

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 503 Municipal Governing Body Meetings  
**SPONSOR(S):** Local & Federal Affairs Committee; Pigman and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 730

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	17 Y, 0 N, As CS	Flegiel	Rojas
2) Government Operations Subcommittee		Stramski	Williamson
3) State Affairs Committee			

### SUMMARY ANALYSIS

The Florida Constitution and Statutes require that the exercise of extra-territorial powers by a municipality be authorized by general or special law. These provisions have been interpreted to prohibit a municipality's governing body from holding meetings outside its boundaries absent enactment of a law authorizing such meetings.

This bill authorizes a municipal governing body to hold joint meetings with the governing body of the municipality's home county or the governing body of other municipalities to discuss and act on matters of mutual concern at a place and time prescribed by ordinance or resolution.

This 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**

###### Open Meetings:

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. The section requires that all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, be open and noticed to the public. Any act taken by a public body shall not be considered binding unless it is taken at a meeting open to the public.<sup>1</sup>

Florida courts have held that "open to the public" means the public must be given a reasonable opportunity to attend the public meeting.<sup>2</sup> This requires that government meetings be held within a reasonable distance of the jurisdiction subject to the authority of the public body.

###### County Government Meeting Authority:

The Florida Constitution provides non-charter counties the power of self-government as is provided by general or special law.<sup>3</sup> Charter counties have all powers of local self-government not inconsistent with general law or special law.<sup>4</sup> Counties may hold special and regular meetings at "any appropriate public place in the county," after giving proper public notice.<sup>5</sup> A legislative and governing body of a county may set the time and place of its official meetings.<sup>6</sup> These provisions give charter and non-charter counties the authority to hold joint meetings with cities at any place within the county.

###### Municipal Government Meeting Authority:

The Florida Constitution provides municipalities with the governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and authorizes the exercise of any municipal power for municipal purposes except as otherwise provided by law.<sup>7</sup> This provision allows municipalities to hold joint meeting with county governments. However, unlike the laws regulating county meetings, the laws regulating municipal meetings are not explicit as to where municipalities may meet.

The Florida Constitution requires that the exercise of extra-territorial powers by a municipality shall be as provided by general or special law.<sup>8</sup> Municipal bodies are authorized to adopt legislation concerning any subject matter upon which the Legislature may act, except for: "[t]he 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."<sup>9</sup>

The Florida Attorney General has recognized the Legislature's role in authorizing extraterritorial powers for municipalities. In a 2003 opinion concerning the authority of a municipality to meet roughly four miles outside its boundaries, the Attorney General wrote that city councils may not hold meetings outside municipal limits without authorization from general or special law, and that all acts and proceedings at meetings without statutory authorization are void.<sup>10</sup>

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<sup>1</sup> Section 286.011(1), F.S.

<sup>2</sup> *Rhea v. School Bd. Of Alachua County*, 636 So.2d 1383 (Fla. 1<sup>st</sup> DCA 1994).

<sup>3</sup> Art. VIII, Sec. 1(f), Florida Constitution.

<sup>4</sup> Art. VIII, Sec. 1(g), Florida Constitution.

<sup>5</sup> Section 125.001, F.S.

<sup>6</sup> Section 125.01(1)(a), F.S.

<sup>7</sup> Art. VIII, Sec. 2(b), Florida Constitution.

<sup>8</sup> Art. VIII, Section 2(c), Florida Constitution.

<sup>9</sup> Section 166.021(3)(a), F.S.

<sup>10</sup> Attorney General's Opinion 2003-03 (2003).

In 2008, the Legislature enacted ch. 2008-286, L.O.F., authorizing the City of Belleair Beach's governing board to hold meetings outside the municipality's boundaries at such time and place as prescribed by ordinance, resolution or interlocal agreement. Language in the bill provided that the city council was encouraged to hold its meetings in close proximity to the people it serves.

In 2011, the Legislature enacted ch. 2011-147, L.O.F., creating s. 166.0213, F.S., which authorized municipalities with populations of 500 or less to hold meetings up to five miles outside their municipal boundaries.

Joint meetings between the governing bodies of cities and counties are common practice across the state. These meetings generally take place in the concerned city. However, legislative staff has found several instances of joint meetings held beyond municipal boundaries, including in the counties of Highlands, Charlotte and Indian River.<sup>11</sup> Joint meetings between municipalities are also common practice<sup>12</sup> and by their nature cannot take place in both concerned municipalities at the same time.

In 2010, a civil complaint was filed against the Town of Lake Placid Commission for holding joint meetings with the Highlands County Commission in the county seat of Sebring, located approximately 20 miles away from Lake Placid.<sup>13</sup> The complaint alleged that the Town did not have the authority to meet beyond its municipal boundaries.<sup>14</sup> The Circuit Court ruled in favor of the Town of Lake Placid on Summary Judgment. The case is presently on appeal to the Second District Court of Appeals.<sup>15</sup>

### **Effect of Proposed Changes**

The bill explicitly authorizes municipality governing bodies to hold joint meetings with county governing bodies within which the municipality is located or with the governing body of another municipality. The bill requires municipalities to set the time and location of joint meetings by ordinance or resolution.

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

Section 1: Creates s. 166.0213(2), F.S., authorizing a municipality to hold joint meetings with county governing bodies within which the municipality is located or with the governing body of another municipality at such a time and place as shall be prescribed by ordinance or resolution.

Section 2: Provides an effective date of July 1, 2014.

## **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.

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<sup>11</sup> List of Meeting Notices for Joint meetings held beyond municipal boundaries on file with LFAC staff.

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

<sup>13</sup> *Wiggins v. Town of Lake Placid*, FL. 10<sup>th</sup> Circuit Court (2010). Case #10-1012GCS. Verified Complaint Seeking Declaratory and Injunctive Relief.

<sup>14</sup> *Id.*

<sup>15</sup> See Docket for Case 10-1012GCS, on file with Highlands County Clerk of Court. <http://www.hcclerk.org/Home.aspx>.

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

2. Other:

The Florida Constitution's Sunshine Law requires public meetings to be noticed and open to the public.<sup>16</sup> Florida courts have held that "open to the public" means the public must be given a reasonable opportunity to attend open public meetings.<sup>17</sup> The First District Court of Appeals held that a public meeting 100 miles away from the relevant jurisdiction was a violation of the state's Sunshine Laws because the affected citizens were not given a "reasonable opportunity to attend."<sup>18</sup>

In determining whether citizens have a "reasonable opportunity to attend" courts balance the interests of the body holding the public meeting versus the interests of the public in attending (the *Rhea* test).<sup>19</sup> Factors in the balancing test include the distance of the meeting from the constituents it is affecting, efforts of the public body to minimize the impact of the distance, and the need for the public body to hold the meeting at a location that is further away than normal from its constituency.<sup>20</sup> After passage of this bill, cities and counties would still have to comply with s. 286.011, F.S., and the *Rhea* test. Nothing in this bill alters the *Rhea* test or authorizes cities and counties to disregard Florida's Sunshine Law.

B. RULE-MAKING AUTHORITY:

None.

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<sup>16</sup> Section 24(b), Art. I of the State Constitution, and s. 286.011, F.S. (2013).

<sup>17</sup> *Rhea v. School Bd. Of Alachua County*, 636 So.2d 1383 (Fla. 1<sup>st</sup> DCA 1994).

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

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

<sup>20</sup> *Id.* at 1385-1386.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 6, 2014, the Local and Federal Affairs Committee adopted one amendment, striking the word “may” and adding the word “shall” at line 26, and reported the bill favorably as a committee substitute to a proposed committee bill.

This analysis has been updated to reflect the amendment.