representatives from support groups that have expertise in areas related to the rehabilitation of individuals who have brain or spinal cord injuries.

⁵² See s. 445.04(4)(h), F.S.
STORAGE NAME: h1329.LFS
DATE: 1/29/2024

The bill provides that members shall serve staggered four-year terms of office, requires the Council to meet quarterly basis, and provides that Council meetings may only adjourn via unanimous consent.

Required Instruction

The bill requires instruction on the history and importance of Veterans' Day and Memorial Day including two 45-minute lessons that occur on or before the respective holidays.

B. SECTION DIRECTORY:

Section 1: Amends s. 295.21, F.S., relating to Veterans Florida.

Section 2: Amends s. 295.22, F.S., relating to VETSP.

Section 3: Creates s. 295.25, F.S., providing an exemption for certain filing fees.

Section 4: Amends s. 379.353, F.S., providing an exemption for certain recreational licenses and permits.

Section 5: Amends s. 381.78, F.S., relating to the Council.

Section 6: Amends s. 1003.42, F.S., relating to required instruction.

Section 7: Amends s. 288.0001, F.S., relating to economic development programs evaluation.

Section 8: Reenacting s. 379.3581, F.S., relating to hunter safety courses.

Section 9: Reenacting s. 379.401, F.S., relating to FWC penalties and violations.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

FWC and the Department of State would lose some revenue typically generated from fees due the exemptions provided for by the bill.

2. Expenditures:

Veterans Florida may have to expend additional funds in order to implement the expansion of duties provided for by the bill. Additional educational support may be needed in order to carry out the required educational instructions provided for by the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The FWC and Department of State revenues provided for by the bill will have a positive fiscal impact on those who qualify.

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:

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

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.

26 training must occur for a specified duration;
27 authorizing the corporation to provide certain
28 assistance to state agencies and entities, to provide
29 a website that has relevant hyperlinks, and to
30 collaborate with specified state agencies and other
31 entities for specified purposes;; conforming
32 provisions to changes made by the act; making
33 technical changes; creating s. 295.25, F.S.;
34 prohibiting the Department of State from charging
35 veterans who reside in this state fees for the filing
36 of specified documents; amending s. 379.353, F.S.;
37 providing free hunting, freshwater fishing, and
38 saltwater fishing licenses to certain disabled
39 veterans; amending s. 381.78, F.S.; revising the
40 membership, appointment, and meetings of the advisory
41 council on brain and spinal cord injuries; amending s.
42 1003.42, F.S.; requiring instruction on the history
43 and importance of Veterans' Day and Memorial Day;
44 requiring that certain instruction consist of two 45-
45 minute lessons that occur within a certain timeframe;
46 amending s. 288.0001, F.S.; conforming a cross-
47 reference; reenacting ss. 379.3581(2) (b) and
48 379.401(2) (b) and (3) (b), F.S., relating to special
49 authorization hunting licenses and the suspension and
50 forfeiture of licenses and permits, respectively, to

51 incorporate the amendment made to s. 379.353, F.S., in
 52 references thereto; providing an effective date.

53

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

55

56 Section 1. Subsection (2), paragraph (a) of subsection
 57 (3), and paragraph (a) of subsection (4) of section 295.21,
 58 Florida Statutes, are amended to read:

59 295.21 Florida Is For Veterans, Inc.—

60 (2) PURPOSE.—The purpose of the corporation is to serve as
 61 the state's initial point of military transition assistance
 62 dedicated to promoting ~~promote~~ Florida as a veteran-friendly
 63 state helping ~~that seeks~~ to provide veterans and their spouses
 64 with employment opportunities and promoting ~~that promotes~~ the
 65 hiring of veterans and their spouses by the business community.
 66 The corporation shall encourage retired and recently separated
 67 military personnel to remain in this ~~the~~ state or to make this
 68 ~~the~~ state their permanent residence. The corporation shall
 69 promote the value of military skill sets to businesses in this
 70 ~~the~~ state, assist in tailoring the training of veterans and
 71 their spouses to match the needs of the employment marketplace,
 72 and enhance the entrepreneurial skills of veterans and their
 73 spouses.

74 (3) DUTIES.—The corporation shall:

75 (a) Conduct marketing, awareness, and outreach activities

76 directed toward its target market. As used in this section, the
 77 term "target market" means those members, and their spouses, of
 78 the United States Armed Forces with 24 months or less until
 79 discharge, veterans with 36 months or less since discharge, and
 80 members of the Florida National Guard or reserves ~~research to~~
 81 ~~identify the target market and the educational and employment~~
 82 ~~needs of those in the target market. The corporation shall~~
 83 ~~contract with at least one entity pursuant to the competitive~~
 84 ~~bidding requirements in s. 287.057 and the provisions of s.~~
 85 ~~295.187 to perform the research. Such entity must have~~
 86 ~~experience conducting market research on the veteran~~
 87 ~~demographic. The corporation shall seek input from the Florida~~
 88 ~~Tourism Industry Marketing Corporation on the scope, process,~~
 89 ~~and focus of such research.~~

90 (4) GOVERNANCE.—

91 (a) The corporation shall be governed by a nine-member
 92 board of directors. The Governor, the President of the Senate,
 93 and the Speaker of the House of Representatives shall each
 94 appoint three members to the board. In making appointments, the
 95 Governor, the President of the Senate, and the Speaker of the
 96 House of Representatives must consider representation by active
 97 or retired military personnel and their spouses, representing a
 98 range of ages and persons with expertise in business, education,
 99 marketing, and information management. The President of the
 100 Senate and the Speaker of the House of Representatives may each

101 appoint only one member from the body over which he or she
 102 presides.

103 Section 2. Section 295.22, Florida Statutes, is amended to
 104 read:

105 295.22 Veterans Employment and Training Services Program.—

106 (1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
 107 that the state has a compelling interest in ensuring that each
 108 veteran or his or her spouse who is a resident of this ~~the~~ state
 109 finds employment that meets his or her professional goals and
 110 receives the training or education necessary to meet those
 111 goals. The Legislature also finds that connecting dedicated,
 112 well-trained veterans with businesses that need a dedicated,
 113 well-trained workforce is of paramount importance. The
 114 Legislature recognizes that veterans or their spouses may not
 115 currently have the skills to meet the workforce needs of Florida
 116 employers and may require assistance in obtaining additional
 117 workforce training or in transitioning their skills to meet the
 118 demands of the marketplace. It is the intent of the Legislature
 119 that the Veterans Employment and Training Services Program
 120 coordinate and meet the needs of veterans and their spouses and
 121 the business community to enhance the economy of this state.

122 (2) DEFINITIONS.—For the purposes of this section, the
 123 term:

124 (a) "Secondary industry business" is a business that the
 125 state has an additional interest in supporting and for which

126 veterans and their spouses may have directly transferrable
 127 skills. These businesses are in the fields of health care,
 128 agriculture, commercial construction, education, law
 129 enforcement, and public service.

130 (b) "Spouse" means a person who is married to a veteran,
 131 or a person who was married to a veteran killed in action and is
 132 not remarried.

133 (c) "Target industry business" is a business as defined in
 134 s. 288.005.

135 (d) "Target market" has the same meaning as in s.
 136 295.21(3)(a).

137 (e) "Veteran" means a person who the definition of veteran
 138 in s. 1.01(14) or is an active or former member of the National
 139 Guard or United States Coast Guard, including reserve
 140 components.

141 (3) CREATION.—The Veterans Employment and Training
 142 Services Program is created within the Department of Veterans'
 143 Affairs to assist in connecting ~~linking~~ veterans or their
 144 spouses ~~in search of employment~~ with businesses seeking to hire
 145 dedicated, well-trained workers and with opportunities for
 146 entrepreneurship education, training, and resources. The purpose
 147 of the program is to meet the workforce demands of businesses in
 148 this ~~the~~ state by facilitating access to training and education
 149 in high-demand fields for veterans or their spouses and to
 150 inspire the growth and development of veteran-owned small

151 businesses.

152 ~~(4)(3)~~ ADMINISTRATION.—Florida Is For Veterans, Inc.,
153 shall administer the Veterans Employment and Training Services
154 Program and perform all of the following functions:

155 (a) Conduct marketing and recruiting efforts directed at
156 veterans or their spouses within the target market who reside in
157 or ~~who~~ have an interest in relocating to this state and who are
158 seeking employment. Marketing must include information related
159 to how a veteran's military experience can be valuable to a
160 target industry or secondary industry business. Such efforts may
161 include attending veteran job fairs and events, hosting events
162 for veterans and their spouses or the business community, and
163 using digital and social media and direct mail campaigns. The
164 corporation shall also include such marketing as part of its
165 main marketing campaign.

166 (b) Assist veterans or their spouses who reside in or
167 relocate to this state and who are seeking employment with
168 target industry or secondary industry businesses. The
169 corporation shall offer skills assessments to veterans or their
170 spouses and assist them in establishing employment goals and
171 applying for and achieving gainful employment.

172 1. Assessment may include skill match information, skill
173 gap analysis, résumé creation, translation of military skills
174 into civilian workforce skills, and translation of military
175 achievements and experience into generally understood civilian

176 workforce skills.

177 2. Assistance may include providing the veteran or his or
 178 her spouse with information on current workforce demand by
 179 industry or geographic region, creating employment goals, and
 180 aiding or teaching general knowledge related to completing
 181 applications. ~~The corporation may provide information related to
 182 industry certifications approved by the Department of Education
 183 under s. 1008.44 as well as information related to earning
 184 academic college credit at public postsecondary educational
 185 institutions for college-level training and education acquired
 186 in the military under s. 1004.096.~~

187 3. ~~The corporation shall encourage veterans or their
 188 spouses to register with the state's job bank system and may
 189 refer veterans to local one-stop career centers for further
 190 services. The corporation shall provide each veteran with
 191 information about state workforce programs and shall consolidate
 192 information about all available resources on one website that,
 193 if possible, includes a hyperlink to each resource's website and
 194 contact information, if available.~~

195 4. Assessment and assistance may be in person or by
 196 electronic means, as determined by the corporation to be most
 197 efficient and best meet the needs of veterans or their spouses.

198 (c) Assist Florida target industry and secondary industry
 199 businesses in recruiting and hiring veterans and veterans'
 200 spouses. The corporation shall provide services to Florida

201 businesses to meet their hiring needs by connecting businesses
 202 with suitable veteran applicants for employment. Suitable
 203 applicants include veterans or veterans' spouses who have
 204 appropriate job skills or may need additional training to meet
 205 the specific needs of a business. The corporation shall also
 206 provide information about the state and federal benefits of
 207 hiring veterans.

208 (d) Create a grant program to provide funding to assist
 209 veterans in meeting the workforce-skill needs of target industry
 210 and secondary industry businesses seeking to hire, promote, or
 211 generally improve specialized skills of veterans, establish
 212 criteria for approval of requests for funding, and maximize the
 213 use of funding for this program. Grant funds may be used only in
 214 the absence of available veteran-specific federally funded
 215 programs. Grants may fund specialized training specific to a
 216 particular business.

217 1. The program may prioritize ~~If grant funds to be are~~
 218 used to provide a ~~technical~~ certificate, a license licensure, or
 219 nondegree training from the Master Credentials List pursuant to
 220 s. 445.004(4)(h); any federally created certifications or
 221 licenses; and any skills-based industry certifications or
 222 licenses deemed relevant or necessary by the corporation. a
 223 ~~degree~~, Funds may be allocated only upon a review that includes,
 224 but is not limited to, documentation of accreditation and
 225 licensure. ~~Instruction funded through the program terminates~~

226 ~~when participants demonstrate competence at the level specified~~
227 ~~in the request but may not exceed 12 months. Preference shall be~~
228 ~~given to target industry businesses, as defined in s. 288.005,~~
229 ~~and to businesses in the defense supply, cloud virtualization,~~
230 ~~health care, or commercial aviation manufacturing industries.~~

231 2. Costs and expenditures are ~~shall be~~ limited to \$8,000
232 per veteran trainee. Qualified businesses must cover the entire
233 cost for all of the training provided before receiving
234 reimbursement from the corporation equal to 50 percent of the
235 cost to train a veteran who is a permanent, full-time employee.
236 Eligible costs and expenditures include, but are not limited to:

- 237 a. Tuition and fees.
238 b. Books and classroom materials.
239 c. Rental fees for facilities.

240 3. Before funds are allocated for a request pursuant to
241 this section, the corporation shall prepare a grant agreement
242 between the business requesting funds and the corporation. Such
243 agreement must include, but need not be limited to:

244 a. Identification of the personnel necessary to conduct
245 the instructional program, instructional program description,
246 and any vendors used to conduct the instructional program.

247 b. Identification of the estimated duration of the
248 instructional program.

249 c. Identification of all direct, training-related costs.

250 d. Identification of special program requirements that are

251 not otherwise addressed in the agreement.

252 e. Permission to access aggregate information specific to
 253 the wages and performance of participants upon the completion of
 254 instruction for evaluation purposes. The agreement must specify
 255 that any evaluation published subsequent to the instruction may
 256 not identify the employer or any individual participant.

257 4. A business may receive a grant under any state program
 258 ~~the Quick-Response Training Program created under s. 288.047~~ and
 259 a grant under this section for the same veteran trainee.

260 5. A portion of grant funds, as determined by the
 261 corporation, may be used for veterans who are not active members
 262 of the United States Armed Forces for educational stipends while
 263 training at any location of the University of Florida's
 264 Institute of Food and Agricultural Sciences within this state.
 265 The corporation and the University of Florida shall enter into a
 266 grant agreement before funds are expended. The corporation must
 267 determine the amount of the stipend. The training for any
 268 individual may not be less than 4 months and not more than 6
 269 months.

270 (e) Contract with one or more entities to administer an
 271 entrepreneur initiative program for veterans in this state which
 272 connects business leaders in the state with veterans seeking to
 273 become entrepreneurs.

274 1. The corporation shall award each contract in accordance
 275 with the competitive bidding requirements in s. 287.057 to one

276 or more public or private entities that:

277 a. Demonstrate the ability to implement the program and
278 the commitment of resources, including financial resources, to
279 such programs.

280 b. Have a demonstrated experience working with veteran
281 entrepreneurs.

282 c. As determined by the corporation, have been recognized
283 for their performance in assisting entrepreneurs to launch
284 successful businesses in this ~~the~~ state.

285 2. Each contract must include performance metrics,
286 including a focus on employment and business creation. The
287 entity may also work with a university or college offering
288 related programs to refer veterans or to provide services. The
289 entrepreneur initiative program may include activities and
290 assistance such as peer-to-peer learning sessions, mentoring,
291 technical assistance, business roundtables, networking
292 opportunities, support of student organizations, speaker series,
293 or other tools within a virtual environment.

294 (f) Administer a ~~As the state's principal assistance~~
295 ~~organization under the United States Department of Defense's~~
296 ~~SkillBridge initiative program~~ for target industry and secondary
297 industry ~~qualified~~ businesses in this state and for eligible
298 veterans ~~transitioning servicemembers~~ who reside in, or who wish
299 to reside in, this state. In administering the initiative, the
300 corporation shall:

301 1. Establish and maintain, as applicable, its
 302 certification for the SkillBridge initiative ~~program~~ or any
 303 other similar workforce training and transition programs
 304 established by the United States Department of Defense;

305 2. Educate businesses, business associations, and eligible
 306 veterans ~~transitioning servicemembers~~ on the SkillBridge
 307 initiative ~~program~~ and its benefits, and educate military
 308 command and personnel within the state on the opportunities
 309 available to eligible veterans ~~transitioning servicemembers~~
 310 ~~through the SkillBridge program;~~

311 3. Assist businesses in obtaining approval for skilled
 312 workforce training curricula under the SkillBridge initiative
 313 ~~program~~, including, but not limited to, apprenticeships,
 314 internships, or fellowships; and

315 4. Match eligible veterans ~~transitioning servicemembers~~
 316 ~~who are deemed eligible for SkillBridge participation by their~~
 317 ~~military command~~ with training opportunities offered by the
 318 corporation or participating businesses, with the intent of
 319 having them ~~transitioning servicemembers~~ achieve gainful
 320 employment in this state upon completion of their SkillBridge
 321 training.

322 ~~(g) Assist veterans and their spouses in accessing~~
 323 ~~training, education, and employment in health care professions.~~

324 ~~(h) Coordinate with the Office of Veteran Licensure~~
 325 ~~Services within the Department of Health to assist veterans and~~

326 ~~their spouses in obtaining licensure pursuant to s. 456.024.~~

327 (5) COLLABORATION.—The corporation may assist state
328 agencies and entities with recruiting veteran talent into their
329 workforce. The corporation is encouraged to, and may collaborate
330 with, state agencies and other entities in efforts to, maximize
331 access to and to provide information on one website that, if
332 possible, includes hyperlinks to the websites of and contact
333 information, if available, for state agencies and other entities
334 that maintain benefits, services, training, education, and other
335 resources that are available to veterans and their spouses.

336 (a) Outreach, information exchange, marketing, and
337 referrals between agencies, entities, and the corporation
338 regarding programs and initiatives that may be conducted
339 include, but are not limited to, the Veterans Employment and
340 Training Services Program and those within any of the following:

341 1. The Department of Veterans' Affairs:

342 a. Access to benefits and assistance programs.

343 b. Hope Navigators Program.

344 2. The Department of Commerce:

345 a. The Disabled Veteran Outreach Program and Local Veteran
346 Employment Representatives.

347 b. CareerSource Florida, Inc., and local workforce boards
348 employment and recruitment services.

349 c. The Quick-Response Training Program.

350 d. Select Florida.

351 3. The Department of Business and Professional Regulation,
 352 reciprocity and the availability of certain license and fee
 353 waivers.

354 4. The Department of Education:

355 a. CAPE industry certifications under s. 1008.44.

356 b. Information related to earning postsecondary credit at
 357 public postsecondary educational institutions for college-level
 358 training and education acquired in the military under s.
 359 1004.096.

360 5. The Department of Health:

361 a. The Office of Veteran Licensure Services.

362 b. The Florida Veterans Application for Licensure Online
 363 Response expedited licensing.

364 (b) The corporation may coordinate and collaborate with
 365 the Office of Reimagining Education and Career Help, the State
 366 University System, the Florida College System, the Florida
 367 Defense Support Task Force, the Florida Small Business
 368 Development Center Network, and the Florida Talent Development
 369 Council, as necessary.

370 Section 3. Section 295.25, Florida Statutes, is created to
 371 read:

372 295.25 Veterans exempt from certain filing fees.—The
 373 Department of State may not charge veterans who reside in this
 374 state the applicable fees for filing articles of organization,
 375 articles of incorporation, a certificate of limited partnership,

376 or a partnership registration statement, or for the designation
 377 of a registered agent, if applicable, as provided in s.
 378 605.0213, s. 607.0122, s. 617.0122, s. 620.1109, or s.
 379 620.81055.

380 Section 4. Subsection (1) of section 379.353, Florida
 381 Statutes, is amended to read:

382 379.353 Recreational licenses and permits; exemptions from
 383 fees and requirements.—

384 (1) The commission shall issue without fee hunting,
 385 freshwater fishing, and saltwater fishing licenses and permits
 386 ~~shall be issued without fee~~ to any resident who is certified or
 387 determined to be:

388 (a) ~~To be~~ Totally and permanently disabled for purposes of
 389 workers' compensation under chapter 440 as verified by an order
 390 of a judge of compensation claims or written confirmation by the
 391 carrier providing workers' compensation benefits, or to be
 392 totally and permanently disabled by the Railroad Retirement
 393 Board, by the United States Department of Veterans Affairs or
 394 its predecessor, or by any branch of the United States Armed
 395 Forces, or who holds a valid identification card issued under
 396 ~~the provisions of~~ s. 295.17, upon proof of such certification or
 397 determination ~~same~~. Any license issued under this paragraph
 398 after January 1, 1997, expires after 5 years and must be
 399 reissued, upon request, every 5 years thereafter.

400 (b) ~~To be~~ Disabled by the United States Social Security

401 Administration, upon proof of such certification or
 402 determination ~~same~~. Any license issued under this paragraph
 403 after October 1, 1999, expires after 2 years and must be
 404 reissued, upon proof of certification of disability, every 2
 405 years thereafter.

406 (c) A disabled veteran of the United States Armed Forces
 407 who was honorably discharged upon separation from service and
 408 who is certified by the United States Department of Veterans
 409 Affairs or its predecessor or by any branch of the United States
 410 Armed Forces as having a service-connected disability percentage
 411 rating of 50 percent or greater, upon proof of such
 412 certification or determination.

413
 414 A disability license issued after July 1, 1997, and before July
 415 1, 2000, retains the rights vested thereunder until the license
 416 has expired.

417 Section 5. Subsections (1), (2), and (3) of section
 418 381.78, Florida Statutes, are amended to read:

419 381.78 Advisory council on brain and spinal cord
 420 injuries.—

421 (1) There is created within the department a 16-member
 422 advisory council on brain and spinal cord injuries. The council
 423 shall be composed of a minimum of:

424 (a) Two ~~four~~ individuals who have brain injuries or are
 425 family members of individuals who have brain injuries. ~~—a~~

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426 ~~minimum of four~~

427 (b) Two individuals who have spinal cord injuries or are
428 family members of individuals who have spinal cord injuries. ~~7~~
429 ~~and a minimum of~~

430 (c) Two individuals who represent the special needs of
431 children who have brain or spinal cord injuries.

432 (d) Two individuals who have, or who are family members of
433 individuals who have or had, a traumatic brain injury, chronic
434 traumatic encephalopathy, or subconcussive impacts due to
435 sports.

436 (e) Two veterans as defined in s. 1.01(14) who have or
437 have had a traumatic brain injury, chronic traumatic
438 encephalopathy, or subconcussive impacts due to military
439 service, or family members of such veterans.

440 (f) Six individuals who are ~~The balance of the council~~
441 ~~members shall be~~ physicians, other allied health professionals,
442 administrators of brain and spinal cord injury programs, or ~~and~~
443 representatives from support groups who ~~that~~ have expertise in
444 areas related to the rehabilitation of individuals who have
445 brain or spinal cord injuries.

446 (2) Members of the council specified in paragraphs (1) (a) -
447 (e) shall be appointed by the Speaker of the House of
448 Representatives. Members of the council specified in paragraph
449 (1) (f) shall be appointed to serve by the State Surgeon General.
450 All members' terms shall be staggered terms of ~~for~~ 4 years. An

451 individual may not serve more than two terms. Any council member
452 who is unwilling or unable to properly fulfill the duties of the
453 office shall be succeeded by an individual chosen by the State
454 Surgeon General to serve out the unexpired balance of the
455 replaced council member's term. If the unexpired balance of the
456 replaced council member's term is less than 18 months, ~~then,~~
457 notwithstanding the provisions of this subsection, the
458 succeeding council member may be reappointed by the State
459 Surgeon General twice.

460 (3) The council shall meet at least quarterly and may
461 adjourn a meeting only by unanimous consent ~~two times annually.~~

462 Section 6. Paragraph (u) of subsection (2) of section
463 1003.42, Florida Statutes, is amended to read:

464 1003.42 Required instruction.—

465 (2) Members of the instructional staff of the public
466 schools, subject to the rules of the State Board of Education
467 and the district school board, shall teach efficiently and
468 faithfully, using the books and materials required that meet the
469 highest standards for professionalism and historical accuracy,
470 following the prescribed courses of study, and employing
471 approved methods of instruction, the following:

472 (u)1. In order to encourage patriotism, the sacrifices
473 that ~~veterans and~~ Medal of Honor recipients have made in serving
474 our country and protecting democratic values worldwide. Such
475 instruction must occur on or before Medal of Honor Day.

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476 ~~Veterans' Day, and Memorial Day.~~ Members of the instructional
477 staff are encouraged to use the assistance of local veterans and
478 Medal of Honor recipients when practicable.

479 2. The history and importance of Veterans' Day and
480 Memorial Day. Such instruction must include two 45-minute
481 lessons that occur on or before the respective holidays.

482
483 The State Board of Education is encouraged to adopt standards
484 and pursue assessment of the requirements of this subsection.
485 Instructional programming that incorporates the values of the
486 recipients of the Congressional Medal of Honor and that is
487 offered as part of a social studies, English Language Arts, or
488 other schoolwide character building and veteran awareness
489 initiative meets the requirements of paragraph (u).

490 Section 7. Paragraph (c) of subsection (2) of section
491 288.0001, Florida Statutes, is amended to read:

492 288.0001 Economic Development Programs Evaluation.—The
493 Office of Economic and Demographic Research and the Office of
494 Program Policy Analysis and Government Accountability (OPPAGA)
495 shall develop and present to the Governor, the President of the
496 Senate, the Speaker of the House of Representatives, and the
497 chairs of the legislative appropriations committees the Economic
498 Development Programs Evaluation.

499 (2) The Office of Economic and Demographic Research and
500 OPPAGA shall provide a detailed analysis of economic development

501 programs as provided in the following schedule:

502 (c) By January 1, 2016, and every 3 years thereafter, an
503 analysis of the following:

504 1. The tax exemption for semiconductor, defense, or space
505 technology sales established under s. 212.08(5)(j).

506 2. The Military Base Protection Program established under
507 s. 288.980.

508 3. The Quick Response Training Program established under
509 s. 288.047.

510 4. The Incumbent Worker Training Program established under
511 s. 445.003.

512 5. The direct-support organization and international trade
513 and business development programs established or funded under s.
514 288.012 or s. 288.826.

515 6. The program established under s. 295.22(3) ~~s.~~
516 ~~295.22(2)~~.

517 Section 8. For the purpose of incorporating the amendment
518 made by this act to section 379.353, Florida Statutes, in a
519 reference thereto, paragraph (b) of subsection (2) of section
520 379.3581, Florida Statutes, is reenacted to read:

521 379.3581 Hunter safety course; requirements; penalty.—

522 (2)

523 (b) A person born on or after June 1, 1975, who has not
524 successfully completed a hunter safety course may apply to the
525 commission for a special authorization to hunt under

526 supervision. The special authorization for supervised hunting
527 shall be designated on any license or permit required under this
528 chapter for a person to take game or fur-bearing animals. A
529 person issued a license with a special authorization to hunt
530 under supervision must hunt under the supervision of, and in the
531 presence of, a person 21 years of age or older who is licensed
532 to hunt pursuant to s. 379.354 or who is exempt from licensing
533 requirements or eligible for a free license pursuant to s.
534 379.353.

535 Section 9. For the purpose of incorporating the amendment
536 made by this act to section 379.353, Florida Statutes, in
537 references thereto, paragraph (b) of subsection (2) and
538 paragraph (b) of subsection (3) of section 379.401, Florida
539 Statutes, are reenacted to read:

540 379.401 Penalties and violations; civil penalties for
541 noncriminal infractions; criminal penalties; suspension and
542 forfeiture of licenses and permits.—

543 (2) LEVEL TWO VIOLATIONS.—

544 (b)1. A person who commits a Level Two violation but who
545 has not been convicted of a Level Two or higher violation within
546 the past 3 years commits a misdemeanor of the second degree,
547 punishable as provided in s. 775.082 or s. 775.083.

548 2. Unless the stricter penalties in subparagraph 3. or
549 subparagraph 4. apply, a person who commits a Level Two
550 violation within 3 years after a previous conviction for a Level

551 Two or higher violation commits a misdemeanor of the first
552 degree, punishable as provided in s. 775.082 or s. 775.083, with
553 a minimum mandatory fine of \$250.

554 3. Unless the stricter penalties in subparagraph 4. apply,
555 a person who commits a Level Two violation within 5 years after
556 two previous convictions for a Level Two or higher violation,
557 commits a misdemeanor of the first degree, punishable as
558 provided in s. 775.082 or s. 775.083, with a minimum mandatory
559 fine of \$500 and a suspension of any recreational license or
560 permit issued under s. 379.354 for 1 year. Such suspension shall
561 include the suspension of the privilege to obtain such license
562 or permit and the suspension of the ability to exercise any
563 privilege granted under any exemption in s. 379.353.

564 4. A person who commits a Level Two violation within 10
565 years after three previous convictions for a Level Two or higher
566 violation commits a misdemeanor of the first degree, punishable
567 as provided in s. 775.082 or s. 775.083, with a minimum
568 mandatory fine of \$750 and a suspension of any recreational
569 license or permit issued under s. 379.354 for 3 years. Such
570 suspension shall include the suspension of the privilege to
571 obtain such license or permit and the suspension of the ability
572 to exercise any privilege granted under s. 379.353. If the
573 recreational license or permit being suspended was an annual
574 license or permit, any privileges under ss. 379.353 and 379.354
575 may not be acquired for a 3-year period following the date of

576 the violation.

577 (3) LEVEL THREE VIOLATIONS.—

578 (b)1. A person who commits a Level Three violation but who
579 has not been convicted of a Level Three or higher violation
580 within the past 10 years commits a misdemeanor of the first
581 degree, punishable as provided in s. 775.082 or s. 775.083.

582 2. A person who commits a Level Three violation within 10
583 years after a previous conviction for a Level Three or higher
584 violation commits a misdemeanor of the first degree, punishable
585 as provided in s. 775.082 or s. 775.083, with a minimum
586 mandatory fine of \$750 and a suspension of any recreational
587 license or permit issued under s. 379.354 for the remainder of
588 the period for which the license or permit was issued up to 3
589 years. Such suspension shall include the suspension of the
590 privilege to obtain such license or permit and the ability to
591 exercise any privilege granted under s. 379.353. If the
592 recreational license or permit being suspended was an annual
593 license or permit, any privileges under ss. 379.353 and 379.354
594 may not be acquired for a 3-year period following the date of
595 the violation.

596 3. A person who commits a violation of s. 379.354(17)
597 shall receive a mandatory fine of \$1,000. Any privileges under
598 ss. 379.353 and 379.354 may not be acquired for a 5-year period
599 following the date of the violation.

600 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		

1 Committee/Subcommittee hearing bill: Local Administration,
 2 Federal Affairs & Special Districts Subcommittee
 3 Representative Redondo offered the following:

Amendment (with title amendment)

Remove lines 130-450 and insert:

7 (b) "Servicemember" has the same meaning as in 250.01.

8 (c) "Spouse" means a person who is married to a veteran,
9 or an unremarried surviving spouse of a veteran.

10 (d) "Target industry business" is a business as defined in
11 s. 288.005.

12 (e) "Target market" has the same meaning as in s.
13 295.21(3)(a).

14 (f) "Veteran" means, irrespective of discharge status, a
15 person who otherwise meets the definition of veteran in s.
16 1.01(14) or who is a servicemember.

Amendment No.

17 (3) CREATION.—The Veterans Employment and Training
18 Services Program is created within the Department of Veterans'
19 Affairs to assist in connecting ~~linking~~ veterans or their
20 spouses ~~in search of employment~~ with businesses seeking to hire
21 dedicated, well-trained workers and with opportunities for
22 entrepreneurship education, training, and resources. The purpose
23 of the program is to meet the workforce demands of businesses in
24 this ~~the~~ state by facilitating access to training and education
25 in high-demand fields for veterans or their spouses and to
26 inspire the growth and development of veteran-owned small
27 businesses.

28 (4) ~~(3)~~ ADMINISTRATION.—Florida Is For Veterans, Inc.,
29 shall administer the Veterans Employment and Training Services
30 Program and perform all of the following functions:

31 (a) Conduct marketing and recruiting efforts directed at
32 veterans or their spouses within the target market who reside in
33 or ~~who~~ have an interest in relocating to this state and who are
34 seeking employment. Marketing must include information related
35 to how a veteran's military experience can be valuable to a
36 target industry or secondary industry business. Such efforts may
37 include attending veteran job fairs and events, hosting events
38 for veterans and their spouses or the business community, and
39 using digital and social media and direct mail campaigns. The
40 corporation shall also include such marketing as part of its
41 main marketing campaign.

Amendment No.

42 (b) Assist veterans or their spouses who reside in or
43 relocate to this state and who are seeking employment with
44 target industry or secondary industry businesses. The
45 corporation shall offer skills assessments to veterans or their
46 spouses and assist them in establishing employment goals and
47 applying for and achieving gainful employment.

48 1. Assessment may include skill match information, skill
49 gap analysis, résumé creation, translation of military skills
50 into civilian workforce skills, and translation of military
51 achievements and experience into generally understood civilian
52 workforce skills.

53 2. Assistance may include providing the veteran or his or
54 her spouse with information on current workforce demand by
55 industry or geographic region, creating employment goals, and
56 aiding or teaching general knowledge related to completing
57 applications. ~~The corporation may provide information related to~~
58 ~~industry certifications approved by the Department of Education~~
59 ~~under s. 1008.44 as well as information related to earning~~
60 ~~academic college credit at public postsecondary educational~~
61 ~~institutions for college-level training and education acquired~~
62 ~~in the military under s. 1004.096.~~

63 3. ~~The corporation shall encourage veterans or their~~
64 ~~spouses to register with the state's job bank system and may~~
65 ~~refer veterans to local one-stop career centers for further~~
66 ~~services. The corporation shall provide each veteran with~~

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Amendment No.

67 ~~information about state workforce programs and shall consolidate~~
68 ~~information about all available resources on one website that,~~
69 ~~if possible, includes a hyperlink to each resource's website and~~
70 ~~contact information, if available.~~

71 4. Assessment and assistance may be in person or by
72 electronic means, as determined by the corporation to be most
73 efficient and best meet the needs of veterans or their spouses.

74 (c) Assist Florida target industry and secondary industry
75 businesses in recruiting and hiring veterans and veterans'
76 spouses. The corporation shall provide services to Florida
77 businesses to meet their hiring needs by connecting businesses
78 with suitable veteran applicants for employment. Suitable
79 applicants include veterans or veterans' spouses who have
80 appropriate job skills or may need additional training to meet
81 the specific needs of a business. The corporation shall also
82 provide information about the state and federal benefits of
83 hiring veterans.

84 (d) Create a grant program to provide funding to assist
85 veterans in meeting the workforce-skill needs of target industry
86 and secondary industry businesses seeking to hire, promote, or
87 generally improve specialized skills of veterans, establish
88 criteria for approval of requests for funding, and maximize the
89 use of funding for this program. Grant funds may be used only in
90 the absence of available veteran-specific federally funded

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91 programs. Grants may fund specialized training specific to a
92 particular business.

93 1. The program may prioritize ~~If grant funds to be~~ are
94 used to provide a ~~technical~~ certificate, a license licensure, or
95 nondegree training from the Master Credentials List pursuant to
96 s. 445.004(4) (h); any federally created certifications or
97 licenses; and any skills-based industry certifications or
98 licenses deemed relevant or necessary by the corporation. ~~a~~

99 ~~degree,~~ Funds may be allocated only upon a review that includes,
100 but is not limited to, documentation of accreditation and
101 licensure. ~~Instruction funded through the program terminates~~
102 ~~when participants demonstrate competence at the level specified~~
103 ~~in the request but may not exceed 12 months. Preference shall be~~
104 ~~given to target industry businesses, as defined in s. 288.005,~~
105 ~~and to businesses in the defense supply, cloud virtualization,~~
106 ~~health care, or commercial aviation manufacturing industries.~~

107 2. Costs and expenditures are ~~shall be~~ limited to \$8,000
108 per veteran trainee. Qualified businesses must cover the entire
109 cost for all of the training provided before receiving
110 reimbursement from the corporation equal to 50 percent of the
111 cost to train a veteran who is a permanent, full-time employee.
112 Eligible costs and expenditures include, but are not limited to:

- 113 a. Tuition and fees.
114 b. Books and classroom materials.
115 c. Rental fees for facilities.

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116 3. Before funds are allocated for a request pursuant to
117 this section, the corporation shall prepare a grant agreement
118 between the business requesting funds and the corporation. Such
119 agreement must include, but need not be limited to:

120 a. Identification of the personnel necessary to conduct
121 the instructional program, instructional program description,
122 and any vendors used to conduct the instructional program.

123 b. Identification of the estimated duration of the
124 instructional program.

125 c. Identification of all direct, training-related costs.

126 d. Identification of special program requirements that are
127 not otherwise addressed in the agreement.

128 e. Permission to access aggregate information specific to
129 the wages and performance of participants upon the completion of
130 instruction for evaluation purposes. The agreement must specify
131 that any evaluation published subsequent to the instruction may
132 not identify the employer or any individual participant.

133 4. A business may receive a grant under any state program
134 ~~the quick-response training program created under s. 288.047~~ and
135 a grant under this section for the same veteran trainee.

136 5. A portion of grant funds, as determined by the
137 corporation, may be used for veterans who are not active members
138 of the United States Armed Forces for educational stipends while
139 training at any location of the University of Florida's
140 Institute of Food and Agricultural Sciences within this state.

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141 The corporation and the University of Florida shall enter into a
142 grant agreement before funds are expended. The corporation must
143 determine the amount of the stipend. The training for any
144 individual may not be less than 4 months and not more than 6
145 months.

146 (e) Contract with one or more entities to administer an
147 entrepreneur initiative program for veterans in this state which
148 connects business leaders in the state with veterans seeking to
149 become entrepreneurs.

150 1. The corporation shall award each contract in accordance
151 with the competitive bidding requirements in s. 287.057 to one
152 or more public or private entities that:

153 a. Demonstrate the ability to implement the program and
154 the commitment of resources, including financial resources, to
155 such programs.

156 b. Have a demonstrated experience working with veteran
157 entrepreneurs.

158 c. As determined by the corporation, have been recognized
159 for their performance in assisting entrepreneurs to launch
160 successful businesses in this ~~the~~ state.

161 2. Each contract must include performance metrics,
162 including a focus on employment and business creation. The
163 entity may also work with a university or college offering
164 related programs to refer veterans or to provide services. The
165 entrepreneur initiative program may include activities and

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166 assistance such as peer-to-peer learning sessions, mentoring,
167 technical assistance, business roundtables, networking
168 opportunities, support of student organizations, speaker series,
169 or other tools within a virtual environment.

170 (f) Administer a ~~As the state's principal assistance~~
171 ~~organization under the United States Department of Defense's~~
172 SkillBridge initiative program for target industry and secondary
173 industry ~~qualified~~ businesses in this state and for eligible
174 veterans ~~transitioning servicemembers~~ who reside in, or who wish
175 to reside in, this state. In administering the initiative, the
176 corporation shall:

177 1. Establish and maintain, as applicable, its
178 certification for the SkillBridge initiative program or any
179 other similar workforce training and transition programs
180 established by the United States Department of Defense;

181 2. Educate businesses, business associations, and eligible
182 veterans ~~transitioning servicemembers~~ on the SkillBridge
183 initiative program and its benefits, and educate military
184 command and personnel within the state on the opportunities
185 available to eligible veterans ~~transitioning servicemembers~~
186 ~~through the SkillBridge program~~;

187 3. Assist businesses in obtaining approval for skilled
188 workforce training curricula under the SkillBridge initiative
189 ~~program~~, including, but not limited to, apprenticeships,
190 internships, or fellowships; and

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191 4. Match eligible veterans ~~transitioning servicemembers~~
192 ~~who are deemed eligible for SkillBridge participation by their~~
193 ~~military command~~ with training opportunities offered by the
194 corporation or participating businesses, with the intent of
195 having them ~~transitioning servicemembers~~ achieve gainful
196 employment in this state upon completion of their SkillBridge
197 training.

198 ~~(g) Assist veterans and their spouses in accessing~~
199 ~~training, education, and employment in health care professions.~~

200 ~~(h) Coordinate with the Office of Veteran Licensure~~
201 ~~Services within the Department of Health to assist veterans and~~
202 ~~their spouses in obtaining licensure pursuant to s. 456.024.~~

203 (5) COLLABORATION.—The corporation may assist state
204 agencies and entities with recruiting veteran talent into their
205 workforce. The corporation is encouraged to, and may collaborate
206 with state agencies and other entities in efforts to, maximize
207 access to and provide information on one website that, if
208 possible, includes hyperlinks to the websites of and contact
209 information, if available, for state agencies and other entities
210 that maintain benefits, services, training, education, and other
211 resources that are available to veterans and their spouses.

212 (a) Outreach, information exchange, marketing, and
213 referrals between agencies, entities, and the corporation
214 regarding programs and initiatives that may be conducted

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215 include, but are not limited to, the Veterans Employment and
216 Training Services Program and those within any of the following:
217 1. The Department of Veterans' Affairs:
218 a. Access to benefits and assistance programs.
219 b. Hope Navigators Program.
220 2. The Department of Commerce:
221 a. The Disabled Veteran Outreach Program and Local Veteran
222 Employment Representatives.
223 b. CareerSource Florida, Inc., and local workforce boards
224 employment and recruitment services.
225 c. The Quick-Response Training Program.
226 d. Select Florida.
227 3. The Department of Business and Professional Regulation,
228 reciprocity and the availability of certain license and fee
229 waivers.
230 4. The Department of Education:
231 a. CAPE industry certifications under s. 1008.44.
232 b. Information related to earning postsecondary credit at
233 public postsecondary educational institutions for college-level
234 training and education acquired in the military under s.
235 1004.096.
236 5. The Department of Health:
237 a. The Office of Veteran Licensure Services.
238 b. The Florida Veterans Application for Licensure Online
239 Response expedited licensing.

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240 (b) The corporation may coordinate and collaborate with
241 the Office of Reimagining Education and Career Help, the State
242 University System, the Florida College System, the Florida
243 Defense Support Task Force, the Florida Small Business
244 Development Center Network, and the Florida Talent Development
245 Council, as necessary.

246 Section 1. Section 295.25, Florida Statutes, is created to
247 read:

248 295.25 Veterans exempt from certain filing fees.—The
249 Department of State may not charge veterans who reside in this
250 state the applicable fees for filing articles of organization,
251 articles of incorporation, a certificate of limited partnership,
252 or a partnership registration statement, or for the designation
253 of a registered agent, if applicable, as provided in s.
254 605.0213, s. 607.0122, s. 617.0122, s. 620.1109, or s.
255 620.81055.

256 Section 2. Subsection (1) of section 379.353, Florida
257 Statutes, is amended to read:

258 379.353 Recreational licenses and permits; exemptions from
259 fees and requirements.—

260 (1) The commission shall issue without fee hunting,
261 freshwater fishing, and saltwater fishing licenses and permits
262 ~~shall be issued without fee~~ to any resident who is certified or
263 determined to be:

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264 (a) ~~To be~~ Totally and permanently disabled for purposes of
265 workers' compensation under chapter 440 as verified by an order
266 of a judge of compensation claims or written confirmation by the
267 carrier providing workers' compensation benefits, or to be
268 totally and permanently disabled by the Railroad Retirement
269 Board, by the United States Department of Veterans Affairs or
270 its predecessor, or by any branch of the United States Armed
271 Forces, or who holds a valid identification card issued under
272 ~~the provisions of s. 295.17~~, upon proof of such certification or
273 determination ~~same~~. Any license issued under this paragraph
274 after January 1, 1997, expires after 5 years and must be
275 reissued, upon request, every 5 years thereafter.

276 (b) ~~To be~~ Disabled by the United States Social Security
277 Administration, upon proof of such certification or
278 determination ~~same~~. Any license issued under this paragraph
279 after October 1, 1999, expires after 2 years and must be
280 reissued, upon proof of certification of disability, every 2
281 years thereafter.

282 (c) A disabled veteran of the United States Armed Forces
283 who was honorably discharged upon separation from service and
284 who is certified by the United States Department of Veterans
285 Affairs or its predecessor or by any branch of the United States
286 Armed Forces as having a service-connected disability percentage
287 rating of 50 percent or greater, upon proof of such
288 certification or determination. Any license issued under this

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289 paragraph after July 1, 2024, expires after 5 years and must be
290 reissued, upon request, every 5 years thereafter.

291
292 A disability license issued after July 1, 1997, and before July
293 1, 2000, retains the rights vested thereunder until the license
294 has expired.

295 Section 3. Subsections (1), (2), and (3) of section
296 381.78, Florida Statutes, are amended to read:

297 381.78 Advisory council on brain and spinal cord
298 injuries.—

299 (1) There is created within the department a 16-member
300 advisory council on brain and spinal cord injuries. The council
301 shall be composed of a minimum of:

302 (a) Two ~~four~~ individuals who have brain injuries or are
303 family members of individuals who have brain injuries, with one
304 individual appointed by the President of the Senate and the
305 other individual appointed by the Speaker of the House of
306 Representatives., ~~a minimum of four~~

307 (b) Two individuals who have spinal cord injuries or are
308 family members of individuals who have spinal cord injuries,
309 with one individual appointed by the President of the Senate and
310 the other individual appointed by the Speaker of the House of
311 Representatives., ~~and a minimum of~~

312 (c) Two individuals who represent the special needs of
313 children who have brain or spinal cord injuries, with one

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314 individual appointed by the President of the Senate and the
315 other individual appointed by the Speaker of the House of
316 Representatives.

317 (d) Two individuals who have, or who are family members of
318 individuals who have or had, a traumatic brain injury, chronic
319 traumatic encephalopathy, or subconcussive impacts due to
320 sports, with one individual appointed the President of the
321 Senate and the other individual appointed by the Speaker of the
322 House of Representatives.

323 (e) Two veterans as defined in s. 1.01(14) who have or
324 have had a traumatic brain injury, chronic traumatic
325 encephalopathy, or subconcussive impacts due to military
326 service, or family members of such veterans, with one veteran or
327 family member appointed by the President of the Senate and the
328 other veteran or family member appointed by the Speaker of the
329 House of Representatives.

330 (f) Six individuals, appointed by the State Surgeon
331 General, who are ~~The balance of the council members shall be~~
332 physicians, other allied health professionals, administrators of
333 brain and spinal cord injury programs, or ~~and~~ representatives
334 from support groups who ~~that~~ have expertise in areas related to
335 the rehabilitation of individuals who have brain or spinal cord
336 injuries.

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337 (2) ~~Members of the council shall be appointed to serve by~~
338 ~~the State Surgeon General.~~ All members' terms shall be staggered
339 terms of ~~for~~ 4 years. An

340

341

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

343

Remove line 39 and insert:

344

veterans; providing that specified licenses issued to such

345

veterans expire periodically and must be reissued upon request

346

after such time period; amending s. 381.78, F.S.; revising the

347

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1421 Independent Hospital Districts

SPONSOR(S): Fine

TIED BILLS: **IDEN./SIM. BILLS:** SB 1700

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

Hospital districts are a type of independent special district specializing in the provision of health care services. The charters of hospital districts generally possess a set of core features: a board appointed by the Governor; the authority to build and operate hospitals; the power of eminent domain; the ability to issue bonds payable from ad valorem taxes; the use of ad valorem tax revenue for operating and maintaining hospitals; and providing that such facilities are established for the benefit of the indigent sick. Florida law provides a process for the lease or sale of special district hospitals or hospital systems, but provides no process for the conversion of a district into another type of entity.

The bill establishes a procedure for any of Florida’s 26 independent hospital districts to individually convert into a private non-profit entity, allowing the governing body of the district may vote, by a majority vote plus one, to evaluate the benefits of conversion for residents of the district by contracting with an independent entity meeting certain criteria to render a certified, independent evaluation.

If the governing body of the district determines conversion is in the best interests of the district’s residents, the governing body may negotiate an agreement with the governing body of each county in which any part of the district’s boundary is located. This agreement must include the terms and conditions necessary for both disposing of the assets and liabilities of the system and ensuring health care services are provided to the district’s residents. After completing the negotiation, the governing body of the district and each county that is a party to the agreement may elect to approve the conversion of the district to a private non-profit entity, subject to providing documentation to the public before the vote to approve of the conversion. If the district levies, collects, or receives ad valorem taxes in the current fiscal year and preceding five fiscal years, the conversion must be approved by the electors of the district voting in a referendum held during the next general election.

The bill also requires each independent hospital district to conduct a financial evaluation of converting to a nonprofit entity or transacting a sale to a for-profit entity by December 31, 2024.

The bill may have a positive effect on state revenues and no impact on state expenditures. The bill may have a negative fiscal impact on independent hospital districts.

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

Hospital and Health Care Districts

Hospital districts are a type of independent special district specializing in the provision of health care services. As of January 15, 2024, there are 30 special districts classified as hospital or health care districts.⁸ The charters of hospital districts generally possess a set of core features: a board appointed by the Governor, the authority to build and operate hospitals, the power of eminent domain; the ability to issue bonds payable from ad valorem taxes; the use of ad valorem revenue to be used for operating

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, <https://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?Committeeld=3227> (last visited Jan. 16, 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 Dept. of Commerce, *Official List of Special Districts Online*, available at <http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx> (last visited Jan. 15, 2024).

and maintaining hospitals, and a provision that the facilities be established for the benefit of the indigent sick.⁹

Florida Hospital and Health Care Districts	
Dependent Special Districts	
Carrabelle Hospital Tax District	Hillsborough County Hospital Authority
Gadsden County Hospital	Marion County Hospital District
Highlands County Hospital District	
Independent Special Districts	
Baker County Hospital District	Jackson County Hospital District
Bay Medical Center	Lake Shore Hospital Authority
Campbellton-Graceville Hospital District	Lee Memorial Health System
Cape Canaveral Hospital District	Lower Florida Keys Hospital District
Citrus County Hospital Board	Madison County Health and Hospital District
DeSoto County Hospital District	North Brevard County Hospital District
Doctors Memorial Hospital	North Broward Hospital District
George E. Weems Memorial Hospital	North Lake County Hospital District
Halifax Hospital Medical Center	Sarasota County Public Hospital District
Hamilton County Memorial Hospital	South Broward Hospital District
Health Care District of Palm Beach County	Southeast Volusia Hospital District
Hendry County Hospital Authority	West Orange Healthcare District
Indian River County Hospital District	West Volusia Hospital Authority

Lease or Sale of Local Government Hospitals or Hospital Systems

Current law authorizes the sale or lease of local government owned hospitals.¹⁰ The governing board of the hospital or hospital system must find that the sale or lease is in the best interest of the affected community¹¹ and must state the basis of the finding. The governing board is responsible for determining the terms of the lease, sale, or contract. The hospital or hospital system may be leased or sold to a for-profit or a not-for-profit Florida entity, but the lease, contract, or agreement must:

- Subject the articles of incorporation of the lessee or buyer to approval by the board of the hospital;
- Require that not-for-profit lessees or buyers become qualified under s. 501(c)(3) of the United States Internal Revenue Code;
- Provide for orderly transition of operations and management;
- Provide for return of the facility upon termination of the lease, contract, or agreement; and
- Provide for continued treatment of the indigent sick.¹²

The lease, sale, or contract must be done through a public process that includes:

⁹ Florida TaxWatch, *Florida's Fragmented Hospital Taxing District System in Need of Reexamination*, Briefings (Feb. 2009), available at <https://floridataxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/16012/Floridas-Fragmented-Hospital-Taxing-District-System-in-Need-of-Reexamination> (last visited Jan. 17, 2023).

¹⁰ S. 155.40, F.S.

¹¹ "Affected community" means those persons residing within the geographic boundaries defined by the charter of the county, district, or municipal hospital or health care system, or if the boundaries are not specifically defined by charter, by the geographic area from which 75 percent of the county, district, or municipal hospital's or health care system's inpatient admissions are derived. S. 155.40(4)(a), F.S.

¹² Continued treatment of the indigent sick must comply with the Florida Health Care Responsibility Act and pursuant to chapter 87-92, Laws of Florida. S. 155.40(2)(e), F.S. Ss. 154.301-154.316, F.S., are the Florida Health Care Responsibility Act. S. 154.301, F.S.

- Consideration of proposals by and negotiations with all qualified buyers or lessees following public notice to identify them;¹³
- Detailed, written board findings regarding the accepted proposal that meets specified requirements and disclosure of all information and documents relevant to the board's determination must occur;¹⁴
- A 120-day timeline for conclusion of the lease, sale, or agreement measured in advance of the anticipated closing date that:
 - Begins with publishing all findings, information and documents specified by law and a public notice of the proposed transaction;¹⁵
 - Allows receipt of public comment;¹⁶
 - Is subject to approval by the Secretary of the Agency of Health Care Administration (AHCA), unless law requires approval by the registered voters of the local government where the hospital or hospital system is located;¹⁷
 - Requires a petition for approval of and a final order by AHCA;¹⁸
 - Provides an appeal right for any interested party;¹⁹
 - Makes the costs the responsibility of the board, unless any interested party appeals, then the costs can be equitably assigned to the parties;²⁰ and
 - Allows voiding of the transaction by any party if specified provisions are not followed.²¹

If a hospital is sold, all tax authority associated with the hospital ceases.²² Fifty percent of the proceeds from the sale or lease must be deposited into a health care economic development trust fund serving specified health care related purposes.²³ The district board must appropriate the other 50 percent to funding to care for the indigent sick.²⁴ Other taxing, financial, and liability considerations are provided by the law, including prohibitions on the transfer of government functions.²⁵ A streamlined process is provided if the property represents less than 20 percent of the hospital's net revenue.²⁶

Commission on Review of Taxpayer Funded Hospital Districts

In March 2011, the Governor issued Executive Order 11-63, creating the Commission on Review of Taxpayer Funded Hospital Districts (Commission).²⁷ This Commission was tasked with assessing and making recommendations as to the role of hospital districts, including what is in the public interest as to hospital operation and an effective access model for the economically disadvantaged.²⁸ Specifically, the Governor ordered the following areas to be examined: quality of care; cost of care; access to care for the poor; oversight and accountability; physician employment; and changes in ownership and

¹³ S. 155.40(6), F.S.

¹⁴ S. 155.40(7)(a), F.S.

¹⁵ S. 155.40(8), F.S.

¹⁶ S. 155.40(9), F.S.

¹⁷ S. 155.40(10), F.S.

¹⁸ S. 155.40(11), F.S. The AHCA final order is limited to whether the board complied with law and must require the board to approve or reject the proposal based on specified findings by AHCA.

¹⁹ S. 155.40(12), F.S. "Interested party" includes a person submitting a proposal for sale or lease of the county, district, or municipal hospital or health care system, as well as the governing board. S. 155.40(4)(c), F.S.

²⁰ S. 155.40(13), F.S.

²¹ S. 155.40(14), F.S. If any board member negligently or willfully violates specified provisions, they are subject to penalty by the Commission on Ethics.

²² S. 155.40(15), F.S.

²³ S. 155.40(16)(a), F.S. The trust fund is controlled by the local government where the leased or sold property is located. The net proceeds in trust fund shall be distributed, in consultation with the Department of Economic Opportunity, to promote job creation in the health care sector of the economy through new or expanded health care business development, new or expanded health care services, or new or expanded health care education programs or commercialization of health care research within the affected community.

²⁴ S. 155.40(16)(b), F.S. Funding the delivery of indigent care, includes, but not limited to, primary care, physician specialty care, out-patient care, in-patient care, and behavioral health, to hospitals within the boundaries of the district with consideration given to the levels of indigent care provided.

²⁵ S. 155.40(17)-(21), F.S.

²⁶ S. 155.40(22), F.S.

²⁷ Fla. Exec. Order No. 11-63 (Mar. 23, 2011).

²⁸ *Id.*

governance.²⁹ In a final report issued on December 30, 2011, the Commission recommended a transition from hospital districts to indigent health care districts, which would include decoupling district owned hospitals from the district, among other recommendations.³⁰

Not-for-Profit Corporations

Not-for-profit corporations are regulated by the Florida Not For Profit Corporation Act (Non-Profit Act), which outlines the requirements for creating and managing a private not-for-profit corporation as well as the powers and duties of the corporation.³¹ The Non-Profit Act authorizes not-for-profit corporations to be created for any lawful purpose or purposes that are not for pecuniary profit and that are not specifically prohibited to corporations by other state laws.³² The Non-Profit Act specifies that such purposes include charitable, benevolent, eleemosynary, educational, historical, civic, patriotic, political, religious, social, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, and professional, commercial, industrial, or trade association purposes.

Florida law authorizes not-for-profit corporations to operate with the same degree of power provided to for-profit corporations in the state, including the power to appoint officers, adopt bylaws, enter into contracts, sue and be sued, and own and convey property.³³ Officers and directors of certain not-for-profit corporations are also protected by the same immunity from civil liability provided to directors of for-profit corporations.³⁴ Unlike for-profit corporations, certain not-for-profit corporations may apply for exemptions from federal, state, and local taxes.³⁵

Not-for-profit corporations are required to submit an annual report to the Department of State that contains the following information:

- The name of the corporation and the state or country under the laws of which it is incorporated;
- The date of incorporation or, if a foreign corporation, the date on which it was admitted to conduct its affairs in Florida;
- The address of the principal office and the mailing address of the corporation;
- The corporation's federal employer identification number, if any, or, if none, whether application has been made for one;
- The names and business street addresses of its directors and principal officers;
- The street address of its registered office in Florida and the name of its registered agent at that office; and
- Such additional information as may be necessary or appropriate to enable the Department of State to carry out the provisions of the Non-Profit Act.³⁶

A not-for-profit corporation may receive public funds from the state or a local government in certain situations. Public funds are defined as "moneys under the jurisdiction or control of the state, a county, or a municipality, including any district, authority, commission, board, or agency thereof and the judicial branch, and includes all manner of pension and retirement funds and all other funds held, as trust funds or otherwise, for any public purpose."³⁷ The state or a local government may provide public funds to a not-for-profit corporation through a grant or through payment of membership dues authorized for governmental employees and entities who are members of certain types of not for profit corporations.³⁸

²⁹ *Report on the Commission of Review of Taxpayer Funded Hospitals*, (December 30, 2011), <https://floridatxwatch.org/Research/Full-Library/ArtMID/34407/ArticleID/15657/Report-of-the-Commission-on-Review-of-Taxpayer-Funded-Hospital-Districts> (last visited Jan. 16, 2024).

³⁰ *Id.*

³¹ Ch. 90-179, Laws of Fla.

³² S. 617.0301, F.S.

³³ See ss. 617.0302 and 607.0302, F.S.

³⁴ See ss. 617.0834 and 607.0831, F.S.

³⁵ See, e.g., 26 U.S.C. s. 501, s. 212.08(7)(p), F.S.

³⁶ S. 617.1622, F.S.

³⁷ S. 215.85(3)(b), F.S.

³⁸ See, e.g., Pinellas County, Fla. Code s. 2-103(a) (authorizing the board of county commissioners to expend monies from the county general fund for membership fees and dues for county employees and officials for professional associations); S. Fla. Water Mgmt. Dist.

Effect of Proposed Changes

Conversion to Not-for-Profit Entity

The bill authorizes the governing body of an independent hospital district³⁹ to elect by a majority vote plus one to evaluate the potential conversion of the district into a private non-profit entity organized as a Florida not-for-profit corporation.⁴⁰ The governing body must consider the potential benefits of conversion for the residents of the district and:

- Conduct a properly-noticed public hearing to provide residents of the district an opportunity to testify (the hearing must be held at a meeting other than a regularly-noticed or emergency meeting of the district);
- Contract with an independent entity that has at least five years of experience conducting comparable evaluations of hospital organizations similar in size and function to the district to conduct an evaluation according to applicable industry best practices (the independent entity may not have any affiliation with or financial involvement in the district or any member of its governing body); and
- Make available to the public on its website all documents considered by the governing body in making its determination.

The evaluation must be completed and a final report of the independent entity presented to the district by no later than 180 days after the date the vote was taken to authorize the evaluation. The final report must include a statement signed by the presiding officer of the governing board of the district and the chief executive officer of the independent entity conducting the evaluation that, upon each person's reasonable knowledge and belief, the contents and conclusions of the evaluation are true and correct.

Within 120 days of receipt of the final report, the governing body of the district must determine, by majority vote plus one, whether the interests of residents of the district are best served by conversion. If the governing body determines conversion is in the best interest of residents, the district must negotiate and complete an agreement with the board of county commissioners for each county in which any part of the district's boundary is located. The agreement between the governing body of the district and each county commission must be completed no later than 120 days after the date of the public meeting during which the governing body of the district determined conversion was in the best interest of residents. The agreement must be in writing, dispose of all assets and liabilities of the district, and include:

- A description of each asset and liability that will be transferred to each county;
- The estimated total value of the assets and liabilities that will be transferred to each county;
- If the agreement is with more than one county, a description of the methodology used to allocate the assets and liabilities of the district between the counties;
- A description of all assets and liabilities that will be transferred to the succeeding non-profit entity;
- The total value of assets and liabilities that will be transferred to the succeeding non-profit entity;
- If any debts remain, how those debts will be resolved;
- An enforceable commitment that programs and services provided by the district will continue to be provided to all residents of the district in perpetuity, so long as the non-profit entity is in operation (or, if otherwise agreed to by the district and each county that is a party to the

Admin. Policies s. 120-65(a)(2) (authorizing the district to pay for an employee's membership in a professional organization not required by his or her job).

³⁹ The bill defines an "independent hospital district" as an entity created by special act that operates one or more hospitals licensed under ch. 395, F.S. and that is governed by the governing body of a special district or by the board of trustees of a public health trust created under s. 154.07, F.S.

⁴⁰ The bill defines a "nonprofit entity" as a Florida not-for-profit corporation operating under ch. 617, F.S., the Florida Not For Profit Corporation Act.

agreement, until the non-profit entity has otherwise met all obligations set forth in the agreement);

- A provision that transfers the rights and obligations agreed to by the district and each county that is a party to the agreement to the successor non-profit entity upon conversion of the district; and
- Any other terms or conditions mutually agreed upon by the district and each county that is a party to the agreement.

The bill prohibits any member of the board of commissioners for any county that is a party to the agreement from serving on the board of the successor nonprofit entity, but allows for members of the district's governing body to serve on the board of the successor entity. Members of the governing body of the district and the board of commissioners of each county that is a party to the agreement must disclose all conflicts of interest including, but not limited to:

- Whether the conversion of the district will result in a special private gain or loss to any member of the governing body of the district or boards of commissioners or to any senior executives of the independent hospital district; and
- If any member of the governing body of the district will serve on the board of the successor nonprofit entity (intent to serve on the board of the successor nonprofit entity does not disqualify a member from voting on the proposed conversion).

Upon completion of the agreement, the governing body of the district may agree, by a majority vote plus one at a public meeting that is not a regularly-scheduled or emergency meeting of the district, to approve of the conversion of the district to a non-profit entity and any agreements related to the conversion. The agreement must also be approved by the board of commissioners of each county that is subject to the agreement at a properly noticed public meeting. Both the district and each county that is subject to the agreement must publish all evaluations, agreements, disclosures, and other documents supporting the conversion on their websites for at least 45 days before the vote to approve of the conversion.

If the governing bodies of the district and each county subject to the agreement approve of the proposed agreement, a referendum of the qualified electors of the district must be conducted at the next general election if the district levies, collects, or receives ad valorem taxes in the current fiscal year and preceding five fiscal years. Once approved by all required entities the agreement shall go into full force and effect. The district must file a copy of the agreement with the Department of Commerce (Commerce) no later than 10 days after the date of the referendum approving the agreement.

Within 30 days of completing the transfer of assets and liabilities as provided in the agreement, the district must notify Commerce that the transfer is complete. The district is deemed automatically dissolved upon receipt of the notice.

Financial Evaluation

The bill also requires the governing body of the independent hospital district to conduct a financial evaluation of the benefits to the residents of the district of converting the independent hospital district to a nonprofit entity or transacting a sale to a for-profit entity. The evaluation must include, but is not limited to, a complete financial valuation of the assets and liabilities of the district. The bill requires the district contract with an independent entity that has at least five years of experience conducting comparable evaluations of hospital organizations similar in size and function to the district to conduct the evaluation according to applicable industry best practices.

The evaluation must include a statement signed by the chief executive of the district that, upon his or her reasonable knowledge and belief, the evaluation is true and correct. The evaluation must be conducted by an independent certified public accountant and include a statement from the accountant that, upon his or her reasonable knowledge and belief, the valuation is true and correct. The bill

requires each district to complete its evaluation by December 31, 2024 and publish the evaluation on its website within 30 days of completion.

B. SECTION DIRECTORY:

Section 1: Creates s. 189.0762, F.S., authorizing the conversion of an independent hospital district to a private nonprofit entity.

Section 2: Requires independent hospital districts to conduct a financial evaluation by December 31, 2024.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have a small positive impact on state revenues to the extent additional private not-for-profit corporations are created and maintained to provide functions currently provided by public health care systems.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate negative impact on hospital district expenditure due to the need to contract for a financial evaluation.

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:

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.

26 | the independent hospital district to serve on the
 27 | board of the succeeding nonprofit entity; requiring
 28 | disclosure of all conflicts of interest; requiring
 29 | certain documents to be published on the websites of
 30 | the district and each county that is a party to the
 31 | agreement for a specified timeframe; authorizing the
 32 | governing body of the independent hospital district to
 33 | approve by supermajority vote the conversion of the
 34 | district to a nonprofit entity; requiring each board
 35 | of commissioners for each affected county to approve
 36 | the agreement at a public meeting; requiring a
 37 | referendum under certain circumstances; requiring the
 38 | independent hospital district to file a copy of the
 39 | agreement with and provide certain notification to the
 40 | Department of Commerce within a specified timeframe;
 41 | providing for dissolution of the district within a
 42 | specified timeframe; requiring independent hospital
 43 | districts to conduct an evaluation for certain
 44 | purposes; providing evaluation requirements; providing
 45 | an effective date.

46 |
 47 | Be It Enacted by the Legislature of the State of Florida:

48 |
 49 | Section 1. Section 189.0762, Florida Statutes, is created
 50 | to read:

51 189.0762 Conversion of an independent hospital district to
 52 a nonprofit entity.—

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

54 (a) "Independent hospital district" means an entity
 55 created pursuant to a special act which operates one or more
 56 hospitals licensed under chapter 395 and is governed by the
 57 governing body of a special district or by the board of trustees
 58 of a public health trust created under s. 154.07.

59 (b) "Nonprofit entity" means a Florida not-for-profit
 60 corporation operating under chapter 617.

61 (2) The governing body of an independent hospital district
 62 may elect, by a majority vote plus one, to commence an
 63 evaluation of the benefits to the residents of the district of
 64 converting the independent hospital district to a nonprofit
 65 entity if the governing body of the district and each county
 66 within which any part of the district's boundaries are located
 67 execute an agreement that meets the requirements of subsection
 68 (5). In evaluating the benefits of converting the independent
 69 hospital district to a nonprofit entity, the governing body of
 70 the district must:

71 (a) Publish notice of and conduct a public meeting in
 72 accordance with s. 189.015(1) to provide the residents of the
 73 district with the opportunity to publicly testify regarding the
 74 conversion. The public hearing must be held at a meeting other
 75 than a regularly noticed meeting or an emergency meeting of the

76 independent hospital district.

77 (b) Contract with an independent entity that has at least
78 5 years of experience conducting comparable evaluations of
79 hospital organizations similar in size and function to the
80 independent hospital district to conduct the evaluation
81 according to applicable industry best practices. The independent
82 entity may not have any affiliation with or financial
83 involvement in the district or with any member of the governing
84 body of the district.

85 (c) Publish all documents considered by the governing body
86 of the independent hospital district on the website of the
87 district.

88 (3) The evaluation must be completed and a final report
89 presented to the governing body of the independent hospital
90 district no later than 180 days after the date on which the vote
91 is taken by the governing body of the district to evaluate the
92 conversion. The final report shall be published on the
93 district's website. The final report must include a statement
94 signed by the presiding officer of the governing board of the
95 independent hospital district and the chief executive officer of
96 the independent entity conducting the evaluation that, based on
97 each person's reasonable knowledge and belief, the contents and
98 conclusions of the evaluation are true and correct.

99 (4) No later than 120 days after the date on which the
100 governing body of the independent hospital district receives the

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101 final report, the governing body of the district must determine,
102 by a majority vote plus one, whether the interests of the
103 residents of the district are best served by converting the
104 independent hospital district to a nonprofit entity. If the
105 governing body of the district determines conversion is in the
106 best interests of its residents, the independent hospital
107 district must negotiate and complete an agreement with the board
108 of county commissioners for each county in which any part of the
109 district's boundaries are located before conversion may occur.

110 (5) An agreement between the governing body of the
111 independent hospital district and each county in which any part
112 of the district's boundaries are located must be completed no
113 later than 120 days after the date on which the public meeting
114 is held to determine if conversion of the district is in the
115 best interests of its residents. The agreement must be in
116 writing, dispose of all assets and liabilities of the
117 independent hospital district, and include:

118 (a) A description of each asset that will be transferred
119 to each county.

120 (b) A description of each liability that will be
121 transferred to each county.

122 (c) The estimated total value of the assets that will be
123 transferred to each county.

124 (d) The estimated total value of the liabilities that will
125 be transferred to each county.

126 (e) If the agreement is with more than one county, a
127 description of the methodology used to allocate the assets and
128 liabilities of the district between the counties.

129 (f) A description of all assets that will be transferred
130 to the succeeding nonprofit entity.

131 (g) A description of all liabilities that will be assumed
132 by the succeeding nonprofit entity.

133 (h) The estimated total value of the assets that will be
134 transferred to the succeeding nonprofit entity.

135 (i) The total value of the liabilities to be assumed by
136 the succeeding nonprofit entity.

137 (j) If any debts remain, how those debts will be resolved.

138 (k) An enforceable commitment that programs and services
139 provided by the district will continue to be provided to all
140 residents of the former district in perpetuity so long as the
141 succeeding nonprofit entity is in operation or, if otherwise
142 agreed to by the independent hospital district and each county
143 that is a party to the agreement, until the succeeding nonprofit
144 entity has otherwise met all obligations set forth in the
145 agreement.

146 (l) A provision transferring the rights and obligations as
147 agreed to by the governing body of the independent hospital
148 district and each county that is a party to the agreement to the
149 succeeding nonprofit entity.

150 (m) Any other terms mutually agreed to by the governing

151 body of the independent hospital district and each county that
152 is a party to the agreement.

153 (6) (a) A member of the board of commissioners for any
154 county that is a party to the agreement may not serve on the
155 board of the succeeding nonprofit entity.

156 (b) A member of the governing body of the independent
157 hospital district may serve on the board of the succeeding
158 nonprofit entity.

159 (7) The members of the governing body of the independent
160 hospital district and the board of commissioners for each county
161 that is a party to the agreement must disclose all conflicts of
162 interest as required by s. 112.313, including, but not limited
163 to:

164 (a) Whether the conversion of the independent hospital
165 district will result in a special private gain or loss to any
166 member of the governing body of the independent hospital
167 district or boards of commissioners for the affected counties or
168 to any senior executive of the independent hospital district.

169 (b) If any member of the governing body of the independent
170 hospital district will serve on the board of the succeeding
171 nonprofit entity. Such intent to serve on the board of the
172 succeeding nonprofit entity does not disqualify any member from
173 voting on the proposed conversion.

174 (8) The evaluation, agreements, disclosures, and any other
175 supporting documents related to the conversion of the

176 independent hospital district must be published on the
177 district's website and the website of each county that is a
178 party to the agreement under subsection (5) for 45 days before
179 the governing body of the independent hospital district and the
180 board of commissioners for each county that is a party to the
181 agreement may vote on the proposed conversion.

182 (9)(a) In a public meeting noticed as required pursuant to
183 subsection (2), the governing body of the independent hospital
184 district may approve, by a majority vote plus one, the
185 conversion of the district to a nonprofit entity and any
186 agreements related to the conversion.

187 (b) The agreement negotiated under subsection (5) must be
188 approved by each board of commissioners for each affected county
189 in a properly noticed public meeting.

190 (c) If the governing body of the independent hospital
191 district and the board of commissioners for each affected county
192 approve the proposed agreement, and the district exercises ad
193 valorem taxing powers, a referendum of the qualified electors of
194 the district must be conducted at the next general election as
195 required pursuant to s. 100.031. A referendum is not required
196 for independent hospital districts that have not levied,
197 collected, or received ad valorem taxes in the current fiscal
198 year and the previous 5 fiscal years.

199 (d) If approved by the qualified electors of the
200 independent hospital district voting in a referendum conducted

201 in accordance with paragraph (c), the agreement between the
 202 independent hospital district and the board of commissioners for
 203 each affected county shall be in full force and effect. The
 204 independent hospital district shall file a copy of the agreement
 205 with the department no later than 10 days after the date on
 206 which the referendum approving the agreement and conversion
 207 occurs.

208 (10) No later than 30 days after the complete transfer of
 209 assets and liabilities as provided in the agreement under
 210 subsection (5), the independent hospital district shall notify
 211 the department. The district shall be dissolved automatically
 212 upon receipt of the notice by the department.

213 (11) If the governing body of the independent hospital
 214 district and the board of commissioners for each county that is
 215 a party to the agreement are unable to reach an agreement that
 216 would result in the conversion of the independent hospital
 217 district to a nonprofit entity, the district shall continue in
 218 existence.

219 Section 2. (1) Each independent hospital district, as
 220 defined in s. 189.0762(1), Florida Statutes, shall cause to be
 221 conducted an evaluation of the benefits to the residents of the
 222 district of converting the independent hospital district to a
 223 nonprofit entity as defined in s. 189.0762(1), Florida Statutes,
 224 or transacting a sale to a for-profit entity, including, but not
 225 limited to, a complete financial valuation of the assets and

226 liabilities of the independent hospital district.

227 (2) The evaluation must be conducted by an independent
228 entity that has at least 5 years of experience conducting
229 comparable evaluations of hospital organizations similar in size
230 and function to the independent hospital district and that has
231 no affiliation with or financial involvement in the district or
232 with any member of the governing body of the district. The
233 independent entity must conduct the evaluation according to
234 applicable industry best practices.

235 (3) The evaluation must include a statement signed by the
236 chief executive of the district that, upon his or her reasonable
237 knowledge and belief, the evaluation is true and correct.

238 (4) The financial valuation must be conducted by an
239 independent certified public accountant and must include a
240 statement signed by the accountant that, upon his or her
241 reasonable knowledge and belief, the valuation is true and
242 correct.

243 (5) Each district shall complete its evaluation by
244 December 31, 2024, and publish the evaluation on its website
245 within 30 days after completion.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1451 Identification Documents
SPONSOR(S): Michael
TIED BILLS: **IDEN./SIM. BILLS:** SB 1174

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

SUMMARY ANALYSIS

Counties and municipalities are prohibited from providing funds to any person, entity, or organization for the purpose of issuing an identification card or document to a person who does not provide proof of lawful presence in the United States. Prior to the enactment of this prohibition, several counties had partnered with local organizations to offer a community ID card which would enable residents to provide a form of identification to law enforcement, schools, organizations, and social service agencies.

The bill prohibits a county or a municipality from accepting as identification any identification card or document that is issued by any person, entity, or organization that knowingly issues the identification cards or documents to individuals who are not lawfully present in the United States. This prohibition does not extend to any documentation that is issued by or on behalf of the Federal Government.

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

Immigration Laws

The Federal Government establishes and enforces immigration laws. The federal Immigration and Nationality Act (INA) contains many of the most important provisions of immigration law.¹

The Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations, is responsible for enforcing the immigration laws and identifying, apprehending, and removing aliens who are a risk to national security or public safety, who are in the country illegally, or who undermine the integrity of the country's immigration laws or border control efforts.²

U.S. Customs and Border Protection (Border Patrol) is the federal law enforcement agency responsible for securing the nation's borders and facilitating international travel and trade. The Border Patrol's top priority is to keep terrorists and their weapons from entering the United States. Border Patrol enforcement actions include individuals encountered at ports of entry who are seeking lawful admission into the United States but are determined to be inadmissible, individuals presenting themselves to seek humanitarian protection under our laws, individuals who withdraw an application for admission and return to their countries of origin within a short timeframe, and individuals apprehended or expelled, including individuals who were physically controlled or temporarily detained due to being unlawfully present in the United States.³ The following is the total number of persons encountered by Border Patrol in the past five fiscal years:

FY 2020	646,822
FY 2021	1,956,519
FY 2022	2,766,582
FY 2023	3,201,144
FY 2024 (Year-to-Date)	988,819

In addition to the dramatic increase in border encounters, the recidivism rate has also increased. According to the Border Patrol webpage, "recidivism refers to percentage of individuals apprehended more than one time by the Border Patrol within a fiscal year." In FY 2019, the rate was only 7 percent. However, that climbed to an increase of 26 percent in FY 2020 and 27 percent in FY 2021.⁴

Encounters with criminal noncitizens in FY 2020 were 7,009, in FY 2021 were 6,567, in FY 2022 were 16,993, in FY 2023 were 20,166, and so far in FY 2024 are 4,805. "Criminal noncitizens refers to noncitizens who have been convicted of crime, whether in the United States or abroad, so long as the conviction is for conduct which is deemed criminal by the United States."⁵

¹ 8 U.S.C. ch. 12.

² U.S. Immigration and Customs Enforcement, *Enforcement and Removal Operations, Mission*, <https://www.ice.gov/ero> (last visited Jan. 26, 2024).

³ U.S. Customs and Border Protection, *CBP Enforcement Statistics*, <https://www.cbp.gov/newsroom/stats/cbp-enforcement-statistics> (last visited Jan. 26, 2024).

⁴ *Id.*

⁵ *Id.*

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.⁶ 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.⁷ 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.⁸ 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.

Driver Licenses

Current law prohibits a person from driving any motor vehicle upon a Florida highway unless such person has a valid driver license issued under ch. 322, F.S.⁹ However, an individual is exempt from obtaining a Florida driver license if he or she is a nonresident who is:¹⁰

- At least 16 years of age and possesses a valid noncommercial driver license issued to him or her in his or her home state or country and operating a type of motor vehicle for which a Class E driver license is required in this state.
- At least 18 years of age and possesses a valid noncommercial driver license issued to him or her in his or her home state or country and operating a motor vehicle, other than a commercial motor vehicle, in this state.

Current law establishes requirements governing the issuance of driver licenses by Department of Highway Safety and Motor Vehicles (DHSMV).¹¹ An applicant for a driver license or identification card is required to provide his or her SSN for the purpose of identification. This information is electronically verified with the Social Security Administration to confirm identity, as required by the Real ID Act of 2005. Applicants are required to provide proof of identity that is satisfactory to the DHSMV. The following documents constitute acceptable proof of identification:¹²

- A certified copy of a United States birth certificate;
- A valid, unexpired passport or passport card;
- A Certificate of Naturalization issued by the DHS;
- A valid, unexpired alien registration receipt card (green card);
- A Consular Report of Birth Abroad; and
- A valid, employment authorization card issued by the DHSMV.

DHSMV is authorized to require an applicant for an original driver license to produce certain DHS or foreign documents to prove nonimmigrant classification for the sole purpose of establishing continuous lawful presence in the United States.¹³

DHSMV is authorized to waive the Class E knowledge (written) and skills requirements if an applicant for an original driver license presents a valid driver license from another state, province of Canada, or

⁶ Art. VIII, s. 1(f), Fla. Const.

⁷ Art. VIII, s. 1(g), Fla. Const.

⁸ Art. VIII, s. 2(b); *see also* s. 166.021(1), F.S.

⁹ *See* s. 322.03, F.S.

¹⁰ S. 322.04(1)(c) and (d), F.S.

¹¹ *See* s. 322.08, F.S.

¹² S. 322.08(2)(c), F.S.

¹³ S. 322.08(2)(c)8., F.S.

the United States Armed Forces when applying for a Florida driver license of equal or lesser classification.¹⁴

Current law provides that if a driver license is of a class of licenses issued by another state exclusively to undocumented immigrants who are unable to prove lawful presence in the United States when the license was issued, the driver license, or other permit purporting to authorize the holder to operate a motor vehicle on public roadways, is invalid in this state and does not authorize the holder to operate a motor vehicle in this state.¹⁵ Such classes of licenses include licenses that are issued exclusively to undocumented immigrants or licenses that are substantially the same as licenses issued to citizens, residents, or those lawfully present in the United States but have markings establishing that the license holder did not exercise the option of providing proof of lawful presence. General law requires a law enforcement officer or other authorized representative of DHSMV who stops a person driving with such an invalid license to issue a citation to the driver for driving without a license in violation of s. 322.03, F.S., which provides that a person convicted of a violation of ch. 322, F.S., is guilty of a second degree misdemeanor, punishable by a fine of up to \$500 or a term of imprisonment of up to 60 days.¹⁶

Driver License Compact and Reciprocity

The Driver License Compact was created to provide uniformity among member jurisdictions when exchanging information with other members on convictions, records, licenses, withdrawals, and other data pertinent to the licensing process.¹⁷ Uniformity helps ease administrative costs and meets the underlying tenet of the agreement that each driver nationwide have only one driver license and one driver control record.

DHSMV is authorized to enter into reciprocal driver license agreements with other jurisdictions within the United States and its territories and possessions and with foreign countries or political entities equivalent to Florida state government within a foreign country.¹⁸ Generally, valid driver licenses issued by any state in the United States are valid when visiting another state. However, exceptions do exist for state-specific laws, such as required driving ages.¹⁹

States Issuing Driver Licenses to Undocumented Immigrants

Currently, 19 states and the District of Columbia have enacted laws to allow undocumented immigrants to obtain driver's licenses.²⁰ These states include, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Virginia, and Washington. The states issue a license (or a "driving privilege card") if an applicant provides certain documentation, such as a foreign birth certificate, foreign passport, or consular card and evidence of current residency in the state.

Following the Real ID Act, noncompliant cards must have a recognizable feature on their face to distinguish the license from those issued to legal residents. Possession of a Real ID compliant driver license is not federally required for operating a motor vehicle.²¹ The DHS cautions against assuming that possession of a noncompliant card indicates that an individual is undocumented. Individuals may choose to obtain a noncompliant card for reasons unrelated to lawful presence in the United States.

¹⁴ S. 322.12, F.S.

¹⁵ S. 322.033, F.S.

¹⁶ See ss. 775.082 or 775.083, F.S.

¹⁷ American Association of Motor Vehicle Administrators, *Driver License Compact*, <https://www.aamva.org/topics/driver-license-compact/#wst=4a3b89462cc2cff2cbe0c7accde57421> (last visited Jan. 26, 2024).

¹⁸ S. 322.02(4), F.S.

¹⁹ FindLaw, *Driver's Licenses FAQ*, November 27, 2017, <https://www.findlaw.com/traffic/drivers-license-vehicle-info/driver-s-licenses-faq.html> (last visited Mar. 21, 2023).

²⁰ National Conference of State Legislatures, *States Offering Driver's Licenses to Immigrants*, January 16, 2023, <https://www.ncsl.org/immigration/states-offering-drivers-licenses-to-immigrants> (last visited Jan. 26, 2024).

²¹ Department of Homeland Security, *Real ID Frequently Asked Questions for the Public*, <https://www.dhs.gov/archive/real-id-public-faqs> (last visited Jan. 26, 2024).

County and Municipal Community ID Cards

Current law prohibits counties and municipalities from providing funds to any person, entity, or organization for the purpose of issuing an identification card or document to a person who does not provide proof of lawful presence in the United States.²²

Prior to the enactment of this prohibition, several local governments had partnered with organizations to offer community ID cards. In 2019 the City of West Palm Beach passed a resolution authorizing the city to accept identification cards issued by People Engaged in Active Community Efforts, affiliated with Legal Aid in Palm Beach County.²³ The city appropriated \$40,000 to the program to issue identification cards to those without access to other forms of identification, including undocumented immigrants. Cards are issued under this program for a fee of \$20.

On January 31, 2023, the Board of County Commissioners for Miami-Dade County adopted a plan to fund \$200,000 to Branches, a non-profit tax preparation entity, to issue county identification cards to those without access to other forms of identification, including individuals who are homeless or who are undocumented immigrants.²⁴

Broward County approved a program for Legal Aid Service of Broward County to issue the Broward Community ID Card for a fee of \$20.²⁵ The card is provided to individuals who can present a particular form of current or expired identification and prove they are a Broward County resident with an address effective within the past three months. The program cautions that the card neither authorizes driving or entitlement to social welfare benefits nor affects the cardholder's immigration status.

The City of Aventura and other municipalities offer resident ID cards that are conditioned on presentation of a government-issued ID like a valid driver's license or passport and proof of residency. Cardholders can access discounted rates at fishing piers, city-owned recreational facilities, reduced pricing on programs and activities, and free entrance to certain events. Cards may require a small fee or may be provided for free and require renewal annually or may be valid for up to three years, depending on the locality.²⁶

Recently, certain private organizations, like the FaithAction International House, in conjunction with local communities, have been issuing community IDs, with the goal of providing ID cards to individuals who may not currently have access to government issued forms of ID, including new immigrants and refugees, homeless and elderly individuals, and those recently returning from jail. According the FaithAction International House webpage, "The FaithAction ID provides card holders with a verifiable form of identification that can be used as a tool by law enforcement, health centers, schools, nonprofits, businesses, and cultural arts organizations to better identify, serve, and protect them."²⁷ FaithAction International House provides that ID card is not a state issued form of identification, which is noted on the back of the card; therefore it cannot be used to vote, does not entitle the cardholder to any social welfare benefits; does not have any impact on an individual's immigration status. Individuals may pay a

²² Ss. 125.0156 and 166.246, F.S.

²³ Chris Gilmore, *New IDs for undocumented immigrants in Palm Beach County*, WPTV West Palm Beach (Jun. 19, 2019), <https://www.wptv.com/news/local-news/immigrants-in-south-florida/new-ids-for-undocumented-immigrants-in-palm-beach-county> (last visited Jan. 26, 2024).

²⁴ Lora Korpar, *Florida County to Issue IDs to Undocumented Immigrants Through Third Party*, Newsweek (Feb. 2, 2022), <https://www.newsweek.com/florida-county-issue-ids-undocumented-immigrants-through-third-party-1675585> (last visited Jan. 26, 2024).

²⁵ Legal Aid Service of Broward County, *Broward Community ID*, <https://www.browardlegalaid.org/communityid/> (last visited Jan 26, 2024).

²⁶ See City of Aventura, *Aventura ID Card*, <https://www.cityofaventura.com/221/Aventura-ID-Card>; City of Delray Beach, *Residency (Activities) Identification Cards*, <https://www.delraybeachfl.gov/government/city-departments/city-clerk/residency-identification-cards>; City of Sunny Isles Beach, *Resident ID Card*, <https://www.sibfl.net/ccs/residentid/>; The Villages, *Resident ID Card Information*, <https://districtgov.org/departments/Community-Service/idCards.aspx> (last visited Jan. 26, 2024).

²⁷ FaithAction International House, *FaithAction ID Program and Network*, <https://faithaction.org/faithaction-id-program-and-network/> (last visited Jan. 26, 2024).

small fee for the card, or the card may be issued for free, and must attend an ID drive event that provide an orientation on the benefits and limitations of the card.²⁸

Effect of Proposed Changes

The bill prohibits a county or a municipality from accepting as identification any identification card or document that is issued by any person, entity, or organization that knowingly issues identification cards or documents to individuals who are not lawfully present in the United States. This prohibition does not extend to any documentation that is issued by or on behalf of the Federal Government.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.0156, F.S., relating to county restrictions on identification documents.

Section 2: Amends s. 166.246, F.S., relating to municipal restrictions on identification documents.

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:

The bill may result in reduced demand for government services by persons who are not lawfully present in the United States. Additionally, the bill might reduce the potential for fraud based on the use of unofficial identification documents.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

²⁸ *Id.*

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.

1 A bill to be entitled
 2 An act relating to identification documents; amending
 3 ss. 125.0156 and 166.246, F.S.; prohibiting counties
 4 and municipalities, respectively, from accepting
 5 certain identification cards or documents that are
 6 knowingly issued to individuals who are not lawfully
 7 present in the United States as a form of
 8 identification; providing an exception; providing an
 9 effective date.

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

12
 13 Section 1. Section 125.0156, Florida Statutes, is amended
 14 to read:

15 125.0156 Restrictions on ~~Restriction on providing funds~~
 16 ~~for~~ identification documents.—A county may not:

17 (1) Provide funds to any person, entity, or organization
 18 for the purpose of issuing an identification card or document to
 19 an individual who does not provide proof of lawful presence in
 20 the United States.

21 (2) Accept as identification any identification card or
 22 document issued by any person, entity, or organization that
 23 knowingly issues such identification cards or documents to
 24 individuals who are not lawfully present in the United States.
 25 This prohibition does not apply to any documentation issued by,

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26 | or on behalf of, the Federal Government.

27 | Section 2. Section 166.246, Florida Statutes, is amended
28 | to read:

29 | 166.246 Restrictions on ~~Restriction on providing funds for~~
30 | identification documents.—A municipality may not:

31 | (1) Provide funds to any person, entity, or organization
32 | for the purpose of issuing an identification card or document to
33 | an individual who does not provide proof of lawful presence in
34 | the United States.

35 | (2) Accept as identification any identification card or
36 | document issued by any person, entity, or organization that
37 | knowingly issues such identification cards or documents to
38 | individuals who are not lawfully present in the United States.
39 | This prohibition does not apply to any documentation issued by,
40 | or on behalf of, the Federal Government.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1573 Pace Fire Rescue District, Santa Rosa County
SPONSOR(S): Andrade
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) Ways & Means Committee			
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.

Independent special fire control districts are a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district. Independent fire control districts are governed by both the Uniform Special District Accountability Act and the Independent Special Fire Control District Act. Fire control districts may levy ad valorem taxes as provided in the special act creating the district. Fire control districts may also levy non-ad valorem assessments subject to statutory limitation and referendum approval.

The Pace Fire Rescue District (District) was created by special act in 2018. The District is a successor entity to a municipal services benefit unit established in 1959 and is comprised of two fire stations and employs 22 career personnel, one fulltime fire inspector, and one full-time administrative personnel. The District currently levies an ad valorem tax of 1.53 mills, generating approximately \$4.1 million in revenue.

The bill amends the District’s charter, effective October 1, 2024, to remove the authority to assess and levy ad valorem taxes. The bill also imposes restrictions on the District’s ability to levy non-ad valorem assessments, imposing maximum rates in the following;

- \$250 for residential properties up to 1,600 square feet, with an additional \$0.1544 per square foot in excess of 1,600 square feet.
- \$30.96 for vacant land.
- \$500 for commercial properties up to 950 square feet, with an additional \$0.1544 per square foot in excess of 950 square feet.
- \$30.96 for unimproved acreage up to three acres, with an additional ten dollars and thirty two cents per acre in excess of three acres.

The bill provides that the board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in this bill, by resolution without the need for a referendum.

The Economic Impact Statement anticipates the assessments authorized by the bill will generate approximately \$3,336,626 in revenue the first fiscal year and that revenue will increase by \$344,669 in the second fiscal year.

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

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.⁸ The Independent Special Fire Control District Act (Act)⁹ is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of members to the governing boards for greater public accountability.¹⁰ The Act controls over more

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), 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. 191.003(5), F.S.

⁹ Chapter 191, F.S.

¹⁰ S. 191.002, F.S.

specific provisions in any special act or general law of local application creating an independent fire control district's charter.¹¹ The Act requires every independent special fire control district be governed by a five-member board¹² and provides for general powers, special powers, and issuance of district bonds and evidences of debt.¹³

The Act provides that a fire control district may levy and assess ad valorem taxes on all taxable property in the district to construct, operate, and maintain district facilities and services at rate not to exceed 3.75 mills, unless a higher amount has been previously authorized by law approved the electors of the district.¹⁴

A fire control district may also levy non-ad valorem assessments to construct, operate and maintain district facilities and services provided pursuant to the district's general powers, special powers, any applicable general laws of local application, and a district's enabling legislation.¹⁵ The initial assessment of such a levy must be approved by the electors of the district in a referendum. The rate of the assessment is set district's board using an assessment apportionment methodology that meets fair apportionment standards.¹⁶ The rate set by the board may not exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years, unless a higher rate is approved by the voters in a referendum.¹⁷

Independent special fire control districts are authorized to cooperate and contract with other governmental agencies to provide effective mutual aid, including exercising powers outside the district's boundary in cooperation with another governmental agency that shares such powers in common with the district.¹⁸

As a type of independent special district,¹⁹ independent special fire control districts are subject to applicable provisions of ch. 189, F.S., the "Uniform Special District Accountability Act."²⁰

Pace Fire Rescue District

The Pace Fire Rescue District (District) was created by special act in 2018.²¹ The District is a successor entity to a municipal services benefit unit established in 1959 and is comprised of two fire stations and employs 22 career personnel, one fulltime fire inspector, and one full-time administrative personnel.²² The District serves the Pace, Pea Ridge, Floridatown and Wallace communities, as well as the southern tip of the Chumuckla area, a total area of 64 square miles with approximately 35,000 residences.²³

¹¹ S. 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section. *Id.*

¹² S. 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.

¹³ Ss. 191.006, 191.008, and 191.012, F.S.

¹⁴ S. 191.009(1), F.S.

¹⁵ S. 191.009(2)(a), F.S.

¹⁶ See s. 191.011(1), F.S.

¹⁷ S. 191.009(2)(a), F.S.

¹⁸ S. 191.006(13), F.S.

¹⁹ S. 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.

²⁰ S. 189.031, F.S.

²¹ Ch. 2017-221, Laws of Fla.

²² Pace Fire Rescue District, *Pace Fire Rescue District 7 Year Strategic Plan Fiscal Years 2020 through 2026*, available at <https://pacefirerescuedistrict.com/required-reporting> (last visited Jan. 26, 2024).

²³ Kevin Robinson, *Pace fire district seeks independence*, Pensacola News Journal (October 30, 2016),

<http://www.pnj.com/story/news/local/pace/2016/10/30/pace-fire-district-seeks-independence/92793094/> (last visited Jan. 19, 2024).

The District's ad valorem tax rate is limited to 2.5 mills by its charter.²⁴ In fiscal year 2023-24, the District levied an ad valorem tax of 1.53 mills and generated approximately \$4.1 million in revenue.²⁵ The District is not currently authorized to levy non-ad valorem assessments.

Effect of Proposed Changes

The bill amends the District's charter, effective October 1, 2024, to remove the ability to assess and levy ad valorem taxes. The bill also imposes restrictions on the District Board's ability to levy non-ad valorem assessments, imposing maximum as follows:

- \$250 for residential properties up to 1,600 square feet, with an additional \$0.1544 per square foot in excess of 1,600 square feet.
- \$30.96 for vacant land.
- \$500 for commercial properties up to 950 square feet, with an additional \$0.1544 per square foot in excess of 950 square feet.
- \$30.96 for unimproved acreage up to three acres, with an additional \$10.32 cents per acre in excess of three acres.

The bill provides the board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in this bill, by resolution without the need for a referendum.

The Economic Impact Statement anticipates the assessments authorized by the bill will generate approximately \$3,336,626 in revenue the first fiscal year and increasing by \$344,669 in the second fiscal year.

B. SECTION DIRECTORY:

- Section 1: Amends ch. 2017-221, Laws of Fla., repealing the District's authority to levy ad valorem taxes and establishes a maximum rate for non-ad valorem assessments.
- Section 2: Provides that, notwithstanding s. 191.009 or any other provision of law, the District may adopt an initial levy of a non-ad valorem assessment without a referendum.
- Section 3: Provides an effective date of upon becoming law except as otherwise expressly provided.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 16, 2023.

WHERE? *Navarre Press*, a weekly newspaper published in Santa Rosa County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

²⁴ Ch. 2017-221, s. 13, Laws of Fla.

²⁵ Pace Fire Rescue District, *FY 2023-2024 Budget*, available at <https://pacefirerescuedistrict.com/required-reporting> (last visited Jan. 26, 2024).

D. ECONOMIC IMPACT STATEMENT FILED? Yes 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.

1 A bill to be entitled
 2 An act relating to the Pace Fire Rescue District,
 3 Santa Rosa County; amending chapter 2017-221, Laws of
 4 Florida; repealing the district's authority to levy
 5 and collect ad valorem taxes; establishing maximum
 6 rates for non-ad valorem assessments; providing an
 7 exception to general law relating to the initial levy
 8 of non-ad valorem assessments; providing effective
 9 dates.

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

12
 13 Section 1. Effective October 1, 2024, subsection (1) of
 14 section 7 and section 8 of chapter 2017-221, Laws of Florida,
 15 are amended to read:

16 Section 7. Powers; use of district funds.—

17 (1) The district shall have, and the board may exercise,
 18 all the powers and duties set forth in chapters 189 and 191,
 19 Florida Statutes, as they may be amended from time to time, and
 20 shall include fire control, fire prevention, and emergency
 21 medical, rescue response and public safety services, except the
 22 authority to levy and collect ad valorem taxes.

23 Section 8. Finances.—

24 (1) The powers, functions, and duties of the district
 25 regarding ~~ad valorem taxation~~, bond issuance, other revenue-

26 raising capabilities, budget preparation and approval, liens and
 27 foreclosure of liens, use of tax deeds and tax certificates as
 28 appropriate for non-ad valorem assessments, and contractual
 29 agreements, and the methods for financing the district and for
 30 collecting non-ad valorem assessments, fees, or service charges,
 31 shall be as set forth in this charter, in chapters 170, 189,
 32 191, and 197, Florida Statutes, and in any applicable general or
 33 special law except as limited herein.

34 ~~(2) The district shall have the authority to levy and~~
 35 ~~collect ad valorem taxes in accordance with s. 191.009, Florida~~
 36 ~~Statutes, and chapter 200, Florida Statutes. The taxes levied~~
 37 ~~and assessed by the district shall be a lien upon the land so~~
 38 ~~assessed along with the county taxes assessed against such land~~
 39 ~~until such assessments and taxes have been paid, and if the~~
 40 ~~taxes levied by the district become delinquent, such taxes shall~~
 41 ~~be considered a part of the county tax subject to the same~~
 42 ~~penalties, charges, fees, and remedies for enforcement and~~
 43 ~~collection and shall be enforced and collected as provided by~~
 44 ~~general law for the collection of such taxes. The maximum ad~~
 45 ~~valorem millage rate that can be levied in any one year shall be~~
 46 ~~3.75 mills, unless a lower maximum rate is authorized by~~
 47 ~~referendum.~~

48 (2)~~(3)~~ The district shall have the authority to levy non-
 49 ad valorem assessments. The methods for assessing and collecting
 50 non-ad valorem assessments, fees, or service charges shall be as

51 set forth in this charter, chapter 170, Florida Statutes,
52 chapter 189, Florida Statutes, chapter 191, Florida Statutes,
53 and chapter 197, Florida Statutes.

54 (3) The non-ad valorem assessments may be levied up to the
55 following maximum amounts:

56 (a) Two hundred fifty dollars for residential properties
57 up to 1,600 square feet, with an additional \$0.1544 per square
58 foot in excess of 1,600 square feet.

59 (b) Thirty dollars and 96 cents for vacant land.

60 (c) Five hundred dollars for commercial properties up to
61 950 square feet, with an additional \$0.1544 per square foot in
62 excess of 950 square feet.

63 (d) Thirty dollars and 96 cents for unimproved acreage up
64 to 3 acres, with an additional \$10.32 per acre in excess of 3
65 acres Pursuant to s. 191.009, Florida Statutes, the first-time
66 levy of non-ad valorem assessments must be approved by a
67 referendum of the electors of the district.

68 (4) The district shall have the authority to charge and
69 collect impact fees for capital improvements on new construction
70 within the district as prescribed in chapter 191, Florida
71 Statutes, or any other applicable general law. The district
72 shall comply with the requirements in ss. 163.31801 and
73 191.009(4), Florida Statutes, in its collection and use of
74 impact fees. New facilities and equipment shall be as provided
75 for in s. 191.009(4), Florida Statutes. The district is

76 | authorized to enter into agreements regarding the collection of
 77 | impact fees.

78 | (5) The district shall have the authority to issue general
 79 | obligation bonds, assessment bonds, revenue bonds, notes, bond
 80 | anticipation notes, and other evidences of indebtedness to
 81 | finance all or a part of any proposed improvements in accordance
 82 | with s. 191.012, Florida Statutes, chapter 189, Florida
 83 | Statutes, and any other applicable general or special law.

84 | (6) The board shall annually prepare, consider, and adopt
 85 | a district budget pursuant to the applicable requirements of
 86 | chapters 189 and 191, Florida Statutes. The fiscal year shall be
 87 | from October 1 through September 30. The budget shall state the
 88 | purpose for which the money is required and the amount necessary
 89 | to be raised by taxation within the district. Such budget and
 90 | proposed non-ad valorem assessment ~~millage~~ rate shall be
 91 | noticed, heard, and adopted in accordance with chapters 189,
 92 | 192, and 200, Florida Statutes.

93 | (7) All warrants for the payment of labor, equipment,
 94 | materials, and other allowable expenses incurred by the district
 95 | board in carrying out the provisions of this charter shall be
 96 | payable on accounts and vouchers approved by the district board.

97 | Section 2. Notwithstanding s. 191.009, Florida Statutes,
 98 | or any other provision of law, the Board of Commissioners of the
 99 | Pace Fire Rescue District may adopt an initial levy of a non-ad
 100 | valorem assessment, subject to the rate limitations set forth in

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101 section 1 of this act, by resolution pursuant to s. 191.011,
102 Florida Statutes, without the need for a referendum. Future non-
103 ad valorem assessment rates are subject to s. 191.009, Florida
104 Statutes, and other applicable law.

105 Section 3. Except as otherwise expressly provided in this
106 act, this act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1575 Avalon Beach-Mulat Fire Protection District, Santa Rosa County
SPONSOR(S): Andrade
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) Ways & Means Committee			
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.

Independent special fire control districts are a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district. Independent fire control districts are governed by both the Uniform Special District Accountability Act and the Independent Special Fire Control District Act. Fire control districts may levy ad valorem taxes as provided in the special act creating the district. Fire control districts may also levy non-ad valorem assessments subject to statutory limitation and referendum approval.

The Avalon Beach-Mulat Fire Protection District (District) is a independent special fire control district in Santa Rosa County created in 1980. The charter of the district was re-codified in 2005. The District provides emergency and non-emergency service for the preservation of life, property, and the environment, through professional development and dedication. The District is governed by an elected five-member board that serves four-year terms. The District’s charter provides the board has may levy ad valorem tax within the district of up to 1 mill, unless increased by referendum. The district levied an ad valorem tax of 2 mills during the 2022-2023 fiscal year, generating \$982,108 in revenue.

The bill amends the District’s charter, effective October 1, 2024, to remove the authority to assess and levy ad valorem taxes. The bill also imposes restrictions on the District’s ability to levy non-ad valorem assessments, imposing maximum rates in the following;

- \$250 for residential properties up to 1,600 square feet, with an additional \$0.1544 per square foot in excess of 1,600 square feet.
- \$30.96 for vacant land.
- \$500 for commercial properties up to 950 square feet, with an additional \$0.1544 per square foot in excess of 950 square feet.
- \$30.96 for unimproved acreage up to three3 acres, with an additional \$10.32 cents per acre in excess of three acres.

The bill provides that, the board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in this bill, by resolution without the need for a referendum.

The Economic Impact Statement indicates the assessments authorized by the bill will generate approximately \$700,351 in revenue for the first fiscal year and that revenue will increase by \$84,123 the second fiscal year.

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

STORAGE NAME: h1575.LFS

DATE: 1/29/2024

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

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.⁸ The Independent Special Fire Control District Act (Act)⁹ is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of members to the governing boards for greater public accountability.¹⁰ The Act controls over more

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 S. 191.003(5), F.S.

⁹ Chapter 191, F.S.

¹⁰ S. 191.002, F.S.

specific provisions in any special act or general law of local application creating an independent fire control district's charter.¹¹ The Act requires every independent special fire control district be governed by a five-member board¹² and provides for general powers,

- special powers, and
- issuance of district bonds and evidences of debt.¹³

A fire control district may also levy non-ad valorem assessments to construct, operate and maintain district facilities and services provided pursuant to the district's general powers, special powers, any applicable general laws of local application, and a district's enabling legislation.¹⁴ The initial assessment of such a levy must be approved by the electors of the district in a referendum. The rate of the assessment is set district's board using an assessment apportionment methodology that meets fair apportionment standards.¹⁵ The rate set by the board may not exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years, unless a higher rate is approved by the voters in a referendum.¹⁶

Independent special fire control districts are authorized to cooperate and contract with other governmental agencies to provide effective mutual aid, including exercising powers outside the district's boundary in cooperation with another governmental agency that shares such powers in common with the district.¹⁷

As a type of independent special district,¹⁸ independent special fire control districts are subject to applicable provisions of ch. 189, F.S., the "Uniform Special District Accountability Act."¹⁹

Avalon Beach-Mulat Fire Protection District

The Avalon Beach-Mulat Fire Protection District (District) is a independent special fire control district in Santa Rosa County created in 1980.²⁰ The District is the descendent of a volunteer fire department founded in 1964.²¹ The charter of the district was re-codified in 2005.²² The District provides emergency and non-emergency service for the preservation of life, property, and the environment, through professional development and dedication.²³ The District is governed by an elected five-member board that serves four-year terms.²⁴

The District's charter provides the board has may levy ad valorem tax within the district of up to 1 mill, unless increased by referendum.²⁵The district levied an ad valorem tax of 2 mills during the 2022-2023 fiscal year, generating \$982,108 in revenue.²⁶

¹¹ S. 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section. *Id.*

¹² S. 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.

¹³ Ss. 191.006, 191.008, and 191.012, F.S.

¹⁴ S. 191.009(2)(a), F.S.

¹⁵ See s. 191.011(1), F.S.

¹⁶ S. 191.009(2)(a), F.S.

¹⁷ S. 191.006(13), F.S.

¹⁸ S. 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.

¹⁹ S. 189.031, F.S.

²⁰ Ch. 80-608, Laws of Fla.

²¹ Avalon Fire Rescue, *Our Story*, <http://www.avalonfirerescue.com/History.html> (last visited Jan. 27, 2024).

²² Ch. 2005-347, Laws of Fla.

²³ Avalon Fire Rescue, *Avalon Fire Rescue District*, <http://www.avalonfirerescue.com/District.html> (last visited Jan. 26, 2024)

²⁴ Ch. 2005-347, s. 3(2)(1), Laws of Fla. See also s. 191.005(1)(a), F.S.

²⁵ Ch. 2005-347, s. 3(3)(2), Laws of Fla.

²⁶ Avalon Fire Rescue, *Budget Summary Avalon Fire Rescue District, Fiscal Year 2022-2023*, <http://www.avalonfirerescue.com/District.html> (last visited Jan. 26, 2024).

Effect of Proposed Changes

The bill amends the District's charter, effective October 1, 2024, to remove the ability to assess and levy ad valorem taxes. The bill also imposes restrictions on the District Board's ability to levy non-ad valorem assessments, imposing maximum rates in the following;

- \$250 for residential properties up to 1,600 square feet, with an additional \$0.1544 per square foot in excess of 1,600 square feet.
- \$30.96 for vacant land.
- \$500 for commercial properties up to 950 square feet, with an additional \$0.1544 per square foot in excess of 950 square feet.
- \$30.96 for unimproved acreage up to three acres, with an additional \$10.32 cents per acre in excess of three acres.

The bill provides the board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in this bill, by resolution without the need for a referendum.

The Economic Impact Statement indicates the assessments authorized by the bill will generate approximately \$700,351 in revenue for the first fiscal year and that revenue will increase by \$84,123 the second fiscal year.

B. SECTION DIRECTORY:

Section 1: Amends ch. 2005-347, Laws of Fla., repealing the District's authority to levy ad valorem taxes and establishes a maximum rate for non-ad valorem assessments.

Section 2: Provides that, notwithstanding s. 191.009 or any other provision of law, the District may adopt an initial levy of a non-ad valorem assessment without a referendum.

Section 3: Provides an effective date of upon becoming law except as otherwise expressly provided.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 16, 2023.

WHERE? *Navarre Press*, a weekly newspaper published in Santa Rosa county.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes 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.

1 A bill to be entitled
 2 An act relating to the Avalon Beach-Mulat Fire
 3 Protection District, Santa Rosa County; amending
 4 chapter 2005-347, Laws of Florida; repealing the
 5 district's authority to levy ad valorem taxes;
 6 establishing maximum rates for non-ad valorem
 7 assessments; providing an exception to general law
 8 relating to the initial levy of non-ad valorem
 9 assessments; providing effective dates.

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

12
 13 Section 1. Effective October 1, 2024, subsection (1) of
 14 section 2 and section 3 of section 3 of chapter 2005-347, Laws
 15 of Florida, are amended to read:

16 Section 2. (1) District created.—There is hereby created
 17 a special taxing fire protection and rescue service district
 18 incorporating lands in Santa Rosa County described in subsection
 19 (2) which shall be a public corporation having the powers,
 20 duties, obligations, and immunities herein set forth, under the
 21 name of the Avalon Beach-Mulat Fire Protection District and also
 22 known as the Avalon Fire/Rescue District with all the powers and
 23 duties specified in chapter 191, Florida Statutes, including the
 24 authority to levy and collect non-ad valorem ~~and ad valorem~~
 25 assessments but not including the authority to assess and levy

26 ad valorem taxes.

27 Section 3. Procedures for the levy and collection of non-
 28 ad valorem assessments ~~Ad valorem taxation.~~-

29 (1) The district is authorized to levy and enforce non-ad
 30 valorem assessments in accordance with chapters 170, 189, 191,
 31 and 197, Florida Statutes, as amended from time to time ~~board~~
 32 ~~shall have the right, power, and authority to levy ad valorem~~
 33 ~~tax millage within the district to provide funds for the~~
 34 ~~purposes of the district.~~

35 (2) The non-ad valorem assessments may be levied up to the
 36 following maximum amounts:

37 (a) Two hundred fifty dollars for residential properties
 38 up to 1,600 square feet, with an additional \$0.1544 per square
 39 foot in excess of 1,600 square feet.

40 (b) Thirty dollars and 96 cents for vacant land.

41 (c) Five hundred dollars for commercial properties up to
 42 950 square feet, with an additional \$0.1544 per square foot in
 43 excess of 950 square feet.

44 (d) Thirty dollars and 96 cents for unimproved acreage up
 45 to 3 acres, with an additional \$10.32 per acre in excess of 3
 46 acres ~~rate of taxation shall be fixed by a resolution of the~~
 47 ~~board; however, the maximum millage proposed in the initial~~
 48 ~~referendum shall not exceed 1 mill, unless increased by~~
 49 ~~referendum pursuant to section 191.009, Florida Statutes.~~

50 Section 2. Notwithstanding s. 191.009, Florida Statutes,

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51 or any other provision of law, the Board of Commissioners of the
52 Avalon Beach-Mulat Fire Protection District may adopt an initial
53 levy of a non-ad valorem assessment, subject to the rate
54 limitations set forth in section 1 of this act, by resolution
55 pursuant to s. 191.011, Florida Statutes, without the need for a
56 referendum. Future non-ad valorem assessment rates are subject
57 to s. 191.009, Florida Statutes, and other applicable law.

58 Section 3. Except as otherwise expressly provided in this
59 act, this act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1577 Midway Fire District, Santa Rosa County
SPONSOR(S): Andrade
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) Ways & Means Committee			
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. An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.

The Midway Fire District (District) is an independent special fire control district created by special act in 1980. The charter of the district was re-codified in 2003. The District is governed by a five-member board elected by residents of the District to serve four-year terms.

The District has the power to levy an ad valorem tax of up to 3.75 mills. During fiscal year 2022-23, the District levied an ad valorem tax of 2.4818 mills which generated approximately \$6.6 million in revenue.

The bill amends the District’s charter, effective October 1, 2024, to remove the authority to assess and levy ad valorem taxes. The bill also imposes restrictions on the District’s ability to levy non-ad valorem assessments, imposing maximum rates in the following;

- \$250 for residential properties up to 1,600 square feet, with an additional \$0.1544 per square foot in excess of 1,600 square feet.
- \$30.96 for vacant land.
- \$500 for commercial properties up to 950 square feet, with an additional \$0.1544 per square foot in excess of 950 square feet.
- \$30.96 for unimproved acreage up to three acres, with an additional ten dollars and thirty two cents per acre in excess of three acres.

The bill provides that the board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in this bill, by resolution without the need for a referendum.

The Economic Impact Statement indicates the bill will decrease revenue by approximately \$661,983 for the first fiscal year after the bill is in effect.

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

Independent Special Fire Control Districts

An independent special fire control district is a type of independent special district created by the Legislature for the purpose of providing fire suppression and related activities within the territorial jurisdiction of the district.⁸ The Independent Special Fire Control District Act (Act)⁹ is intended to provide standards, direction, and procedures for greater uniformity in the operation and governance of these districts, including financing authority, fiscally-responsible service delivery, and election of members to the governing boards for greater public accountability.¹⁰ The Act controls over more

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 S. 191.003(5), F.S.

⁹ Chapter 191, F.S.

¹⁰ S. 191.002, F.S.

specific provisions in any special act or general law of local application creating an independent fire control district's charter.¹¹ The Act requires every independent special fire control district be governed by a five-member board¹² and provides for general powers, special powers, and issuance of district bonds and evidences of debt.¹³

The Act provides that a fire control district may levy and assess ad valorem taxes on all taxable property in the district to construct, operate, and maintain district facilities and services at rate not to exceed 3.75 mills, unless a higher amount has been previously authorized by law approved the electors of the district.¹⁴

A fire control district may also levy non-ad valorem assessments to construct, operate and maintain district facilities and services provided pursuant to the district's general powers, special powers, any applicable general laws of local application, and a district's enabling legislation.¹⁵ The initial assessment of such a levy must be approved by the electors of the district in a referendum. The rate of the assessment is set district's board using an assessment apportionment methodology that meets fair apportionment standards.¹⁶ The rate set by the board may not exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years, unless a higher rate is approved by the voters in a referendum.¹⁷

Independent special fire control districts are authorized to cooperate and contract with other governmental agencies to provide effective mutual aid, including exercising powers outside the district's boundary in cooperation with another governmental agency that shares such powers in common with the district.¹⁸

As a type of independent special district,¹⁹ independent special fire control districts are subject to applicable provisions of ch. 189, F.S., the "Uniform Special District Accountability Act."²⁰

Midway Fire District

The Midway Fire District (District) is an independent special fire control district created by special act in 1980.²¹ The charter of the district was re-codified in 2003.²² The District is governed by a five-member board elected by residents of the District to serve four-year terms.²³

The District has the power to levy an ad valorem tax of up to 3.75 mills.²⁴ The district's charter also provides the authority to assess non-ad valorem assessments in accordance with general law.²⁵ During fiscal year 2022-23, the District levied an ad valorem tax of 2.4818 mills which generated approximately \$6.6 million in revenue.²⁶

¹¹ S. 191.004, F.S. Provisions in other laws pertaining to district boundaries or geographical sub-districts for electing members to the governing board are excepted from this section. *Id.*

¹² S. 191.005(1)(a), F.S. A fire control district may continue to be governed by a three-member board if authorized by special act adopted in or after 1997.

¹³ Ss. 191.006, 191.008, and 191.012, F.S.

¹⁴ S. 191.009(1), F.S.

¹⁵ S. 191.009(2)(a), F.S.

¹⁶ See s. 191.011(1), F.S.

¹⁷ S. 191.009(2)(a), F.S.

¹⁸ S. 191.006(13), F.S.

¹⁹ S. 191.014(1), F.S., providing that new districts are created by the Legislature pursuant to s. 189.031, F.S.

²⁰ S. 189.031, F.S.

²¹ Ch. 80-607, Laws of Fla.

²² Ch. 2003-364, Laws of Fla.

²³ Ch. 2003-364, s. 3(3)(1), Laws of Fla.

²⁴ Ch. 2003-364, s.3(5)(1), Laws of Fla. See also s. 191.009(1), F.S.

²⁵ Ch. 2003-364, s. 3(5)(3), Laws of Fla.

²⁶ Midway Fire District, *FY2023 Final Budget*, available at <https://www.midwayfire.com/financial-information> (last visited Jan. 27, 2024).

Effect of Proposed Changes

The bill amends the District's charter, effective October 1, 2024, to remove the ability to assess and levy ad valorem taxes. The bill also imposes restrictions on the District board's ability to levy non-ad valorem assessments, imposing maximum as follows:

- \$250 for residential properties up to 1,600 square feet, with an additional \$0.1544 per square foot in excess of 1,600 square feet.
- \$30.96 for vacant land.
- \$500 for commercial properties up to 950 square feet, with an additional \$0.1544 per square foot in excess of 950 square feet.
- \$30.96 for unimproved acreage up to three acres, with an additional \$10.32 cents per acre in excess of three acres.

The bill provides the board may adopt an initial levy of a non-ad valorem assessment, subject to the rate limits set forth in this bill, by resolution without the need for a referendum.

The Economic Impact Statement indicates the bill will decrease revenue by approximately \$661,983 for the first fiscal year after the bill is in effect.

B. SECTION DIRECTORY:

- Section 1: Amends ch. 2003-364, Laws of Fla., repealing the District's authority to levy ad valorem taxes and establishes a maximum rate for non-ad valorem assessments.
- Section 2: Provides that, notwithstanding s. 191.009 or any other provision of law, the District may adopt an initial levy of a non-ad valorem assessment without a referendum.
- Section 3: Provides an effective date of upon becoming law except as otherwise expressly provided =.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 16, 2023.

WHERE? *Navarre Press*, a weekly newspaper published in Santa Rosa county.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes 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.

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2024

1 A bill to be entitled
2 An act relating to the Midway Fire District, Santa
3 Rosa County; amending chapter 2003-364, Laws of
4 Florida; repealing the district's authority to levy ad
5 valorem taxes; establishing maximum rates for non-ad
6 valorem assessments; providing an exception to general
7 law relating to the initial levy of non-ad valorem
8 assessments; providing effective dates.

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

11
12 Section 1. Effective October 1, 2024, section 1 and
13 sections 5 and 7 through 16 of section 3 of chapter 2003-364,
14 Laws of Florida, are amended to read:

15 Section 1. Pursuant to section 191.015, Florida Statutes,
16 this act constitutes the codification of all special acts
17 relating to Midway Fire District, formerly the Midway Fire
18 Protection District, located in Santa Rosa County. It is the
19 intent of the Legislature to provide a single, comprehensive
20 special act charter for the district, including all current
21 legislative authority granted to the district by its several
22 legislative enactments and any additional authority granted by
23 this act and chapters 189 and 191, Florida Statutes, as amended
24 from time to time. ~~It is further the intent of this act to~~
25 ~~preserve all district authority, including the authority to~~

26 ~~annually assess and levy against the taxable property in the~~
 27 ~~district an ad valorem tax not to exceed the limit provided in~~
 28 ~~the district's prior special acts, chapters 80-607, 82-377, and~~
 29 ~~90-425, Laws of Florida, and chapter 191, Florida Statutes, as~~
 30 ~~amended from time to time.~~

31 Section 3. Midway Fire District is re-created and the
 32 charter for the district is re-created and reenacted to read:

33 Section 5. Powers; duties; responsibilities.-

34 (1) The district shall have and the board may exercise all
 35 the powers and duties set forth in this act, and chapters 189,
 36 191, and 197, Florida Statutes, as they may be amended from time
 37 to time, including, but not limited to, ~~ad valorem taxation,~~
 38 bond issuance, other revenue-raising capabilities, budget
 39 preparation and approval, liens and foreclosure of liens, use of
 40 tax deeds and tax certificates as appropriate for non-ad valorem
 41 assessments, and contractual agreements. The district may be
 42 financed by any method established in this act or chapter 189 or
 43 chapter 191, Florida Statutes, as amended from time to time,
 44 except ad valorem taxation.

45 ~~(2) The board shall continue to have the right, power, and~~
 46 ~~authority to levy annually an ad valorem tax against the taxable~~
 47 ~~real estate within the district to provide funds for the~~
 48 ~~purposes of the district as authorized by chapters 80-607, 82-~~
 49 ~~377, and 90-425, Laws of Florida, in an amount not to exceed the~~
 50 ~~limit provided in chapter 191, Florida Statutes, as amended from~~

51 ~~time to time. Although the district is authorized to levy a~~
52 ~~maximum millage rate as provided for in section 191.009(1),~~
53 ~~Florida Statutes, the district must receive referendum approval,~~
54 ~~as required by the State Constitution and section 191.009,~~
55 ~~Florida Statutes, for any increased millage rate above such rate~~
56 ~~that has been previously authorized by a special act and~~
57 ~~approved by referendum.~~

58 (2)-(3) The methods for assessing and collecting non-ad
59 valorem assessments, fees, or service charges shall be as set
60 forth in this act, chapter 170, chapter 189, chapter 191, or
61 chapter 197, Florida Statutes, as amended from time to time.

62 ~~(4)~~ ~~The district shall levy and collect ad valorem taxes~~
63 ~~in accordance with chapter 200, Florida Statutes, as amended~~
64 ~~from time to time.~~

65 (3)-(5) The district is authorized to levy and enforce non-
66 ad valorem assessments in accordance with chapters 170, 189,
67 191, and 197, Florida Statutes, as amended from time to time.
68 The non-ad valorem assessments may be levied up to the following
69 maximum amounts:

70 (a) Three hundred dollars for residential properties up to
71 1,600 square feet, with an additional \$0.1544 per square foot in
72 excess of 1,600 square feet.

73 (b) Thirty dollars and 96 cents for vacant land.

74 (c) Five hundred dollars for commercial properties up to
75 950 square feet, with an additional \$0.1544 per square foot in

76 | excess of 950 square feet.

77 | (d) Thirty dollars and 96 cents for unimproved acreage up
 78 | to 3 acres, with an additional \$10.32 per acre in excess of 3
 79 | acres.

80 | (4)-(6) The district's planning requirements shall be as
 81 | set forth in this act and chapters 189 and 191, Florida
 82 | Statutes, as amended from time to time.

83 | (5)-(7) Requirements for financial disclosure, meeting
 84 | notices, reporting, public records maintenance, and per diem
 85 | expenses for officers and employees shall be as set forth in
 86 | this act and chapters 112, 119, 189, 191, and 286, Florida
 87 | Statutes, as amended from time to time.

88 | ~~Section 7. Ad valorem taxes a lien. The taxes levied and~~
 89 | ~~assessed by the district shall be a lien upon the land so~~
 90 | ~~assessed along with the county taxes assessed against such land~~
 91 | ~~until said assessments and taxes have been paid, and if the~~
 92 | ~~taxes levied by the district become delinquent, such taxes shall~~
 93 | ~~be considered a part of the county tax subject to the same~~
 94 | ~~penalties, charges, fees, and remedies for enforcement and~~
 95 | ~~collection and shall be enforced and collected as provided by~~
 96 | ~~general law for the collection of such taxes.~~

97 | Section 7 ~~8~~. Deposit of taxes, assessments, fees;
 98 | authority to disburse funds.—

99 | (1) The funds of the district shall be deposited in
 100 | qualified public depositories, in accordance with chapters 191

101 and 280, Florida Statutes, as they may be amended from time to
 102 time.

103 (2) All warrants for the payment of labor, equipment, and
 104 other expenses of the board, and in carrying into effect this
 105 act and the purposes thereof, shall be payable by the treasurer
 106 of the board on accounts and vouchers approved and authorized by
 107 the board.

108 Section § 9. Authority to borrow money.—

109 (1) The board of commissioners shall have the power and
 110 authority to borrow money or issue other evidences of
 111 indebtedness for the purpose of the district in accordance with
 112 chapters 189 and 191, Florida Statutes, as amended from time to
 113 time; provided, however, that the total payments in any one
 114 year, including principal and interest, on any indebtedness
 115 incurred by the district shall not exceed 50 percent of the
 116 total annual budgeted revenues of the district for the year in
 117 which said payments are to be made.

118 (2) The board of commissioners shall not be personally or
 119 individually liable for the repayment of such loan. Such
 120 repayment shall be made out of the tax receipts of the district
 121 except as provided in this subsection. The commissioners shall
 122 not create any indebtedness or incur obligations for any sum or
 123 amount which they are unable to repay out of district funds then
 124 in their hands except as otherwise provided in this act;
 125 provided, however, that the commissioners may make purchases of

126 equipment on an installment basis as necessary if funds are
127 available for the payment of the current year's installment on
128 such equipment plus the amount due in that year of any other
129 installments and the repayment of any bank loan or other
130 existing indebtedness which may be due in that year.

131 Section 9 ~~10~~. Use of district funds.—No funds of the
132 district shall be used for any purposes other than the
133 administration of the affairs and business of the district; the
134 construction, care, maintenance, upkeep, operation, and purchase
135 of firefighting and rescue equipment or a fire station or
136 stations; the payment of public utilities; and the payment of
137 salaries of district personnel as the board may from time to
138 time determine to be necessary for the operations and
139 effectiveness of the district.

140 Section 10 ~~11~~. Record of board meetings; authority to
141 adopt policies and regulations; annual reports; budget.—

142 (1) A record shall be kept of all meetings of the board,
143 and in such meetings concurrence of a majority of the
144 commissioners present shall be necessary to any affirmative
145 action by the board.

146 (2) The board shall have the authority to adopt and amend
147 policies and regulations for the administration of the affairs
148 of the district under the terms of this act and chapters 189 and
149 191, Florida Statutes, which shall include, but not be limited
150 to, the authority to adopt the necessary policies and

151 regulations for the administration and supervision of the
152 property and personnel of the district and for the prevention of
153 fires, fire control, and rescue work within the district. Said
154 commissioners shall have all the lawful power and authority
155 necessary to implement the purposes for which the said fire
156 district is created, which power and authority shall include,
157 but not be limited to, the power to purchase all necessary fire
158 equipment, rescue equipment, and all other equipment necessary
159 to carry out the purposes of said fire district; to purchase all
160 necessary real and personal property; to purchase and carry
161 standard insurance policies on all such equipment; to employ
162 such personnel as may be necessary to carry out the purpose of
163 said fire district; to provide adequate insurance for said
164 employees; to purchase and carry appropriate insurance for the
165 protection of all firefighters and personnel as well as all
166 equipment and personal property on loan to the district; to sell
167 surplus real and personal property in the same manner and
168 subject to the same restrictions as provided for such sales by
169 counties; and to enter into contracts with qualified service
170 providers, other fire departments, municipalities, and state and
171 federal governmental units for the purpose of obtaining
172 financial aid, assistance, or benefits, expanding services,
173 providing effective mutual aid, and for otherwise carrying out
174 the purposes of the district. The commissioners shall adopt a
175 fiscal year for said fire district which shall be October 1 to

176 September 30.

177 (3) For the purposes of carrying into effect this act, the
 178 board shall annually prepare, consider, and adopt a district
 179 budget pursuant to the applicable requirements of chapters 189
 180 and 191, Florida Statutes, as they may be amended from time to
 181 time.

182 Section 11 ~~12~~. Authority to enact fire prevention
 183 ordinances; appoint fire marshal; acquire land; enter contracts;
 184 establish salaries; general and special powers; authority to
 185 provide emergency medical and rescue services.-

186 (1) The board of commissioners shall have the right and
 187 power to enact fire prevention ordinances in the same manner
 188 provided for the adoption of policies and regulations in section
 189 11(2), and when the provisions of such fire prevention
 190 ordinances are determined by the board to be violated, the
 191 office of the state attorney, upon written notice of such
 192 violation issued by the board, is authorized to prosecute such
 193 person or persons held to be in violation thereof. Any person
 194 found guilty of a violation may be punished as provided in
 195 chapter 775, Florida Statutes, as a misdemeanor of the second
 196 degree. The cost of such prosecution shall be paid out of the
 197 district funds unless otherwise provided by law.

198 (2) The board shall have the power to appoint a fire
 199 marshal, who shall be a person experienced in all types of
 200 firefighting and fire prevention and who shall work with and

201 cooperate with the Florida State Fire Marshal in which the
 202 district is situated in the prevention of fires of all types.
 203 The district fire marshal shall be authorized to enter, at all
 204 reasonable hours, any building or premises for the purpose of
 205 making any inspection or investigation which the State Fire
 206 Marshal is authorized to make pursuant to state law and
 207 regulation. The owner, lessee, manager, or operator of any
 208 building or premises shall permit the district fire marshal to
 209 enter and inspect the building or premises at all reasonable
 210 hours. The district fire marshal shall report any violations of
 211 state fire safety law or regulations to the appropriate
 212 officials.

213 (3) The board shall have the power to acquire, by gift or
 214 purchase, lands or rights in lands, and any other property, real
 215 and personal, tangible or intangible, necessary, desirable, or
 216 convenient for carrying out the purposes of the district, and to
 217 pay any and all costs of same out of the funds of the district.

218 (4) The board shall have the power to enter into contracts
 219 or to otherwise join with any other district, city, town, the
 220 United States of America, or any agency or authority thereunder,
 221 for the purpose of expanding services, providing effective
 222 mutual aid, and accomplishing and carrying out the purposes for
 223 which the district was created and for the further purpose of
 224 specifically obtaining financial aid, assistance, or subsidy.

225 (5) The district is authorized to establish and maintain

226 emergency medical and rescue response services and to acquire
227 and maintain rescue, medical, and other emergency equipment,
228 subject to the provisions of chapter 401, Florida Statutes.

229 Section 12 ~~13~~. Annexations.—If any municipality or other
230 fire control district annexes any land included in the district,
231 such annexation shall follow the procedures set forth in section
232 171.093, Florida Statutes, as amended from time to time.

233 Section 13 ~~14~~. Dissolution.—The district shall exist until
234 dissolved in the same manner as it was created.

235 Section 14 ~~15~~. Immunity from tort liability.—

236 (1) The district and its officers, agents, and employees
237 shall have the same immunity from tort liability as other
238 agencies and subdivisions of the state. The provisions of
239 chapter 768, Florida Statutes, as from time to time amended,
240 shall apply to all claims asserted against the district.

241 (2) The district commissioners and all officers, agents,
242 and employees of the district shall have the same immunity and
243 exemption from personal liability as is provided by general law
244 of the state for state, county, and municipal officers.

245 (3) The district shall defend all claims against the
246 commissioners, officers, agents, and employees which arise
247 within the scope of employment or purposes of the district and
248 shall pay all judgments against said persons, except where said
249 persons acted in bad faith or with malicious purpose or in a
250 manner exhibiting wanton and willful disregard of human rights,

251 safety, or property.

252 Section 15 ~~16~~. District expansion.—The district boundaries
 253 may be extended from time to time as follows:

254 (1)(a) Land contiguous to the boundaries of the district
 255 in unincorporated Santa Rosa County may be included in the
 256 district when a written petition for inclusion signed and sworn
 257 to by a majority of the owners of the real property within the
 258 tract or tracts to be included in the district has been
 259 presented to the board of commissioners and the proposal has
 260 been approved by the affirmative vote of no fewer than three
 261 members of the board of commissioners at a regular meeting.

262 (b) The petition must contain the legal description of the
 263 property sought to be added to the district and the names and
 264 addresses of the owners of the property.

265 (2) If a proposal to add an area to the district as
 266 defined in subsection (1) is approved by the affirmative vote of
 267 no fewer than three members of the board of commissioners at a
 268 regular meeting, the board of commissioners shall thereafter
 269 adopt a resolution describing the lands to be included within
 270 the district and shall cause such resolution to be duly enrolled
 271 in the record of the meeting and a certified copy of the
 272 resolution to be recorded in the Office of the Clerk of the
 273 Circuit Court in Santa Rosa County.

274 (3) Upon adoption of the resolution by the board, the
 275 district shall, pursuant to chapter 191, Florida Statutes,

276 request that its legislative delegation approve said addition
277 and sponsor legislation amending the district boundary. Upon
278 approval by the Legislature, the boundary shall be amended.

279 (4) Lands within municipal boundaries of cities contiguous
280 to district boundaries may be included in the district upon
281 request by the governing board of the municipality, approval of
282 said request by affirmative vote of no fewer than three members
283 of the district board, and referendum approval of inclusion by
284 the electors of the municipality whose residences are located
285 within the proposed amended boundary of the district. The
286 referendum shall be conducted by the municipality at the next
287 available special or general election. Upon approval by the
288 Legislature, the boundary shall be amended.

289 Section 2. Notwithstanding s. 191.009, Florida Statutes,
290 or any other provision of law, the Board of Commissioners of the
291 Midway Fire District may adopt an initial levy of a non-ad
292 valorem assessment, subject to the rate limitations set forth in
293 section 1 of this act, by resolution pursuant to s. 191.011,
294 Florida Statutes, without the need for a referendum. Future non-
295 ad valorem assessment rates are subject to s. 191.009, Florida
296 Statutes, and other applicable law.

297 Section 3. Except as otherwise expressly provided in this
298 act, this act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1621 Unlawful Demolition of Historical Structures and Landmarks
SPONSOR(S): Beltran
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

Code enforcement is a function of local government intended to enhance the economy and quality of life of counties and municipalities by protecting the health, safety, and welfare of the community. Four areas of Florida law create mechanisms counties and cities may utilize for code and ordinance enforcement. Under each statutory mechanism, a local government designates code inspectors or code enforcement officers, tasked with investigating potential code violations, providing notice of violations, and issuing citations for noncompliance, but not possessing police powers. These statutes provide permissible code enforcement mechanisms that may be used by local governments in any combination they choose.

The Local Government Code Enforcement Boards Act allows each county and municipality to create local government code enforcement boards by ordinance. Code enforcement proceedings are initiated by code inspectors. The process generally begins with a code inspector notifying the alleged violator of the specific violation and giving a reasonable period to correct the violation. If the violation is not corrected within the period specified in the notice, the code inspector informs the enforcement board and requests a hearing. At the conclusion of the hearing, the code enforcement board issues finding of fact and provides an order stating the relief granted, which may include the imposition of fines. These fines may not exceed \$250 per day for a first violation, \$500 per day for a repeat violation, and \$5,000 for a violation that is irreparable or irreversible in nature. Boards of counties or municipalities with a population greater than 50,000 may adopt an ordinance imposing greater fines.

The bill authorizes code enforcement boards to impose an enhanced fine for the demolition of a structure listed on the National Register of Historic Places or of an individually listed local historic landmark. A code enforcement board or special magistrate must make specific findings based on substantial evidence that the demolition of the historic structure of landmark was not permitted and was not the result of a natural disaster to impose the fine. The enhanced fine may not exceed 20 percent of the fair market value of the property, as identified in the property appraiser's evaluation.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

County and Municipal Code Enforcement

Code enforcement is a function of local government intended to enhance the economy and quality of life of counties and municipalities by protecting the health, safety, and welfare of the community.¹ Four areas of Florida law create mechanisms counties and cities may utilize for code and ordinance enforcement.² Under each statutory mechanism, a local government designates code inspectors or code enforcement officers, tasked with investigating potential code violations, providing notice of violations, and issuing citations for noncompliance, but not possessing police powers. These statutes provide permissible code enforcement mechanisms that may be used by local governments in any combination they choose.³

The Local Government Code Enforcement Boards Act⁴ allows each county and municipality to create local government code enforcement boards by ordinance.⁵ A code enforcement board is an administrative board composed of members appointed by the governing body of a county or municipality with the authority to hold hearings and impose administrative fines and other non-criminal penalties for violations of the jurisdiction's codes or ordinances. Each code enforcement board has seven members, except that a county or municipality with fewer than 5,000 residents may elect to appoint a board of five members. The local governing body may appoint up to two alternate members for each code enforcement board to serve on the board in the absence of board members.

Members of the enforcement boards must be residents of the municipality or county creating the board.⁶ The members must include an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor, if possible.

Code enforcement boards have the power to:

- Adopt hearing rules;
- Subpoena alleged violators, witnesses, and evidence to board hearings;
- Take testimony under oath; and
- Issue orders with the force of law commanding steps necessary to bring a violation into compliance.⁷

Code enforcement proceedings are initiated by code inspectors.⁸ The process generally begins with a code inspector notifying the alleged violator of the specific violation and giving a reasonable period to correct the violation.⁹ If the violation is not corrected within the period specified in the notice, the code inspector informs the enforcement board and requests a hearing. The code enforcement board schedules the hearing and must provide written notice, by certified mail or personal service, to the

¹ S. 162.02, F.S.

² Ch. 125, Part II, F.S. (county self-government), ch. 162, Part I, F.S. (Local Government Code Enforcement Boards Act), ch. 162 Part II (supplemental procedures for county or municipal code or ordinance enforcement procedures), and s. 166.0415, F.S. (city ordinance enforcement).

³ See ss. 125.69(4)(i), 162.13, 162.21(8), and 166.0415(7), F.S.

⁴ Ch. 162, Part I, F.S.

⁵ S. 162.05(1), F.S.

⁶ S. 162.05(2), F.S.

⁷ S. 162.08, F.S.

⁸ S. 162.06(1), F.S. A "code inspector" is "any authorized agent or employee of the county or municipality whose duty it is to assure code compliance." S. 164.04(2), F.S.

⁹ S. 162.06(2), F.S.

alleged violator.¹⁰ A period for corrective action is not required if the violation is a repeat violation, presents a serious threat to public health, safety and welfare, or the violation is irreparable or irreversible in nature.¹¹

In each matter heard before a code enforcement board, the case is presented and testimony is taken from both the code inspector and alleged violator.¹² At the conclusion of the hearing, the board issues findings of fact and provides an order stating the relief granted.¹³ The board may include a notice that repairs must be completed by a specified date and fine the violator for each day the order has not been complied with after the completion date or each day that a repeat violation occurs.¹⁴ All final administrative orders of the code enforcement board may be appealed to the circuit court 30 days after execution of the order.¹⁵

As an alternative to a code enforcement board, the act allows counties and municipalities to adopt a code enforcement system giving code enforcement officials or special magistrates the authority to hold hearings and assess fines against violators of the local government's codes or ordinances.¹⁶ Each of these methods may be used at the local governments' discretion, but a local government may choose any method to enforce codes and ordinances.¹⁷

Administrative Fines for Code Enforcement Violations

A code enforcement board may, upon notification by the code inspector that repairs have not been completed by a specified date or upon finding that repeat violations have occurred, may order violators to pay a fine for each day of the continued violation.¹⁸ If the violation presents a serious threat to the public health, safety, and welfare, the code enforcement board may also notify the local governing body, who make all reasonable repairs to bring the property in compliance and charge the violator the reasonable cost of those repairs in addition to the fine imposed. If, after due notice and hearing, a code enforcement board finds a violation to be irreparable or irreversible in nature, it may order the violator to pay a fine.

Administrative fines may not exceed \$250 per day for a first violation and may not exceed \$500 per day for a repeat violation.¹⁹ If the board finds the violation is irreparable or irreversible in nature, the board may impose a fine of up to \$5,000. When determining the amount of the fine, the board may consider the following factors:

- The gravity of the violation;
- Any actions taken by the violator to correct the violation; and
- Any previous violations committed by the violator.²⁰

A code enforcement board may choose to reduce the amount of the fine initially imposed.²¹

¹⁰ Ss. 162.06(2), 162.12(1), F.S. The code enforcement board may also provide additional notice by publication in a newspaper of general circulation in the county or posting on the property where the alleged violation occurred and on the front door of the courthouse or main county governmental center (for a county) or primary municipal government office (for a municipality). Ss. 162.06(2), 162.12(2), F.S.

¹¹ S. 162.06(3)-(4), F.S.

¹² S. 162.07(2)-(3), F.S.

¹³ S. 162.07(4), F.S.

¹⁴ S. 162.09(1), F.S.

¹⁵ S. 162.11, F.S.

¹⁶ S. 162.03, F.S.

¹⁷ The Attorney General has opined, "once a municipality has adopted the procedures of ch. 162, F.S., to enforce its municipal codes and ordinances, it may not alter or amend those statutorily prescribed procedures but must utilize them as they are set forth in the statutes." Op. Att'y Gen. 2000-53 (2000). A local government may, however, maintain a ch. 162, F.S., code enforcement board and still decide to enforce a particular violation by bringing a charge in county court, or any other means provided by law. *Goodman v. County Court in Broward County, Fla.* 711 So.2d 587 (Fla. 4th DCA 1998).

¹⁸ S. 162.09(1), F.S.

¹⁹ S. 162.09(2)(a), F.S.

²⁰ S. 162.09(2)(b), F.S.

²¹ S. 162.09(2)(c), F.S.

A county or municipality with a population greater than 50,000 may adopt, by majority vote plus one vote of the entire governing body, an ordinance that allows code enforcement boards or special magistrates to impose fines in excess of the above limits.²² The ordinance may provide for fines of up to \$1,000 per day per violation for a first violation, \$5,000 per day per violation for a repeat violation, and up to \$15,000 per violation if the code enforcement board or special magistrate find the violation to be irreparable or irreversible in nature. In addition to such fines, a code enforcement board or special magistrate may impose additional fines to cover all costs incurred by the local government in enforcing its codes and all costs of repairs. Any ordinance imposing such fines shall include criteria to be considered by the code enforcement board or special magistrate in determining the amount of the fines.

A certified copy of an order imposing a fine, including any repair costs incurred by the local government, may be recorded in the public records and constitutes a lien against the land on which the violation exists and upon any other real or personal property owned by the violator.²³ Upon petition to the circuit court, the order is enforceable in the same manner as a court judgment, including execution and levy against the personal property of the violator, but such order cannot be deemed to be a court judgment except for enforcement purposes. A lien arising from a fine imposed pursuant to this section runs in favor of the local governing body, and the local governing body may execute a satisfaction or release of lien entered.

National Register of Historic Places

The National Register of Historic Places is an official list of sites and properties throughout the country that reflect the prehistoric occupation and historical development of our nation, states, and local communities.²⁴ More than 1,700 properties and districts in Florida are listed on the National Register. Nominations for properties in Florida are submitted to the National Park Service through the Florida Department of State's Division of Historical Resources, following review and recommendation by the Florida National Register Review Board. Listing in the National Register does not, in itself, impose any obligation on the property owner, or restrict the owner's basic right to use and dispose of the property as he or she sees fit, but does encourage the preservation of significant historic resources.

Demolition Permits

It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a building permit from the local government or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.²⁵

²² S. 162.09(2)(d), F.S.

²³ S. 162.09(3), F.S.

²⁴ Fla. Dept. of State, *National Register of Historic Places*, <https://dos.fl.gov/historical/preservation/national-register/> (last visited Jan. 29, 2024).

²⁵ S. 553.79(1), F.S.

A local law, ordinance, or regulation may not prohibit or otherwise restrict the ability of a private property owner to obtain a building permit to demolish his or her single-family residential structure provided that:

- Such structure is located in a coastal high-hazard area, moderate flood zone, or special flood hazard area according to a Flood Insurance Rate Map issued by the Federal Emergency Management Agency for the purpose of participating in the National Flood Insurance Program;
- The lowest finished floor elevation of such structure is at or below base flood elevation as established by the Building Code or a higher base flood elevation as may be required by local ordinance, whichever is higher; and
- Such permit complies with all applicable Building Code, Fire Prevention Code, and local amendments to such codes.²⁶

However, a local law, ordinance, or regulation may restrict demolition permits for a:

- Structure designated on the National Register of Historic Places;
- Privately owned single-family residential structure designated historic by a local, state, or federal governmental agency on or before January 1, 2022; or
- Privately owned single-family residential structure designated historic after January 1, 2022, by a local, state, or federal governmental agency with the consent of its owner.²⁷

Permits for Property with a Historic Designation

Some local governments in Florida have adopted land development regulations that designate certain older buildings to be historic. These local governments have placed restrictions on property owners from obtaining permits for the demolition of older buildings that the local government has deemed historic. Below are examples of such regulations:

- Requiring a special demolition permit process,²⁸ and
- Requiring new construction on the site of the demolished structure to be subject to certain architectural regulations, related to:²⁹
 - The colors, pattern, and trim used in the building's façade.
 - The design of the roof.
 - The proportions and relationships between doors and windows.

Proponents of these land development regulations argue that these regulations are needed to protect Florida's history and preserve Florida's character and architectural style.³⁰ Opponents of these regulations argue that these older buildings are damaged, do not meet the Building Code's minimum flood elevation requirements, which can make them dangerous and can be demolished for new structures or buildings that meet the requirements of the current Building Code.³¹

²⁶ S. 553.79(26)(a), F.S.

²⁷ S. 553.79(26)(d), F.S.

²⁸ Sec. 54-71., 54-125., Town of Palm Beach Code of Ordinances.

²⁹ Sec. 54-122., Town of Palm Beach Code of Ordinances.

³⁰ Miami Herald Editorial Board, *Historic-home teardowns risk washing away Miami Beach's character in a flood of cash*, Miami Herald (Jan. 11, 2022) <https://www.miamiherald.com/opinion/editorials/article257198932.html> (last visited Jan. 29, 2024).

³¹ Pedro Portal, *Miami Beach older homes demolished in part because of 'flood requirements'*, Miami Herald (Jan. 9, 2022) <https://www.miamiherald.com/news/business/real-estate-news/article257166737.html> (last visited Jan. 29, 2024); CBS Miami, *Miami Beach Waterfront Home Of Notorious Prohibition-Era Gangster Al Capone Slated For Demolition*, <https://miami.cbslocal.com/video/5955888-miami-beach-waterfront-home-of-notorious-prohibition-era-gangster-al-capone-slated-for-demolition/> (last visited Jan. 29, 2024).

There appear to be conflicts³² in some areas related to whether older buildings that may be unsafe should be demolished or be given time to be rehabilitated. Some argue that policies related to demolition are having an effect on affordable housing.³³

Effect of Proposed Changes

The bill authorizes code enforcement boards to impose an enhanced fine for the demolition of a structure listed on the National Register of Historic Places or of an individually listed local historic landmark. A code enforcement board or special magistrate must make specific findings based on substantial evidence that the demolition of the historic structure or landmark was not permitted and was not the result of a natural disaster to impose the fine. The enhanced fine may not exceed 20 percent of the fair market value of the property, as identified in the property appraiser's evaluation.

B. SECTION DIRECTORY:

Section 1: Amends s. 162.09, F.S., relating to administrative fines.

Section 2: 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:

The bill may increase local government revenues to the extent additional fines are collected for code enforcement violations.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

³² In November 2022, news reports indicated that there were “dozens of ongoing lawsuits that have recently been filed between property owners and the City of Miami over attempts to demolish their properties. WLRN Miami | South Florida, *After Surfside, Miami changes rules to fast-track demolition. Affordable housing is in the crosshairs*, December 5, 2022, After Surfside, Miami changes rules to fast-track demolition. <https://www.wlrn.org/housing/2022-12-05/after-surfside-miami-changes-rules-to-fast-track-demolition-affordable-housing-is-in-the-crosshairs> (last visited Jan. 29, 2024).

³³ In 2022, approximately “48 buildings were demolished by city order, including 30 residential properties. In 2019, 52 buildings were demolished by order of the city.” *Id.*

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.

HB 1621

2024

1 A bill to be entitled
2 An act relating to unlawful demolition of historical
3 structures and landmarks; amending s. 162.09, F.S.;
4 providing for enhanced fines for the unlawful
5 demolition of certain historical structures and
6 landmarks; providing that fines may not exceed a
7 specified amount; providing an effective date.
8

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

11 Section 1. Paragraph (e) is added to subsection (2) of
12 section 162.09, Florida Statutes, to read:

13 162.09 Administrative fines; costs of repair; liens.—

14 (2)

15 (e) The demolition of a structure individually listed on,
16 or contributing to, the National Register of Historic Places or
17 of an individually listed local historic landmark may be the
18 basis for an enhanced fine if the code enforcement board or
19 special magistrate makes specific findings based on competent,
20 substantial evidence that the demolition of the historic
21 structure or landmark was not permitted and was not the result
22 of a natural disaster. Fines imposed by the code enforcement
23 board or special magistrate may not to exceed an amount that is
24 20 percent of the value of the property as identified in the
25 property appraiser's evaluation of its fair market value.

HB 1621

2024

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1621 (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

1 Committee/Subcommittee hearing bill: Local Administration,
2 Federal Affairs & Special Districts Subcommittee
3 Representative Beltran offered the following:

4

5 **Amendment**

6 Remove lines 16-17 and insert:

7 or contributing to, the National Register of Historic Places may
8 be the