State Affairs Committee

Thursday, December 8, 2011
9:00 AM
Morris Hall (17 HOB)

MEETING PACKET

Dean Cannon
Speaker

Seth McKeel
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

State Affairs Committee

Start Date and Time:	Thursday, December 08, 2011 09:00 am
End Date and Time:	Thursday, December 08, 2011 11:00 am
Location:	Morris Hall (17 HOB)
Duration:	2.00 hrs

Consideration of the following bill(s):

CS/HM 47 War on Terror by Federal Affairs Subcommittee, Abruzzo
CS/HM 205 Vietnam Veterans by Federal Affairs Subcommittee, Metz
HJR 349 Miami-Dade County Home Rule Charter by Lopez-Cantera
HB 351 Public Records by Moraitis
CS/HB 377 Miami-Dade County Lake Belt Mitigation Plan by Agriculture & Natural Resources Subcommittee, Nuñez
HB 453 Group Insurance for Public Employees by Stargel
HM 499 Federal Balanced Budget Amendment by Ingram
HB 4001 Florida Climate Protection Act by Plakon
HB 4039 Recreation and Parks by Porter
HB 4083 Florida Water Resources Act of 1972 by Eisnaugle

NOTICE FINALIZED on 12/01/2011 16:13 by Love.John

CS/HM 47

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HM 47 War on Terror
SPONSOR(S): Abruzzo
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee	11 Y, 1 N, As CS	Camechis	Camechis
2) State Affairs Committee		Camechis	Hamby

SUMMARY ANALYSIS

Osama bin Laden led the al-Qaeda terrorist organization and was responsible for terrorist attacks throughout the world, including the September 11, 2001, attacks on the United States. On May 1, 2011, bin Laden was killed by U.S. Navy Seals in Abbottabad, Pakistan.

This memorial recognizes the death of bin Laden as a positive step forward in the war on terrorism and declares a continuing unity of commitment with other states and nations against terrorism, its crimes against humanity, and al-Qaeda.

Copies of the memorial will be provided to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

The memorial does not have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background[1]

According to the Federal Bureau of Investigation (FBI), Osama bin Laden had openly declared war on the U.S. and was committed to killing innocents well before 2001. The al-Qaeda organization, under his leadership, was responsible for the 1998 bombings of the U.S. Embassies in Dar es Salaam, Tanzania and Nairobi, which killed over 200 people. On June 7, 1999, bin Laden was added to the FBI's Top Ten fugitives list, and the U.S. offered a $25 million reward for information that would lead to his apprehension or conviction.

On September 11, 2001, a small group of al-Qaeda members hijacked four commercial passenger aircraft in the U.S., two of which were flown into the World Trade Center towers. Another aircraft was flown into the Pentagon in Arlington, Virginia. A fourth plane was successfully retaken by passengers before crashing in Pennsylvania. The intended target of the fourth aircraft was believed to be the United States Capitol. The attack killed nearly 3,000 civilians. Intelligence agencies quickly learned that the attacks were carried out by al-Qaeda. In October 2001, bin Laden's name was added to the U.S. Department of State's Most Wanted Terrorists List. In 2004, bin Laden released a videotaped message claiming responsibility for the September 11 attacks.

On May 1, 2011, bin Laden was killed by U.S. Navy Seals in Abbottabad, Pakistan.

Effect of Proposed Changes

This memorial recognizes the death of Osama bin Laden as a positive step forward in the war on terrorism and declares a continuing unity of commitment with other states and nations against terrorism, its crimes against humanity, and al-Qaeda.

Copies of the memorial will be provided to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

B. SECTION DIRECTORY: None.

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.

[1] Information for this background was obtained from http://www.fbi.gov/news/stories/2011/may/binladen_050211/binladen_050211 and http://www.biography.com/people/osama-bin-laden-37172.

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.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 16th, 2011, the Federal Affairs Subcommittee adopted one amendment to this memorial. The amendment adds that former President George W. Bush, President Barak Obama, the intelligence organizations, and the men and women of the armed forces acted in a collective effort. The memorial was reported favorably as a committee substitute.

1 House Memorial
2 A memorial to the Congress of the United States
3 recognizing the death of Osama bin Laden as a positive
4 step forward in the war on terrorism and declaring a
5 continuing unity of commitment against terrorism, its
6 crimes against humanity, and al-Qaeda.
7
8 WHEREAS, the actions taken by Osama bin Laden and al-Qaeda
9 and its networks targeting innocent civilians, including women
10 and children, are repugnant, and
11 WHEREAS, Osama bin Laden was the mastermind of the
12 September 11, 2001, attacks on the United States of America,
13 which murdered 2,977 citizens, and
14 WHEREAS, Osama bin Laden and al-Qaeda were responsible for
15 other terrorist attacks against the United States of America,
16 including bombing American embassies in Tanzania and Kenya and
17 attacking the U.S.S. Cole, and
18 WHEREAS, a collective effort between President George W.
19 Bush and President Barack Obama, along with the hard work of
20 intelligence organizations and the men and women of the Armed
21 Forces, resulted in locating Osama bin Laden, and
22 WHEREAS, President Barack Obama took immediate action upon
23 learning of the location of Osama bin Laden, and
24 WHEREAS, while resisting capture, Osama bin Laden was
25 killed on May 1, 2011, by operatives of the Central Intelligence
26 Agency and Navy Seals, and
27 WHEREAS, Osama bin Laden's death provides some degree of
28 closure as it relates to September 11, 2001, NOW, THEREFORE,

29
30 Be It Resolved by the Legislature of the State of Florida:
31
32 That we recognize the death of Osama bin Laden as a
33 positive step forward in the war on terrorism and declare a
34 continuing unity of commitment with other states and nations
35 against terrorism, its crimes against humanity, and al-Qaeda.
36 BE IT FURTHER RESOLVED that copies of this memorial be
37 dispatched to the President of the United States, to the
38 President of the United States Senate, to the Speaker of the
39 United States House of Representatives, and to each member of
40 the Florida delegation to the United States Congress.

CS/HM 205

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HM 205 Vietnam Veterans
SPONSOR(S): Metz
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee	12 Y, 0 N, As CS	Bennett	Camechis
2) State Affairs Committee		Bennett PB	Hamby JLO

SUMMARY ANALYSIS

Due to the controversy surrounding the Vietnam War, many veterans returned to the United States without formal recognition of their service. This memorial urges Congress to initiate and support a nationwide effort to commemorate, in 2013, the 40th anniversary of the end of the United States' involvement in the Vietnam War, and demonstrate the nation's appreciation for the honorable service and sacrifice of Vietnam veterans. This memorial also asks Congress to authorize the minting of a commemorative anniversary medal to express the nation's appreciation for the honorable service of Vietnam veterans.

The United States Armed Forces began serving in an advisory role to South Vietnam in the mid-1950s, but became directly involved in the mid-1960s when troops were sent into Vietnam. United States ground troops were withdrawn from Vietnam on March 30, 1973, under the terms of the Paris Peace Accords. More than 58,000 United States service members lost their lives in the war, including 1,952 Floridians, and more than 153,000 were wounded and required hospital care. There are approximately 7.5 million living veterans of the Vietnam War, with approximately 454,000 living in Florida.

This memorial does not seek establishment of a legal holiday, and does not address the design, issuance, or sale of the commemorative medal.

The sponsor of this memorial, Representative Metz, sponsored a substantially similar memorial, CS/HM 845, during the 2011 regular session of the Florida Legislature. That memorial passed the House, but died in Senate messages.

This memorial has no fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Effects of Proposed Changes

This memorial urges Congress to initiate and support the nationwide effort to commemorate, in 2013, the 40th anniversary of the end of the United States' involvement in the Vietnam War, and to demonstrate the nation's appreciation for the honorable service and sacrifice of Vietnam veterans. The memorial does not, however, propose creation of a legal holiday.

This memorial also asks Congress to authorize the minting of a 40th anniversary commemorative medal, but does not address the design, issuance, or sale of the medal.

Copies of the memorial must be sent to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and to each member of the Florida delegation to the U.S. Congress.

Background

The Geneva Accords were signed in July of 1954, dividing Vietnam into a communist north and democratic south. The rationale developed by the Eisenhower Administration to explain its economic and military support of South Vietnam became known as the "domino theory." Likening the countries of southeast Asia to a row of dominos, the President argued that if one country fell, it would trigger the fall of others.[1] Thus, the United States began to endorse and support South Vietnam's effort to defend against the communist North.

The U.S. initially supported South Vietnam in an advisory role but, by the mid-1960s, U.S. military forces were directly involved in combat operations against the North. More than 3 million Americans served in the Vietnam War, some 1.5 million of whom actually saw combat in Vietnam.[2] American involvement in the war began to decline after the Paris Peace Accords were signed on January 27, 1973. The U.S. completed withdrawal of its ground troops from Vietnam on March 30, 1973, but thousands of U.S. support personnel remained in Vietnam. All remaining U.S. personnel were evacuated when Saigon fell on April 30, 1975.[3]

Military involvement in Vietnam, and the neighboring countries of Laos and Cambodia, resulted in the deaths of 58,220 U.S. service members, 1,952 of whom were from Florida.[4] An additional 153,303 U.S. service members required hospital care as a result of wounds.[5] There are approximately 7.5 million surviving veterans of the Vietnam War[6], with approximately 454,000 residing in Florida.[7]

---

[1] *The War in Vietnam, 1954-1964;* http://faculty.smu.edu/dsimon/Change-Viet.html.

[2] *Echoes of Combat: The Vietnam War in American Memory*, Stanford University (June 2001).

[3] U.S. Congress, President, and Florida Legislature recognize May 7, 1975, as the end of the Vietnam War (for purpose of veteran affairs). Text at: http://www.gpo.gov/fdsys/pkg/CFR-2005-title45-vol3/pdf/CFR-2005-title45-vol3-sec506-10.pdf; 14 Fla. Prac., Elder Law § 14:5 (2010-11 ed.).

[4] http://thewall-usa.com/summary.asp.

[5] Anne Leland; Mari-Jana "M-J" Oboroceanu, *American War and Military Operations: Casualties: Lists and Statistics*, Congressional Research Service, http://www.fas.org/sgp/crs/natsec/RL32492.pdf (February 26, 2010); http://siadapp.dmdc.osd.mil/personnel/CASUALTY/castop.htm.

[6] *Statistics at a Glance,* Dep't of Veterans Affairs (as of 8/12/2011) and *America's Wars*, Dep't of Veterans Affairs (May 2010) available at http://www1.va.gov/opa/publications/factsheets/fs_americas_wars.pdf.

[7] *Fast Facts*, Fl. Dep't of Veterans' Affairs, http://www.floridavets.org/.

The Vietnam War was a divisive issue in the U.S., and many veterans did not return to the acknowledgment and appreciation of their service traditionally afforded veterans of other military conflicts.

Present Situation

Congressional Action

The National Defense Authorization Act of 2008 authorizes the Secretary of Defense to commemorate the 50th anniversary of the Vietnam War.[8] In doing so, the Secretary "shall coordinate, support, and facilitate other programs of the Federal Government, State and local governments, and other persons or organizations in the commemoration of the Vietnam War." The commemoration program consists of events and activities, held across the nation and over the course of several years, to thank, honor, and recognize the contributions and sacrifices made by veterans during the Vietnam War.[9]

On March 7, 2011, the U.S. Senate unanimously adopted a resolution that designated March 30, 2011, as "Welcome Home Vietnam Veterans Day."[10] The resolution honors Vietnam veterans who, because of the divisiveness and controversy surrounding the war, were not properly acknowledged or honored upon return. The resolution encourages individual states to establish a "Welcome Home Vietnam Veterans Day" holiday as well.

Commemorative medals

The United States Mint produces a variety of national medals to commemorate significant historical events or sites and to honor those whose superior deeds and achievements have enriched U.S. history or the world.[11] Commemorative medals must be authorized by a public law enacted by Congress and signed by the President. Since 1991, thirty-seven commemorative medals have been authorized by public law and minted by the Department of the Treasury.[12] In contrast to commemorative coins, medals are not legal tender.

B. SECTION DIRECTORY: None

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

[8] National Defense Authorization Act for Fiscal Year 2008, Pub. L. no. 110-181, 598, 122 Stat. 141 (2008).
[9] http://www.vietnamwar50th.com/assets/1/7/Commemoration_Fact_Sheet_Sept_2010_v2.pdf
[10] S. RES 55, 112th CONGRESS, 1st Session.
[11] http://www.usmint.gov/mint_programs/medals/
[12] http://ccac.gov/legislation

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

2. Other: None

B. RULE-MAKING AUTHORITY: Not Applicable

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 16th, 2011, the Federal Affairs Subcommittee adopted one amendment that changed the number of estimated veterans living in Florida from 650,000 to approximately 454,000. The memorial was reported favorably as a Committee Substitute.

1 House Memorial
2 A memorial to the Congress of the United States,
3 urging Congress to initiate and support nationwide
4 efforts to commemorate the 40th anniversary of the end
5 of the United States' involvement in the Vietnam War
6 and demonstrate the nation's appreciation for the
7 honorable service and sacrifice of Vietnam Veterans.
8
9 WHEREAS, the Vietnam War was a Cold War military conflict
10 that occurred in Vietnam, Laos, and Cambodia from November 1,
11 1955, until the United States Congress passed the Case-Church
12 amendment in 1973 which prohibited the further use of American
13 military forces in the conflict, and
14 WHEREAS, 2013 marks the 40th anniversary of the end of the
15 United States' involvement in the Vietnam War, and
16 WHEREAS, as of July 2011, the Florida Department of
17 Veterans' Affairs estimated that there were approximately
18 454,000 Vietnam era veterans living in the State of Florida, and
19 WHEREAS, because of the intense public opposition to the
20 war that existed at the time, members of the United States Armed
21 Services returned home to an unprecedented lack of formal
22 positive recognition of the honorable service they had provided
23 on behalf of their country and the tremendous sacrifices they
24 had made, and
25 WHEREAS, the lack of formal "Welcome Home" parades and
26 other traditional celebrations for returning soldiers that were
27 common in previous military conflicts in which the United States
28 was engaged, coupled with verbal and sometimes physical abuse,

29 resulted in great disillusionment, undeserved indignity, and
30 often great suffering and anguish among returning Vietnam
31 veterans, and
32 WHEREAS, many of these brave men and women are now reaching
33 an advanced age, and
34 WHEREAS, March 30, 2013, will mark the official date of the
35 40th anniversary of the end of the United States' involvement in
36 the Vietnam War, and
37 WHEREAS, on that date this nation will be presented with a
38 unique and historic opportunity to hold appropriate observances
39 and long-overdue recognition ceremonies that will honor our
40 nation's aging Vietnam War veterans and that may finally provide
41 these brave men and women a fitting expression of gratitude and
42 a measure of healing and official closure that has been denied
43 them for decades and that they so greatly deserve, and
44 WHEREAS, the importance of the commemoration of the 40th
45 anniversary of the end of the United States' involvement in the
46 Vietnam War and the opportunity that such an historical
47 anniversary presents to attempt to rectify past injustices and
48 ingratitude cannot be stressed strongly enough, and
49 WHEREAS, it is fitting and appropriate that the United
50 States Congress initiate and support efforts at the national
51 level to mark this historic anniversary and to attempt to
52 redress the lack of appropriate recognition and undeserved
53 ingratitude that so many of these brave servicemen and
54 servicewomen received upon returning home, and
55 WHEREAS, as part of a national effort, it is also requested
56 that the United States Congress authorize the minting of a 40th

57 anniversary commemorative medal expressing the nation's
58 appreciation for the honorable service of Vietnam veterans, and
59 WHEREAS, for this historic opportunity to be fully
60 realized, the United States Congress should act promptly and
61 decisively, NOW, THEREFORE,
62
63 Be It Resolved by the Legislature of the State of Florida:
64
65 That the Congress of the United States is urged to initiate
66 and support nationwide efforts to commemorate the 40th
67 anniversary of the end of the United States' involvement in the
68 Vietnam War and demonstrate the nation's appreciation for the
69 honorable service and sacrifice of Vietnam veterans.
70 BE IT FURTHER RESOLVED that, as part of such national
71 effort, the United States Congress is requested to authorize the
72 minting of a 40th anniversary commemorative medal expressing the
73 nation's appreciation for the honorable service of Vietnam
74 veterans.
75 BE IT FURTHER RESOLVED that copies of this memorial be
76 dispatched to the President of the United States, to the
77 President of the United States Senate, to the Speaker of the
78 United States House of Representatives, to each member of the
79 Florida delegation to the United States Congress, and to the
80 legislative governing body of each of the other 49 states of the
81 United States.

HJR 349

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 349 Miami-Dade County Home Rule Charter
SPONSOR(S): Lopez-Cantera
TIED BILLS: **IDEN./SIM. BILLS:** SJR 720

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Affairs Committee	18 Y, 0 N	Gibson	Tinker
2) State Affairs Committee		Deslatte	Hamby

SUMMARY ANALYSIS

HJR 349 proposes to amend the State Constitution to create the constitutional authority for Miami-Dade County's Home Rule Charter to be amended by a special law of the Legislature, provided that the special law is then approved by the vote of the electors of Miami-Dade County. The joint resolution also proposes to change references to "Metropolitan Dade County" to reflect the county's present name, "Miami-Dade County."

Each house of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot. HJR 349 provides for the proposed constitutional amendment to be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

The Division of Elections, within the Department of State, is required to publish the proposed constitutional amendment twice in a newspaper of general circulation in each county. HJR 349 impacts state funds to the extent that the cost of placing the constitutional amendment on the ballot must be administered by the Department of State. The department estimated that the advertising costs for publishing this proposed constitutional amendment will be $67,611.18. This sum will depend on the final wording of the joint resolution and the language that is to be placed on the ballot.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION:

In 1956, an amendment to the State Constitution of 1885 provided that Dade County has the authority to adopt, revise, and amend from time to time a home rule charter government for Dade County.[1] The voters of Dade County approved that charter on May 21, 1957. Dade County, now known as Miami-Dade County, has unique home rule status.

Article VIII, section 6(e), of the State Constitution provides that the Metropolitan Dade County Home Rule Charter provisions shall be valid if authorized under Article VIII, section 11 of the State Constitution of 1885, as amended. However, Article VIII, section 11(5) of the State Constitution of 1885 prohibits any charter provisions in conflict with the constitution or with general law relating to Miami-Dade County.[2]

Article VIII, section 11(5) of the State Constitution further provides that the charter and any subsequent ordinances enacted pursuant to the charter may conflict with, modify or nullify any existing local, special or general law applicable only to Dade County. Accordingly, Miami-Dade County ordinances enacted pursuant to the Metropolitan Dade County Home Rule Charter may implicitly, as well as expressly, amend or repeal a special act, when it conflicts with a Miami-Dade County ordinance.

In *Chase v. Cowart,*[3] the Florida Supreme Court concluded that:

> When the Legislature enacted Chapter 31420, Laws of 1956, creating the metropolitan charter and providing the method of presenting the home rule charter to the voters of Dade County, and more specifically when the electors of Dade County adopted the home rule charter on May 21, 1957, the authority of the Legislature in affairs of local government in Dade County ceased to exist. Thereafter, the Legislature may lawfully exercise this power only through passage of general acts applicable to Dade County and any other one or more counties, or a municipality in Dade County and any other one or more municipalities in the State.[4]

A 1989 attorney general opinion cited *Dade County v. Dade County League of Municipalities,*[5] for the proposition that, following adoption of the Dade County Home Rule Charter, the Legislature is limited to enacting only general laws relating to Miami-Dade County and may not amend a special act relating to a municipality within Miami-Dade County that was enacted prior to the adoption of the Dade County Home Rule Charter.[6]

Currently, changes to the Miami-Dade County Home Rule Charter may only be made by the affirmative vote of the Miami-Dade County electorate, after an amendment is proposed and placed on the ballot either by the Board of County Commissioners or by petition of the citizens.

Constitutional Provision for Amending the Constitution

Article XI of the State Constitution, provides for amendment to the constitution by the Legislature. The Legislature is authorized to propose amendments to the constitution by joint resolution passed by three-fifths of the membership of each house of the legislature. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office; alternatively,

---

[1] Section 11, Art. VIII, of the State Constitution of 1885, as amended.
[2] See also, *Dade County v. Wilson*, 386 So. 2d 556 (Fla. 1980).
[3] 102 So. 2d 147 (Fla. 1958).
[4] *Id.* at 150.
[5] 104 So. 2d 512, 517 (Fla. 1958).
[6] AGO 1989-9; *see also Dickenson v. Board of Public Instruction of Dade County*, 217 So.2d 553, 555 (Fla. 1969).

the amendment, if approved by three-fourths of the membership of each house and limited to a single amendment or revision, may be voted on at a special election held for that purpose.

EFFECT OF THE JOINT RESOLUTION:

HJR 349 proposes to amend the State Constitution to create the constitutional authority for the Miami-Dade County Home Rule Charter to be amended by a special law of the Legislature, provided that the special law is then approved by the vote of the electors of Miami-Dade County. The resolution also proposes to change references to "Metropolitan Dade County" to reflect the county's present name, "Miami-Dade County."

Each house of the Legislature must pass a joint resolution by a three-fifths vote in order for the proposal to be placed on the ballot. HJR 349 provides for the proposed constitutional amendment to be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose.

In addition to methods available locally, HJR 349 proposes to also authorize changes to the Miami-Dade County Charter through the following process:

1. A bill proposing a special law that would serve as a charter amendment would be approved at a meeting of the local legislative delegation.
2. The bill would be filed by a member of that delegation with the Florida House of Representatives and/or the Florida Senate.
3. The bill would require passage by the Legislature.
4. The special law would be placed on the ballot and require approval by the electors of Miami-Dade County.

B. SECTION DIRECTORY:

As this legislation is a joint resolution proposing a constitutional amendment, it does not contain bill sections. The joint resolution proposes to amend Article VIII, section 6 of the State Constitution, to authorize the amendment of the Miami-Dade County Home Rule Charter by special law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The joint resolution does not have a fiscal impact on state revenues.

2. Expenditures:

   Article XI, section 5(d) of the State Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the tenth week and again in the sixth week immediately preceding the week the election is held. The Division of Elections, within the Department of State, estimated that the average cost per word to advertise an amendment to the State Constitution is $106.14 for this fiscal year. The department estimated that the advertising costs for publishing this proposed constitutional amendment will be $67,611.18. This sum will depend on the final wording of the joint resolution and the language that is to be placed on the ballot.

   The Department of State is normally the defendant in lawsuits challenging proposed amendments to the State Constitution. The department reported that the cost for defending these lawsuits has ranged from $10,000 to $150,000, depending on a number of variables.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The joint resolution does not appear to have a fiscal impact on local revenues.

2. Expenditures:

   The joint resolution will have an indeterminate negative fiscal impact on Miami-Dade County. To the extent that special laws relating to Miami-Dade County are enacted, the county will have to expend funds to put the proposed charter amendments on the ballot.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

See, Fiscal Impact on State Government, above.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The joint resolution does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

   Article XI, section 1 of the State Constitution provides for proposed changes to the Constitution by the Legislature:

   > SECTION 1: **Proposal by legislature.**– Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the Legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

   Article XI, section 5 of the State Constitution provides that the proposed amendment, if passed by the Legislature, must be submitted to the electors at the next general election held more than 90 days after the joint resolution is filed with the custodian of state records. The proposed amendment must be published, once in the tenth week and once in the sixth week immediately preceding the week of the election, in one newspaper of general circulation in each county where a newspaper is published. Submission of a proposed amendment at an earlier special election held more than 90 days after the joint resolution is filed with the custodian of state records requires the affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.

   Article XI, section 5(e) of the State Constitution requires 60 percent voter approval for a proposed constitutional amendment to pass. If the proposed amendment or revision is approved by vote of the electors, it will be effective as an amendment to or revision of the constitution of the state on the first Tuesday after the first Monday in January following the election.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 House Joint Resolution
2 A joint resolution proposing an amendment to Section 6
3 of Article VIII of the State Constitution to authorize
4 amendments or revisions to the home rule charter of
5 Miami-Dade County by special law approved by a vote of
6 the electors; providing requirements for a bill
7 proposing such a special law.
8
9 Be It Resolved by the Legislature of the State of Florida:
10
11 That the following amendment to Section 6 of Article VIII
12 of the State Constitution is agreed to and shall be submitted to
13 the electors of this state for approval or rejection at the next
14 general election or at an earlier special election specifically
15 authorized by law for that purpose:
16 ARTICLE VIII
17 LOCAL GOVERNMENT
18 SECTION 6. Schedule to Article VIII.—
19 (a) This article shall replace all of Article VIII of the
20 Constitution of 1885, as amended, except those sections
21 expressly retained and made a part of this article by reference.
22 (b) COUNTIES; COUNTY SEATS; MUNICIPALITIES; DISTRICTS.
23 The status of the following items as they exist on the date this
24 article becomes effective is recognized and shall be continued
25 until changed in accordance with law: the counties of the state;
26 their status with respect to the legality of the sale of
27 intoxicating liquors, wines and beers; the method of selection
28 of county officers; the performance of municipal functions by

29 county officers; the county seats; and the municipalities and
30 special districts of the state, their powers, jurisdiction and
31 government.
32 (c) OFFICERS TO CONTINUE IN OFFICE. Every person holding
33 office when this article becomes effective shall continue in
34 office for the remainder of the term if that office is not
35 abolished. If the office is abolished the incumbent shall be
36 paid adequate compensation, to be fixed by law, for the loss of
37 emoluments for the remainder of the term.
38 (d) ORDINANCES. Local laws relating only to
39 unincorporated areas of a county on the effective date of this
40 article may be amended or repealed by county ordinance.
41 (e) CONSOLIDATION AND HOME RULE. Article VIII, Sections
42 9, 10, 11 and 24, of the Constitution of 1885, as amended, shall
43 remain in full force and effect as to each county affected, as
44 if this article had not been adopted, until that county shall
45 expressly adopt a charter or home rule plan pursuant to this
46 article. All provisions of the Miami-Dade ~~Metropolitan Dade~~
47 County Home Rule Charter, heretofore or hereafter adopted by the
48 electors of Miami-Dade ~~Dade~~ County pursuant to Article VIII,
49 Section 11, of the Constitution of 1885, as amended, shall be
50 valid, and any amendments to such charter shall be valid;
51 provided that the said provisions of such charter and the said
52 amendments thereto are authorized under said Article VIII,
53 Section 11, of the Constitution of 1885, as amended. However,
54 notwithstanding any provision of Article VIII, Section 11, of
55 the Constitution of 1885, as amended, or any limitations under
56 this subsection, the Miami-Dade County Home Rule Charter may be

57 amended or revised by special law approved by the electors of
58 Miami-Dade County and, if approved, shall be deemed an amendment
59 or revision of the charter by the electors of Miami-Dade County.
60 A bill proposing such a special law must be approved at a
61 meeting of the local legislative delegation and filed by a
62 member of that delegation.
63 (f) DADE COUNTY; POWERS CONFERRED UPON MUNICIPALITIES. To
64 the extent not inconsistent with the powers of existing
65 municipalities or general law, the Metropolitan Government of
66 Miami-Dade ~~Dade~~ County may exercise all the powers conferred now
67 or hereafter by general law upon municipalities.
68 (g) DELETION OF OBSOLETE SCHEDULE ITEMS. The legislature
69 shall have power, by joint resolution, to delete from this
70 article any subsection of this Section 6, including this
71 subsection, when all events to which the subsection to be
72 deleted is or could become applicable have occurred. A
73 legislative determination of fact made as a basis for
74 application of this subsection shall be subject to judicial
75 review.
76 BE IT FURTHER RESOLVED that the following statement be
77 placed on the ballot:
78 CONSTITUTIONAL AMENDMENT
79 ARTICLE VIII, SECTION 6
80 AUTHORIZING AMENDMENTS TO MIAMI-DADE COUNTY HOME RULE
81 CHARTER BY SPECIAL LAW APPROVED BY REFERENDUM.—Authorizes
82 amendments or revisions to the Miami-Dade County Home Rule
83 Charter by a special law when the law is approved by a vote of
84 the electors of Miami-Dade County. A bill proposing such a

85 special law must be approved at a meeting of the local
86 legislative delegation and filed by a member of that delegation.
87 It also conforms references in the State Constitution to reflect
88 the county's current name.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 351 Public Records
SPONSOR(S): Moraitis, Jr.
TIED BILLS: **IDEN./SIM. BILLS:** SB 570

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	15 Y, 0 N	Williamson	Williamson
2) State Affairs Committee		Williamson	Hamby

SUMMARY ANALYSIS

Current law provides several public record exemptions for the identity of a donor or prospective donor to an organization who wishes to remain anonymous. Examples include the Cultural Endowment Program, the direct support organization for the Florida Agricultural Museum, and the direct support organization for the John and Mable Ringling Museum of Art.

The bill creates a public record exemption for information that would identity the name, address, or telephone number of a donor or prospective donor to a publicly owned performing arts center who desires to remain anonymous. It provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records Law
Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.[1]

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act[2] provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

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

Public Record Exemptions, Donor Information
Current law provides several public record exemptions for the identity of a donor or prospective donor to an organization who wishes to remain anonymous. Examples include the Cultural Endowment Program,[3] the direct support organization for the Florida Agricultural Museum,[4] and the direct support organization for the John and Mable Ringling Museum of Art.[5]

Performing Arts Centers
Florida has many performing arts centers in every region of the state. Their ownership, management, and financing vary.[6]

Effect of Bill

The bill creates a public record exemption for the identity of a donor or prospective donor of a donation made for the benefit of a publicly owned performing arts center who desires to remain anonymous. Information that would identify the name, address, or telephone number of the donor or prospective donor is confidential and exempt[7] from public records requirements.

---

[1] Section 24(c), Art. I of the State Constitution.
[2] Section 119.15, F.S.
[3] Section 265.605(2), F.S.
[4] Section 570.903(6), F.S.
[5] Section 1004.45(2)(h), F.S.
[6] *See* http://funandsun.com/1tocf/artf/perfs.html for an unofficial list.
[7] There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (*See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by

The bill defines "publicly owned performing arts center" to mean

> [A] facility consisting of at least 200 seats, owned and operated by a county, municipality, or special district, which is used and occupied to promote development of any or all of the performing, visual, or fine arts or any or all matters relating thereto and to encourage and cultivate public and professional knowledge and appreciation of the arts.

The bill provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.[8]

B. SECTION DIRECTORY:

Section 1 creates an unnumbered section law to create a public record exemption for publicly owned performing arts centers.

Section 2 provides a public necessity statement.

Section 3 provides an effective date of October 1, 2012.

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:

---

the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (*See* Attorney General Opinion 85-62, August 1, 1985).

[8] Section 24(c), Art. I of the State Constitution.

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:

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

   Public Necessity Statement
   Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a new public record exemption; thus, it includes a public necessity statement.

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 public records; defining the term
3 "publicly owned performing arts center"; creating an
4 exemption from public records requirements for
5 information that identifies a donor or prospective
6 donor of a donation made for the benefit of a publicly
7 owned performing arts center if the donor desires to
8 remain anonymous; providing for future legislative
9 review and repeal of the exemption under the Open
10 Government Sunset Review Act; providing a statement of
11 public necessity; providing an effective date.
12
13 Be It Enacted by the Legislature of the State of Florida:
14
15 Section 1. Confidentiality of certain donor information
16 related to a publicly owned performing arts center.—
17 (1) As used in this section, the term "publicly owned
18 performing arts center" means a facility consisting of at least
19 200 seats, owned and operated by a county, municipality, or
20 special district, which is used and occupied to promote
21 development of any or all of the performing, visual, or fine
22 arts or any or all matters relating thereto and to encourage and
23 cultivate public and professional knowledge and appreciation of
24 the arts.
25 (2) If a donor or prospective donor of a donation made for
26 the benefit of a publicly owned performing arts center desires
27 to remain anonymous, information that would identify the name,
28 address, or telephone number of that donor or prospective donor

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

29 is confidential and exempt from s. 119.07(1), Florida Statutes,
30 and s. 24(a), Article I of the State Constitution.
31 (3) This section is subject to the Open Government Sunset
32 Review Act in accordance with s. 119.15, Florida Statutes, and
33 shall stand repealed on October 2, 2017, unless reviewed and
34 saved from repeal through reenactment by the Legislature.
35 Section 2. The Legislature finds that it is a public
36 necessity that information that would identify the name,
37 address, or telephone number of a donor or prospective donor of
38 a donation made for the benefit of a publicly owned performing
39 arts center be made confidential and exempt from public records
40 requirements if such donor or prospective donor desires to
41 remain anonymous. In order to encourage private support for
42 publicly owned performing arts centers, it is a public necessity
43 to promote the giving of gifts to, and the raising of private
44 funds for, the acquisition, renovation, rehabilitation, and
45 operation of publicly owned performing arts centers. An
46 essential element of an effective plan for promoting the giving
47 of private gifts and the raising of private funds is the need to
48 protect the identity of prospective and actual donors who desire
49 to remain anonymous. If the identity of prospective and actual
50 donors who desire to remain anonymous is subject to disclosure,
51 there is a chilling effect on donations because donors are
52 concerned about disclosure of personal information leading to
53 theft and, in particular, identity theft, including personal
54 safety and security. Therefore, the Legislature finds that it is
55 a public necessity to make confidential and exempt from public
56 records requirements information that would identify a donor or

57 prospective donor of a donation made for the benefit of a
58 publicly owned performing arts center if such donor or
59 prospective donor wishes to remain anonymous.
60 Section 3. This act shall take effect October 1, 2012.

CS/HB 377

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 377 Miami-Dade County Lake Belt Mitigation Plan
SPONSOR(S): Nuñez and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	14 Y, 0 N, As CS	Deslatte	Blalock
2) State Affairs Committee		Deslatte	Hamby

SUMMARY ANALYSIS

Limestone operations in the Miami-Dade County Lake Belt are guided by the Lake Belt Mitigation Plan. Under the plan provided in current law, the Lake Belt limestone companies pay a special mitigation fee. The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Mitigation Plan Implementation Committee and adopted under s. 373.4149, F.S. The fee is collected by the Department of Revenue and transferred to the South Florida Water Management District's Lake Belt Mitigation Trust Fund. The Lake Belt limestone companies also pay a water treatment plant upgrade fee of 15 cents per ton, to be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County. The fee is collected by the Department of Revenue and transferred to a trust fund established by Miami-Dade County.

The bill expands the authorized uses of the proceeds of the water treatment plant upgrade fee by allowing the proceeds of the fee to be used to pay for seepage mitigation projects, including groundwater and surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee.

Beginning July 1, 2012, the proceeds of the water treatment plant upgrade fee will be deposited into the Lake Belt Mitigation Trust Fund (instead of the trust fund established by Miami-Dade County to pay for water treatment plant upgrades) until:

- $20 million is placed in the trust fund, or
- Pathogen sampling demonstrates that the water in any quarry lake in the vicinity of the Northwest Wellfield would be classified as being in Bin 2 or higher.

Once either of these qualifications is triggered, the proceeds would again be transferred to a trust fund established by Miami-Dade County for the purpose of upgrading a water treatment plant that treats water coming from the Northwest Wellfield.

Proceeds of the water treatment plant upgrade fee deposited into the Lake Belt Mitigation Trust Fund must be used to pay for seepage mitigation projects, including groundwater or surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee.

The bill changes the allowed uses of the mitigation fee to require approval by the Miami-Dade County Lake Belt Mitigation Committee rather than requiring them to be used in a manner consistent with the recommendations submitted to the Legislature under s. 337.4149, F.S. The bill also specifies that the proceeds of the mitigation fee may be used for the management of wetlands and uplands in the Everglades watershed, and for any modifications to the existing drainage system to enhance the hydrology of the Everglades watershed in addition to the Miami-Dade Lake Belt Area.

Applicable to both the mitigation fee and the water treatment upgrade fee, the bill also specifies that "proceeds of a fee" means all funds collected and received by the Department of Revenue under s. 373.41492, F.S., including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues and may equal only those administrative costs reasonably attributable to the fees.

The bill appears to have a temporary positive fiscal impact on revenues of the South Florida Water Management District and a temporary negative fiscal impact on Miami-Dade County.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Mitigation for Mining Activities Within the Miami-Dade County Lake Belt
The Miami-Dade County Lake Belt Area encompasses 77.5 square miles of environmentally sensitive land at the western edge of the Miami-Dade County urban area. The wetlands and lakes of the Lake Belt offer the potential to buffer the Everglades from the potentially adverse impacts of urban development[1]. The Northwest Wellfield, located at the eastern edge of the Lake Belt, is the largest drinking water wellfield in Florida and supplies approximately 40 percent of the potable water for Miami-Dade County.

Construction aggregates provide the basic materials needed for concrete, asphalt, and road base. Aggregate materials are located in various natural deposits around the state. Geologic conditions and other issues affect decisions in mine planning. These issues include the quality of the rock, thickness of overburden, water table levels, and sinkhole conditions. Rock mined from the Lake Belt supplies one half of the limestone used annually in Florida. Approximately 50 percent of the land within the Lake Belt Area is owned by the mining industry, 25 percent is owned by government agencies, and the remaining 25 percent is owned by non-mining private landowners[2].

The Florida Legislature recognized the importance of the Lake Belt Area to the citizens of Florida and mandated that a plan be prepared to address a number of concerns critical to the State in s. 373.4139, F.S. The Legislature established the Lake Belt Committee and assigned it the task of developing a long-term plan for the Lake Belt Area. Through a cooperative process involving government agencies, mining interests, non-mining interests, and environmental groups, the Lake Belt Committee completed the Miami-Dade County Lake Belt Plan.

Limestone operations in the Lake Belt are guided by the Lake Belt Mitigation Plan. Under the plan established in s. 373.41492, F.S., the Lake Belt limestone companies pay a special mitigation fee. The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Mitigation Plan Implementation Committee and adopted under s. 373.4149, F.S. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program, the Internal Improvement Trust Fund, the South Florida Water Management District, and Miami-Dade County, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149, F.S., for mitigation due to rock mining. The fee is collected from the mining industry by the Department of Revenue and transferred to the South Florida Water Management District's Lake Belt Mitigation Trust Fund.

The Lake Belt limestone companies also pay a water treatment plant upgrade fee of 15 cents per ton, to be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County. The fee is collected by the Department of Revenue and, less administrative costs, transferred to a trust fund established by Miami-Dade County. According to the Department of Environmental Protection (DEP), this fee was established to address the concern that the expansion of mining may cause the wellfield to be designated as "under the influence of surface water," which would

---

[1] South Florida Water Management District, Miami-Dade,
http://my.sfwmd.gov/portal/page/portal/xweb%20about%20us/miami%20dade%20service%20center
[2] *Id.*

mandate upgraded treatment. To date, this designation has not been made by the DEP, and water quality sampling and studies conducted indicate that such a designation is unlikely. Limestone operations in the Lake Belt require water quality certification from the state and a dredge and fill permit from the U.S. Army Corps of Engineers.

The Environmental Protection Agency's (EPA) Long Term 2 Enhanced Surface Water Treatment Rule

The EPA has developed the Long Term 2 Enhanced Surface Water Treatment Rule (LT2 rule) to improve drinking water quality and provide additional protection from disease-causing microorganisms and contaminants that can form during drinking water treatment. The purpose of the LT2 rule is to reduce disease incidence associated with *Cryptosporidium* and other pathogenic microorganisms in drinking water[3]. The rule applies to all public water systems that use surface water or ground water that is under the direct influence of surface water. The rule bolsters existing regulations by:

- Targeting additional *Cryptosporidium* treatment requirements to higher risk systems;
- Requiring provisions to reduce risks from uncovered finished water storage facilities; and
- Providing provisions to ensure that systems maintain microbial protection as they take steps to reduce the formation of disinfection byproducts.

This combination of steps, together with the existing regulations, is designed to provide protection from microbial pathogens while simultaneously minimizing health risks to the population from disinfection byproducts. "Bin classifications" indicate the concentration of pathogens in the water sample[4] and are based on the results of the average number of oocysts[5] detected in water samples taken from a public water system.

Bin Classifications for Public Water Systems

Cryptosporidium Bin Concentration	Bin Classification
Cryptosporidium < 0.075 oocysts/L	Bin 1
0.075 oocysts/L # *Cryptosporidium* < 1.0 oocyst/L	Bin 2
1.0 oocyst/L # *Cryptosporidium* < 3.0 oocysts/L	Bin 3
Cryptosporidium $ 3.0 oocysts/L	Bin 4
Public Water Systemss that serve fewer than 10,000 people and NOT required to monitor for *Cryptosporidium* a	Bin 1

Effect of Proposed Changes

The bill amends s. 373.41492, F.S., by expanding the authorized uses of the proceeds of the water treatment plant upgrade fee to allow the per ton fee to also be used to pay for seepage mitigation projects, including groundwater and surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee.

Beginning July 1, 2012, the proceeds of the water treatment plant upgrade fee will be deposited into the Lake Belt Mitigation Trust Fund (instead of the trust fund established by Miami-Dade County to pay for water treatment plant upgrades) until:

- $20 million is placed in the trust fund, or
- Pathogen sampling demonstrates that the water in any quarry lake in the vicinity of the Northwest Wellfield would be classified as being in Bin 2 or higher.

[3] U.S. ENVIRONMENTAL PROTECTION AGENCY, WATER: LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE, http://water.epa.gov/lawsregs/rulesregs/sdwa/lt2/basicinformation.cfm

[4] 40 CFR § 141.710; U.S. ENVIRONMENTAL PROTECTION AGENCY, SOURCE WATER MONITORING GUIDANCE MANUAL FOR PUBLIC WATER SYSTEMS, 49 (Feb. 2006) *available at* http://www.epa.gov/ogwdw/disinfection/lt2/pdfs/guide_lt2_swmonitoringguidance.pdf.

[5] An oocyst is a thick-walled structure in which sporozoan zygotes develop and that serves to transfer them to new hosts.

Once either of these qualifications is triggered, the proceeds would again be transferred to a trust fund established by Miami-Dade County for the purpose of upgrading a water treatment plant that treats water coming from the Northwest Wellfield.

Proceeds of the water treatment plant upgrade fee deposited into the Lake Belt Mitigation Trust Fund must be used to pay for seepage mitigation projects, including groundwater or surface water management structures designed to improve wetland habitat and approved by the Lake Belt Mitigation Committee. Proceeds of the water treatment plant upgrade fee that are transmitted to a trust fund established by Miami-Dade County must be used to upgrade a water treatment plant that treats water coming from the Northwest Wellfield.

Regarding the proceeds of the mitigation fee, the bill requires approval by the Miami-Dade County Lake Belt Mitigation Committee rather than requiring the proceeds to be used in a manner consistent with the recommendations submitted to the Legislature under s. 337.4149, F.S. The bill also specifies that the proceeds of the mitigation fee may be used for the management of wetlands and uplands in the Everglades watershed, and for any modifications to the existing drainage system to enhance the hydrology of the Everglades watershed in addition to the Miami-Dade Lake Belt Area.

Applicable to both the mitigation fee and the water treatment upgrade fee, the bill also specifies that "proceeds of a fee" means all funds collected and received by the Department of Revenue under s. 373.41492, F.S., including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues and may equal only those administrative costs reasonably attributable to the fees.

B. SECTION DIRECTORY:

Section 1. Amends s. 373.41492, F.S., deleting references to a report by the Miami-Dade County Lake Belt Plan Implementation Committee; providing for the redirection of funds from the water treatment plant upgrade fee to fund seepage mitigation projects; requiring the proceeds of the water treatment plant upgrade fee to be transferred by the Department of Revenue to the South Florida Water Management District and to be deposited into the Lake Belt Mitigation Trust Fund; providing criterion when the transfer is not required; providing for the proceeds of the mitigation fee to be used to conduct mitigation activities that are approved by the Miami-Dade County Lake Belt Mitigation Committee.

Section 2. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See fiscal comments section.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See fiscal comments section.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

By diverting, from Miami-Dade County to the South Florida Water Management District, the proceeds from the water treatment plant upgrade fee, the bill has a temporary positive fiscal impact on revenues of the South Florida Water Management, and a temporary negative fiscal impact on Miami-Dade County.

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 take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor 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 November 15, 2011, the Agriculture & Natural Resources Subcommittee amended and passed HB 377 as a Committee Substitute (CS). The amendment corrects the fee structure in s. 373.41492(2), F.S., which was a scrivener's error.

1 A bill to be entitled
2 An act relating to the Miami-Dade County Lake Belt
3 Mitigation Plan; amending s. 373.41492, F.S.; deleting
4 references to a report by the Miami-Dade County Lake
5 Belt Plan Implementation Committee; deleting obsolete
6 provisions; providing for the redirection of funds for
7 seepage mitigation projects; requiring the proceeds of
8 the water treatment plant upgrade fee to be
9 transferred by the Department of Revenue to the South
10 Florida Water Management District and to be deposited
11 into the Lake Belt Mitigation Trust Fund; providing
12 criterion when the transfer is not required; providing
13 for the proceeds of the mitigation fee to be used to
14 conduct mitigation activities that are approved by the
15 Miami-Dade County Lake Belt Mitigation Committee;
16 clarifying the authorized uses for the proceeds from
17 the water treatment plant upgrade fee; providing an
18 effective date.
19
20 Be It Enacted by the Legislature of the State of Florida:
21
22 Section 1. Subsections (1), (2), (3), and (6) of section
23 373.41492, Florida Statutes, are amended to read:
24 373.41492 Miami-Dade County Lake Belt Mitigation Plan;
25 mitigation for mining activities within the Miami-Dade County
26 Lake Belt.—
27 (1) The Legislature finds that the impact of mining within
28 the rock mining supported and allowable areas of the Miami-Dade

29 County Lake Belt Plan adopted by s. 373.4149(1) can best be
30 offset by the implementation of a comprehensive mitigation plan
31 ~~as recommended in the 1998 Progress Report to the Florida~~
32 ~~Legislature by the Miami-Dade County Lake Belt Plan~~
33 ~~Implementation Committee~~. The Lake Belt Mitigation Plan consists
34 of those provisions contained in subsections (2)-(9). The per-
35 ton mitigation fee assessed on limestone sold from the Miami-
36 Dade County Lake Belt Area and sections 10, 11, 13, 14, Township
37 52 South, Range 39 East, and sections 24, 25, 35, and 36,
38 Township 53 South, Range 39 East, shall be used for acquiring
39 environmentally sensitive lands and for restoration,
40 maintenance, and other environmental purposes. It is the intent
41 of the Legislature that the per-ton mitigation fee ~~shall~~ not be
42 a revenue source for purposes other than enumerated in this
43 section ~~herein~~. Further, the Legislature finds that the public
44 benefit of a sustainable supply of limestone construction
45 materials for public and private projects requires a coordinated
46 approach to permitting activities on wetlands within Miami-Dade
47 County in order to provide the certainty necessary to encourage
48 substantial and continued investment in the limestone processing
49 plant and equipment required to efficiently extract the
50 limestone resource. It is the intent of the Legislature that the
51 Lake Belt Mitigation Plan satisfy all local, state, and federal
52 requirements for mining activity within the rock mining
53 supported and allowable areas.
54 (2) To provide for the mitigation of wetland resources
55 lost to mining activities within the Miami-Dade County Lake Belt
56 Plan, effective October 1, 1999, a mitigation fee is imposed on

57 each ton of limerock and sand extracted by any person who
58 engages in the business of extracting limerock or sand from
59 within the Miami-Dade County Lake Belt Area and the east one-
60 half of sections 24 and 25 and all of sections 35 and 36,
61 Township 53 South, Range 39 East. The mitigation fee is imposed
62 for each ton of limerock and sand sold from within the
63 properties where the fee applies in raw, processed, or
64 manufactured form, including, but not limited to, sized
65 aggregate, asphalt, cement, concrete, and other limerock and
66 concrete products. The mitigation fee imposed by this subsection
67 for each ton of limerock and sand sold shall be ~~12 cents per ton~~
68 ~~beginning January 1, 2007; 18 cents per ton beginning January 1,~~
69 ~~2008; 24 cents per ton beginning January 1, 2009; and~~ 45 cents
70 per ton ~~beginning close of business December 31, 2011~~. To pay
71 for seepage mitigation projects, including groundwater and
72 surface water management structures designed to improve wetland
73 habitat and approved by the Lake Belt Mitigation Committee, and
74 to upgrade a water treatment plant that treats water coming from
75 the Northwest Wellfield in Miami-Dade County, a water treatment
76 plant upgrade fee is imposed within the same Lake Belt Area
77 subject to the mitigation fee and upon the same kind of mined
78 limerock and sand subject to the mitigation fee. The water
79 treatment plant upgrade fee imposed by this subsection for each
80 ton of limerock and sand sold shall be 15 cents per ton
81 ~~beginning on January 1, 2007~~, and the collection of this fee
82 shall cease once the total amount of proceeds collected for this
83 fee reaches the amount of the actual moneys necessary to design
84 and construct the water treatment plant upgrade, as determined

85 in an open, public solicitation process. Any limerock or sand
86 that is used within the mine from which the limerock or sand is
87 extracted is exempt from the fees. The amount of the mitigation
88 fee and the water treatment plant upgrade fee imposed under this
89 section must be stated separately on the invoice provided to the
90 purchaser of the limerock or sand product from the limerock or
91 sand miner, or its subsidiary or affiliate, for which the fee or
92 fees apply. The limerock or sand miner, or its subsidiary or
93 affiliate, who sells the limerock or sand product shall collect
94 the mitigation fee and the water treatment plant upgrade fee and
95 forward the proceeds of the fees to the Department of Revenue on
96 or before the 20th day of the month following the calendar month
97 in which the sale occurs. The proceeds of a fee imposed by this
98 section include all funds collected and received by the
99 Department of Revenue relating to the fee, including interest
100 and penalties on a delinquent fee. The amount deducted for
101 administrative costs may not exceed 3 percent of the total
102 revenues collected under this section and may equal only those
103 administrative costs reasonably attributable to the fee.
104 (3) The mitigation fee and the water treatment plant
105 upgrade fee imposed by this section must be reported to the
106 Department of Revenue. Payment of the mitigation and the water
107 treatment plant upgrade fees must be accompanied by a form
108 prescribed by the Department of Revenue.
109 (a) The proceeds of the mitigation fee, less
110 administrative costs, must be transferred by the Department of
111 Revenue to the South Florida Water Management District and
112 deposited into the Lake Belt Mitigation Trust Fund.

113 (b) Beginning July 1, 2012, the proceeds of the water
114 treatment plant upgrade fee, less administrative costs, must be
115 transferred by the Department of Revenue to the South Florida
116 Water Management District and deposited into the Lake Belt
117 Mitigation Trust Fund until:
118 1. A total of $20 million from the proceeds of the water
119 treatment plant upgrade fee, less administrative costs, is
120 deposited into the Lake Belt Mitigation Trust Fund; or
121 2. The quarterly pathogen sampling conducted as a
122 condition of the permits issued by the department for rock
123 mining activities in the Miami-Dade County Lake Belt Area
124 demonstrates that the water in any quarry lake in the vicinity
125 of the Northwest Wellfield would be classified as being in Bin 2
126 or higher as defined in the Environmental Protection Agency's
127 Long Term 2 Enhanced Surface Water Treatment Rule.
128 (c) Upon the earliest occurrence of the criterion under
129 subparagraph (b)1. or subparagraph (b)2., the proceeds of the
130 water treatment plant upgrade fee, less administrative costs,
131 must be transferred by the Department of Revenue to a trust fund
132 established by Miami-Dade County, for the sole purpose
133 authorized by paragraph (6)(a). ~~As used in this section, the~~
134 ~~term "proceeds of the fee" means all funds collected and~~
135 ~~received by the Department of Revenue under this section,~~
136 ~~including interest and penalties on delinquent fees. The amount~~
137 ~~deducted for administrative costs may not exceed 3 percent of~~
138 ~~the total revenues collected under this section and may equal~~
139 ~~only those administrative costs reasonably attributable to the~~
140 ~~fees.~~

141 (6)(a) The proceeds of the mitigation fee must be used to
142 conduct mitigation activities that are appropriate to offset the
143 loss of the value and functions of wetlands as a result of
144 mining activities and ~~must~~ be approved ~~used in a manner~~
145 ~~consistent with the recommendations contained in the reports~~
146 ~~submitted to the Legislature~~ by the Miami-Dade County Lake Belt
147 Mitigation ~~Plan Implementation~~ Committee ~~and adopted under s.~~
148 ~~373.4149~~. Such mitigation may include the purchase, enhancement,
149 restoration, and management of wetlands and uplands in the
150 Everglades watershed, the purchase of mitigation credit from a
151 permitted mitigation bank, and any structural modifications to
152 the existing drainage system to enhance the hydrology of the
153 Miami-Dade County Lake Belt Area or the Everglades watershed.
154 Funds may also be used to reimburse other funding sources,
155 including the Save Our Rivers Land Acquisition Program, the
156 Internal Improvement Trust Fund, the South Florida Water
157 Management District, and Miami-Dade County, for the purchase of
158 lands that were acquired in areas appropriate for mitigation due
159 to rock mining and to reimburse governmental agencies that
160 exchanged land under s. 373.4149 for mitigation due to rock
161 mining. The proceeds of the water treatment plant upgrade fee
162 deposited into the Lake Belt Mitigation Trust Fund shall be used
163 solely to pay for seepage mitigation projects, including
164 groundwater or surface water management structures designed to
165 improve wetland habitat and approved by the Lake Belt Mitigation
166 Committee. The proceeds of the water treatment plant upgrade fee
167 which are transmitted to a trust fund established by Miami-Dade
168 County shall be used to upgrade a water treatment plant that

169 treats water coming from the Northwest Wellfield in Miami-Dade
170 County. As used in this section, the terms "upgrade a water
171 treatment plant" or "treatment plant upgrade" mean ~~means~~ those
172 works necessary to treat or filter a surface water source or
173 supply or both.
174 (b) Expenditures of the mitigation fee must be approved by
175 an interagency committee consisting of representatives from each
176 of the following: the Miami-Dade County Department of
177 Environmental Resource Management, the Department of
178 Environmental Protection, the South Florida Water Management
179 District, and the Fish and Wildlife Conservation Commission. In
180 addition, the limerock mining industry shall select a
181 representative to serve as a nonvoting member of the interagency
182 committee. At the discretion of the committee, additional
183 members may be added to represent federal regulatory,
184 environmental, and fish and wildlife agencies.
185 Section 2. This act shall take effect upon becoming a law.

HB 453

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 453 Group Insurance for Public Employees
SPONSOR(S): Stargel
TIED BILLS: **IDEN./SIM. BILLS:** SB 366

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) State Affairs Committee		Meadows	Hamby
2) Health & Human Services Committee			
3) Appropriations Committee			
4) Education Committee			

SUMMARY ANALYSIS

This bill establishes the School District Insurance Consortium (Consortium). Health, accident, and hospitalization insurance will be procured through the Consortium for school district officers, employees, and their dependents.

The Consortium will be managed by a nine-member board of directors with representation from school board members, superintendents, public school teachers or support personnel, and an individual with expertise in employee benefit systems. Members of the board of directors serve two-year terms. The board of directors is authorized to hire staff, contract for services, and request technical support from the Department of Management Services.

This bill requires competitive bid participation. Multiple providers are authorized and insurance coverage may be statewide or regionally-based. For regional coverage, the Consortium must include school districts of varying size.

An opt-out provision is available to any school district provided that the school board holds a properly noticed public meeting and finds that less expensive insurance is available elsewhere.

This bill clarifies that collective bargaining is required, and specifies included subjects, consistent with current law.

This bill takes effect July 1, 2012, with application to begin upon the latter of the date of July 1, 2013, or upon expiration or renewal of existing contracts, whichever occurs later.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Interlocal Agreements

Section 163.01, F.S., authorizes public agencies, including district school boards, to enter into interlocal agreements with one another for services and facilities. Such agreements may allow for one or more parties to provide services in exchange for payment or for a mutual exchange of services. Each party to an interlocal agreement must possess the authority to take the action called for in the agreement.[1]

Health Insurance for School District Employees

Chapter 112, F.S., addresses various conditions of employment, including retirement and group insurance for local governmental units, defined to include school boards.[2] Local governmental units are authorized to contract with private companies for the provision of all types of insurance, including life, health, accident, hospitalization, legal expense, and annuity insurance.[3] The local governmental unit is required to participate in the competitive bid process in procuring group insurance.[4] If the local governmental unit intends to self-insure, approval by the Office of Insurance Regulation is required, with approval to be based upon the actuarial soundness of the plan.[5] Currently, the 67 school districts purchase health, accident, and hospitalization insurance for officers, employees and dependents, as individual school districts.

Florida Law on Collective Bargaining

Chapter 447, F.S., addresses labor organizations. The district school board is considered the public employer for all employees of the district.[6] A public employee is generally defined as a person employed by a public employer.[7] Collective bargaining is required between the public employer and the bargaining agent of public employees in the following areas: wages, hours, and terms and conditions of employment.[8]

Educational Consortia

Regional consortium service organizations are authorized for small school districts pursuant to s. 1001.451, F.S. In that statutory arrangement, school districts with fewer than 20,000 un-weighted full-time equivalent students, the four university laboratory schools, and the Florida School for the Deaf and Blind are permitted to aggregate ten common administrative functions. At least three of the following functions must be included in that aggregation:[9]

- Exceptional student education;
- Teacher education centers;
- Environmental education;
- Federal grant procurement and coordination;
- Data processing;
- Health insurance;

[1] Section 163.01(4), F.S.
[2] Section 112.08(1), F.S.
[3] Section 112.08(2)(a), F.S.
[4] *Id.*
[5] Section 112.08(2)(a) and (b), F.S.
[6] Section 447.203(2), F.S.
[7] Section 447.203(3), F.S.
[8] Section 447.309(1), F.S.
[9] Section 1001.451(1), F.S.

- Risk management insurance;
- Staff development;
- Purchasing; and
- Planning and accountability.

There are three regional consortia participating under s. 1001.451, F.S.: the North East Florida Educational Consortium (NEFEC); the Heartland Educational Consortium (HEC); and the Panhandle Area Education Consortium (PAEC).[10]

Effect of Proposed Changes

The bill requires school districts to enter into interlocal agreements to establish the School District Insurance Consortium (Consortium) for the provision of health, accident, and hospitalization insurance. A school board may opt out of the plan if, at a duly noticed public meeting, it determines that the purchase of insurance outside of the plan procured through the interlocal agreement is financially advantageous to the school district.

The Consortium is governed by a nine-member board of directors, with representation as follows:

- Three members who are elected school board members appointed by the Florida School Boards Association;
- Three members who are elected or appointed school superintendents appointed by the Florida Association of District School Superintendents;
- Two members who are public school teachers or support personnel appointed by the Florida Education Association; and
- One member who has experience in operating employee benefit systems.

Members of the board of directors serve two-year terms. The board of directors is authorized to hire staff or contract for staffing services. The Department of Management Services must provide technical services to the Consortium, as requested.

The bill makes participation in the competitive bid process mandatory for Consortium-purchased insurance, consistent with current law, on group insurance purchases by local governments. Insurance may be purchased for statewide or regional use, and if regional, the Consortium must include districts of different sizes. Multiple providers are authorized.

School districts are required to collectively bargain for all units of employees who will be provided insurance, consistent with current law.

The bill provides for an effect date of July 1, 2012, with application to begin upon the latter of the date of July 1, 2013, or upon expiration or renewal of existing insurance contracts. Therefore, this legislation would not alter the terms of existing contracts.

B. SECTION DIRECTORY:

Section 1 amends s. 112.08, F.S., by requiring school districts to procure group health insurance through a purchasing interlocal agreement.

Section 2 provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

---

[10] Information provided on November 30, 2011, by Mr. Mark Eggers, Bureau Chief of School Business Services, Florida Department of Education.

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

With a greater volume of participants in the insurance pool, better benefits may be offered, resulting in cost savings for claimants.

D. FISCAL COMMENTS:

The Department of Education indicated that "economies of scale through joint purchases of group insurance will likely result in a cost savings to school districts, with the amount indeterminate at this time."[11]

The requirement that the Department of Management Services provide technical services upon request may result in a fiscal impact, but at this time that impact is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

This bill provides no rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill specifies that a geographic group of districts shall include school districts of varying size. However, there are no definitions or guidelines provided for use in determining size categories.

The expiration date for existing contracts with bargaining units is unknown. If dates differ for contiguous school districts, it may be challenging in aligning contracts with the benefit plan year.

---

[11] Agency Analysis of SB 366, Department of Education, October 31, 2011 (on file with the State Affairs Committee).

The "technical services" required by the Department of Management Services to the Consortium at the request of the board of directors request is not defined, consequently, the Department may be unable to budget for this service adequately.

The board of directors is authorized to employ staff or contract for staffing services. The bill is silent as to how the board will pay for such services.

The Department of Education expressed that it is uncertain if the competitive bid process required in the bill is intended to invoke the provisions of State Board of Education Rule 6A-1.012, F.A.C., or if it establishes a separate process, that would operate outside of the procedure that currently governs school district purchasing requirements.[12]

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not Applicable.

[12] *Id.*

1 A bill to be entitled
2 An act relating to group insurance for public
3 employees; amending s. 112.08, F.S.; requiring that
4 school districts procure certain types of insurance
5 for their officers and employees through interlocal
6 agreements; providing an exception; requiring each
7 school district to enter into an interlocal agreement
8 and establish the School District Insurance Consortium
9 governed by a board of directors; providing for
10 membership and specifying terms of office for board
11 members; authorizing the board to employ staff or
12 contract for staffing services to be provided to the
13 consortium; requiring the Department of Management
14 Services to provide technical services to the
15 consortium; requiring the consortium to advertise for
16 competitive bids for insurance; authorizing the
17 awarding of bids on a statewide or regional basis and
18 the selection of multiple insurance providers;
19 requiring that school districts engage in collective
20 bargaining with certified bargaining agents; providing
21 an effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:
24
25 Section 1. Subsection (2) of section 112.08, Florida
26 Statutes, is amended to read:
27 112.08 Group insurance for public officers, employees, and
28 certain volunteers; physical examinations.—

29 (2)~~(a)~~ Notwithstanding any general law or special act to
30 the contrary and except as provided under paragraph (c), every
31 local governmental unit may ~~is authorized to~~ provide and pay out
32 of its available funds for all or part of the premium for life,
33 health, accident, hospitalization, legal expense, or annuity
34 insurance, or all or any kinds of such insurance, for the
35 officers and employees of the local governmental unit and for
36 health, accident, hospitalization, and legal expense insurance
37 for the dependents of such officers and employees upon a group
38 insurance plan and, to that end, to enter into contracts with
39 insurance companies or professional administrators to provide
40 such insurance.

41 (a) Before entering any contract for insurance, the local
42 governmental unit shall advertise for competitive bids,~~;~~ and
43 such contract shall be let upon the basis of such bids. If a
44 contracting health insurance provider becomes financially
45 impaired as determined by the Office of Insurance Regulation of
46 the Financial Services Commission or otherwise fails or refuses
47 to provide the contracted-for coverage or coverages, the local
48 government may purchase insurance, enter into risk management
49 programs, or contract with third-party administrators and may
50 make such acquisitions by advertising for competitive bids or by
51 direct negotiations and contract. The local governmental unit
52 may undertake simultaneous negotiations with those companies
53 that ~~which~~ have submitted reasonable and timely bids and are
54 found by the local governmental unit to be fully qualified and
55 capable of meeting all servicing requirements. Each local
56 governmental unit may self-insure any plan for health, accident,

57 and hospitalization coverage or enter into a risk management
58 consortium to provide such coverage, subject to approval based
59 on actuarial soundness by the Office of Insurance Regulation;
60 and each shall contract with an insurance company or
61 professional administrator qualified and approved by the office
62 to administer such a plan.
63 (b) In order to obtain approval from the Office of
64 Insurance Regulation of any self-insured plan for health,
65 accident, and hospitalization coverage, each local governmental
66 unit or consortium shall submit its plan along with a
67 certification as to the actuarial soundness of the plan, which
68 certification is prepared by an actuary who is a member of the
69 Society of Actuaries or the American Academy of Actuaries. The
70 Office of Insurance Regulation may ~~shall~~ not approve the plan
71 unless it determines that the plan is designed to provide
72 sufficient revenues to pay current and future liabilities, as
73 determined according to generally accepted actuarial principles.
74 After implementation of an approved plan, each local
75 governmental unit or consortium shall annually submit to the
76 Office of Insurance Regulation a report that ~~which~~ includes a
77 statement prepared by an actuary who is a member of the Society
78 of Actuaries or the American Academy of Actuaries as to the
79 actuarial soundness of the plan. The report is due 90 days after
80 the close of the fiscal year of the plan. The report must
81 include ~~shall consist of~~, but need ~~is~~ not be limited to:
82 1. The adequacy of contribution rates in meeting the level
83 of benefits provided and the changes, if any, needed in the
84 contribution rates to achieve or preserve a level of funding

85 deemed adequate to enable payment of the benefit amounts
86 provided under the plan and a valuation of present assets, based
87 on statement value, and prospective assets and liabilities of
88 the plan and the extent of any unfunded accrued liabilities.
89 2. A plan to amortize any unfunded liabilities and a
90 description of actions taken to reduce unfunded liabilities.
91 3. A description and explanation of actuarial assumptions.
92 4. A schedule illustrating the amortization of any
93 unfunded liabilities.
94 5. A comparative review illustrating the level of funds
95 available to the plan from rates, investment income, and other
96 sources realized over the period covered by the report with the
97 assumptions used.
98 6. A statement by the actuary that the report is complete
99 and accurate and that in the actuary's opinion the techniques
100 and assumptions used are reasonable and meet the requirements
101 and intent of this subsection.
102 7. Other factors or statements as required by the office
103 in order to determine the actuarial soundness of the plan.
104
105 All assumptions used in the report must ~~shall~~ be based on
106 recognized actuarial principles acceptable to the Office of
107 Insurance Regulation. The office shall review the report and
108 ~~shall~~ notify the administrator of the plan and each entity
109 participating in the plan, as identified by the administrator,
110 of any actuarial deficiencies. Each local governmental unit is
111 responsible for payment of valid claims of its employees which
112 ~~that~~ are not paid within 60 days after receipt by the plan

113 administrator or consortium.
114 (c) Beginning July 1, 2013, or upon the expiration or
115 renewal date of any existing contract, whichever occurs later,
116 school districts shall procure health, accident, and
117 hospitalization insurance through a purchasing interlocal
118 agreement unless the school board at a duly noticed public
119 meeting determines that purchasing insurance outside the plan
120 procured through the interlocal agreement, as provided under
121 paragraphs (a) and (b), is financially advantageous to the
122 school district.
123 1. Each school district shall enter into an interlocal
124 agreement as provided in s. 163.01 in order to establish the
125 School District Insurance Consortium through which such
126 insurance shall be procured for officers and employees of the
127 school district and their dependents.
128 2. The consortium shall be governed by a board of
129 directors comprised of nine members, three of whom shall be
130 elected school board members appointed by the Florida School
131 Boards Association, Inc., three of whom shall be elected or
132 appointed superintendents of schools appointed by the Florida
133 Association of District School Superintendents, Inc., two of
134 whom shall be public school teachers or support personnel
135 appointed by the Florida Education Association, and one of whom
136 shall have experience in running employee-benefit systems, to be
137 appointed by the other members of the consortium. Consortium
138 board members shall be appointed to 2-year terms. The board may
139 employ staff or contract for staffing services to be provided to
140 the consortium. The Department of Management Services shall

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

141 provide technical services to the consortium as requested by the
142 board.
143 3. Notwithstanding any other provision of law, the
144 consortium shall advertise for competitive bids for such
145 insurance, and the contracts for such insurance shall be let
146 upon the basis of such bids. The consortium shall advertise for
147 proposals for a statewide insurance plan as well as plans
148 providing coverage on a regional basis. In determining
149 appropriate regions, the consortium shall group school districts
150 geographically in a manner that includes school districts of
151 varying sizes for the purpose of ensuring the availability of
152 coverage for all districts in the region. Contracts may be
153 awarded on a statewide or regional basis, and more than one
154 provider may be selected to provide insurance. School districts
155 shall engage in collective bargaining with the certified
156 bargaining agent for any unit of employees for which health,
157 accident, or hospitalization insurance is provided, as required
158 by part II of chapter 447, with regard to coverage offered, cost
159 for dependent coverage, deductibles, optional coverage, and
160 other matters that are subject to collective bargaining as
161 required by state law.
162 (d)~~(c)~~ Every local governmental unit may ~~is authorized to~~
163 expend funds for preemployment physical examinations and
164 postemployment physical examinations.
165 Section 2. This act shall take effect July 1, 2012.

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

HM 499

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 499 Federal Balanced Budget Amendment
SPONSOR(S): Ingram
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee	7 Y, 5 N	Bennett	Camechis
2) State Affairs Committee		Bennett PB	Hamby JDO

SUMMARY ANALYSIS

This memorial urges the U.S. Congress to propose a constitutional amendment that requires the federal budget to be balanced each year. The memorial does not, however, specify the exact form the amendment should take or suggest specific provisions that should be included in the amendment.

The memorial will not have a fiscal impact on state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

This memorial urges the U.S. Congress to propose a constitutional amendment that requires the federal budget to be balanced each year. The memorial does not, however, specify the exact form the amendment should take or suggest specific provisions that should be included in the amendment.

Background

The U.S. Constitution does not require the annual federal budget to be balanced, and the constitutional provision governing federal spending broadly authorizes Congress "[t]o borrow Money on the credit of the United States."[1] Thus, when the federal government spends more money than it collects in revenues, a budget deficit is created. To pay the expenses that exceed revenue collections, the federal government borrows money and creates federal debt.

Until the 1930s, most federal legislators acted as if there were a constitutional balanced budget requirement and "would have considered it to be immoral to spend more than they were willing to generate."[2] After the Great Depression, however, this implied restraint began to fade, prompting the proposal of the first balanced budget amendment (BBA) in 1936.[3] In the 1980s, a "radical departure" from historical budgetary practices occurred "as budget deficits accumulated in a period of peace and sustained growth."[4]

Federal Action

Congress experimented with formal balanced-budget requirements in response to the growing deficit of the 1980s. The most prominent effort was the Gramm-Rudman-Hollings Balanced Budget Act of 1985. The Act set a deficit reduction timeline and made it more difficult for Congress to increase spending deficits. The act ultimately failed in practice due to a lack of enforcement mechanisms.[5]

In 1992, a proposed constitutional amendment requiring Congress and the President to balance the federal budget each year fell short of passage by nine votes.[6] Similar BBAs were proposed in 1995 and 1997; both failed to pass the Senate by one vote.[7] The balanced budget issue then stalled as a result of the budget surpluses of the late 1990s. However, because of the recent economic downturn and increased deficit, the number of BAA proposals introduced in Congress has increased.

State Action

In 1983, thirty-two states had passed resolutions requesting a constitutional convention for proposing a balanced budget amendment; two short of the required thirty-four states.[8] However, after the enactment of the Gramm-Rudman-Hollings Balanced Budget Act of 1985, Florida and Alabama rescinded their applications for a constitutional convention.[9]

---

[1] U.S. Const. art. I, § 8.
[2] James M. Buchanan, *Clarifying Confusion About the Balanced Budget Amendment*, 49 Nat'l Tax J. 347, 347-48 (1995).
[3] H.J. Res. 579, 74th Cong.; Introduced by Representative Harold Knutson.
[4] Alberto Alesina, *The Political Economy of the Budget Surplus in the United States*, 14 J. Econ. Persp. 3, at 6 (2000).
[5] James V. Saturnov, *A Balanced Budget Constitutional Amendment: Background and Congressional Options*, Congressional Research Services (2011).
[6] H.J. Res. 290; legislative history of all proposed balanced budget amendments can be found at : http://thomas.loc.gov/cgi-bin/cpquery/?&sid=cp1058emTZ&r_n=sr003.105&dbname=cp105&&sel=TOC_7122&
[7] *Id.*
[8] Saturnov, *supra* note 6, at 25.
[9] *See Id* (Since 1989, ten additional states have rescinded their constitutional convention applications Nevada (1989), Louisiana (1991), Colorado (1992), Oregon (1999), Idaho (2000), Utah, (2001)North Dakota (2001) Wyoming (2001), Arizona (2003) and Georgia (2004)).

The Amendment Process

Article Five of the U.S. Constitution establishes the process to amend the Constitution. The amendment process consists of essentially two steps: 1. an amendment must be proposed and 2. the amendment must be ratified by 38 states.

An amendment may be proposed by two-thirds of both houses of the U.S. Congress or by a national convention. A national convention may be assembled if requested by at least 34 state legislatures. To become part of the Constitution, proposed amendments must be ratified either by approval of at least 38 state legislatures or state ratifying conventions. Congress decides which method of ratification must be used. Any amendment ratified by 38 states becomes a valid part of the constitution.

In order for the Florida Legislature to ratify an amendment, a majority of the members present and voting in each house must vote in favor of a concurrent resolution approving the amendment.[10]

Present Situation

On August 24, 2011, the Congressional Budget Office (CBO) issued a report on the status of the federal deficit, stating that:

> The United States is facing profound budgetary and economic challenges. At 8.5 percent of gross domestic product (GDP), the $1.3 trillion budget deficit that the Congressional Budget Office (CBO) projects for 2011 will be the third-largest shortfall in the past 65 years (exceeded only by the deficits of the preceding two years). This year's deficit stems in part from the long shadow cast on the U.S. economy by the financial crisis and the recent recession. . . .[11]

The recent accumulation of large deficits has resulted in an increase in proposed state and federal legislation to curb such increases.

In 2011, the Florida Senate passed a concurrent resolution urging Congress to call a convention for the purpose of proposing amendments to the U.S. Constitution to achieve and maintain a balanced federal budget. The resolution died in House messages.[12] In 2011, South Dakota, Texas, and Utah passed resolutions urging Congress to pass a BBA.[13]

In Congress, more BBA proposals have been introduced during the first six months of the 112th Congress than in any Congress since the 105th in 1997-1998.[14] As of November 7, 2011, at least thirteen resolutions proposing a BBA are pending in the House of Representatives, while five are pending in the Senate.[15] The proposed BBAs differ significantly on threshold issues such as how each amendments' provisions apply during times of "military conflict," the number of votes required to suspend the mandate, and whether the budget must be balanced during each fiscal year.

B. SECTION DIRECTORY: None.

---

[10] House Rules 5.10 (a), 10.8, and 13.6.

[11] *See* full report at: http://cbo.gov/ftpdocs/123xx/doc12316/Update_SummaryforWeb.pdf

[12] CS/S.C.R. 4 (2011).

[13] South Dakota: S.C.R. 9; Texas: H.C.R. 18; Utah: H.C.R. 3.

[14] H.J. Res. 290; legislative history of all proposed balanced budget amendments can be found at: http://thomas.loc.gov/cgi-bin/cpquery/?&sid=cp1058emTZ&r_n=sr003.105&dbname=cp105&&sel=TOC_7122&.

[15] House Joint Resolutions 1, 2, 4, 5, 10, 11, 14, 18, 23, 41, 52, 54, and 56; Senate Joint Resolutions 3, 5, 10, 23, and 24.

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.

2. Other: None.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 House Memorial
2 A memorial to the Congress of the United States,
3 urging Congress to propose to the states an amendment
4 to the Constitution of the United States that requires
5 the federal budget to be balanced each year.
6
7 WHEREAS, a balanced budget amendment to the United States
8 Constitution has been proposed in the United States Congress,
9 and
10 WHEREAS, the current national debt is over $14.3 trillion,
11 a cost of approximately $46,000 for each man, woman, and child
12 in the United States, and is growing at an alarming rate, and
13 WHEREAS, for 2011, the Congressional Budget Office projects
14 that, if current laws remain unchanged, the federal budget will
15 show a deficit of close to $1.5 trillion, or a national deficit
16 equal to nearly 10 percent of the country's entire economic
17 output, one of the largest shares of entire economic output this
18 country has experienced since 1945, and
19 WHEREAS, if the White House budget projections come to
20 pass, the national debt will exceed the current gross domestic
21 product of the United States by December 2012, and
22 WHEREAS, this spending has created national security
23 concerns that the total interest expense on the debt due by the
24 Federal Government for Federal Fiscal Year 2010 alone,
25 approximately $414 billion, is almost eight times greater than
26 the 2010 fiscal year budget of the Department of Homeland
27 Security of $55.3 billion, and
28 WHEREAS, equally as concerning, foreign-owned debt

29 accounted for approximately 31.5 percent of the total federal
30 debt as of May 2011, and foreigners are, therefore, in a unique
31 position of authority with respect to the United States, and
32 WHEREAS, credit agencies have already downgraded the
33 nation's AAA credit rating due to the size of its indebtedness
34 and these very large federal budget deficits, deficits that
35 could potentially further destabilize government finances and
36 financial markets, and
37 WHEREAS, millions of people in this country have made
38 difficult choices discerning between wants and needs and have
39 taken the responsible steps to curb personal spending in these
40 difficult economic times, NOW, THEREFORE,
41
42 Be It Resolved by the Legislature of the State of Florida:
43
44 That the Florida Legislature respectfully petitions the
45 Congress of the United States to propose to the states an
46 amendment to the United States Constitution that requires the
47 federal budget to be balanced each year.
48 BE IT FURTHER RESOLVED that copies of this memorial be
49 dispatched to the President of the United States, to the
50 President of the United States Senate, to the Speaker of the
51 United States House of Representatives, and to each member of
52 the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4001 Florida Climate Protection Act
SPONSOR(S): Plakon
TIED BILLS: None **IDEN./SIM. BILLS:** SB 648

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	8 Y, 5 N	Deslatte	Blalock
2) State Affairs Committee		Deslatte	Hamby

SUMMARY ANALYSIS

On July 13, 2007, Governor Crist signed Executive Order 07-127, establishing greenhouse gas (GHG) emission reduction targets for the State of Florida.

To achieve these GHG emissions reduction targets, the executive order directed the Secretary of the Department of Environmental Protection (DEP) to develop a rule adopting the following maximum allowable GHG emissions levels for electric utilities in the State of Florida:

- By 2017, emissions not greater than Year 2000 utility sector emissions;
- By 2025, emissions not greater than Year 1990 utility sector emissions; and
- By 2050, emissions not greater than 20% of Year 1990 utility sector emissions (i.e., 80% reduction of 1990 emissions by 2050).

Maintaining that the DEP had legislative authority to impose limitations on GHG emissions from electric utilities, the DEP initiated rulemaking to establish such standards in the Fall of 2007. Simultaneously, the DEP requested legislation granting the department authority to establish, by rule, a market-based program for electric utilities to meet any future GHG emission standards.

Finding that, "it is in the best interest of the state to document, to the greatest extent practicable, greenhouse gas emissions and to pursue a market-based emissions abatement program such as cap-and-trade, to address greenhouse gas emissions reductions," the 2008 Legislature enacted HB 7135, which in part grants the DEP authority to adopt rules for a cap-and-trade regulatory program to reduce GHG emissions from electric utilities. However, the DEP was prohibited from adopting such rules until after January 2010, and the rules, if adopted, may not take effect until ratified by the Legislature. Subsequently, the DEP chose not to promulgate a cap-and-trade rule, and congressional efforts to adopt a cap and trade program have stalled. Recently a bipartisan group of Congressional legislators have proposed bills to delay or block EPA from regulating greenhouse gases under the Clean Air Act and other environmental laws.

This bill repeals current law that creates the cap-and-trade regulatory program to reduce those greenhouse gas emissions from electric utilities.

As discussed in the Fiscal Comments section, passage of this bill arguably will reduce the likelihood of both the public and private sectors experiencing the anticipated negative fiscal impacts associated with a state mandated cap and trade program.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Under a cap-and-trade regulatory program, the government sets a limit or cap on the amount of greenhouse gases that can be emitted. Regulated entities, such as electric utilities, are issued emission permits and are required to hold an equivalent number of allowances (or credits) which represent the right to emit a specific amount of GHGs. Typically, in a cap-and-trade program each allowance equals 1 ton of CO2 equivalent. The total amount of allowances cannot exceed the cap, limiting total emissions to that level. Regulated entities that need to increase their emission allowance must buy credits from those who pollute less. The transfer of allowances is referred to as a trade. In effect, the buyer is paying a charge for polluting, while the seller is being rewarded for having reduced emissions by more than was required. Thus, in theory, those who can easily reduce emissions most cheaply will do so, achieving the pollution reduction at the lowest possible marginal cost.

To implement a cap-and-trade program, certain design elements must be established, and how each of these design elements is implemented plays a significant role in the efficiency and cost-effectiveness of any cap-and-trade program. These design elements include:

- The stringency of the cap;
- The breadth of coverage (utility sector only, motor vehicle sector only, industrial sector only, or economy wide);
- The point of administration (up-stream or downstream);
- Which GHGs are covered (just CO2, just methane, or all GHGs);
- Allowance allocation (free allocation or auction); and
- Additional compliance options (offsets, banking, borrowing, or safety valve).

On July 13, 2007, Governor Crist signed Executive Order 07-127, establishing GHG emission reduction targets for the State of Florida.

To achieve these GHG emissions reduction targets, the executive order directed the Secretary of the DEP to develop a rule adopting the following maximum allowable GHG emissions levels for electric utilities in the State of Florida:

- By 2017, emissions not greater than Year 2000 utility sector emissions;
- By 2025, emissions not greater than Year 1990 utility sector emissions; and
- By 2050, emissions not greater than 20% of Year 1990 utility sector emissions (i.e., 80% reduction of 1990 emissions by 2050).

Maintaining that the DEP had legislative authority to impose limitations on GHG emissions from electric utilities, the DEP initiated rulemaking to establish such standards in the Fall of 2007. Simultaneously, the DEP requested legislation granting the department authority to establish by rule a market-based program for electric utilities to meet any future GHG emission standards.

Finding that, "it is in the best interest of the state to document, to the greatest extent practicable, greenhouse gas emissions and to pursue a market-based emissions abatement program such as cap-and-trade, to address greenhouse gas emissions reductions," the 2008 Legislature enacted HB 7135, which in part grants the DEP authority to adopt rules for a cap-and-trade regulatory program to reduce GHG emissions from electric utilities. However, the DEP was prohibited from adopting such rules until after January 2010, and the rules, if adopted, may not take effect until ratified by the Legislature. Subsequently, the DEP chose not to promulgate a cap-and-trade rule, and congressional efforts to adopt a cap and trade program have stalled. Recently a bipartisan group of Congressional legislators

have proposed bills to delay or block EPA from regulating greenhouse gases under the Clean Air Act and other environmental laws.

The bill created s. 403.44, F.S., to provide that the DEP may adopt rules for a cap-and-trade regulatory program to reduce greenhouse gas emissions from electric utilities. In developing rules, the DEP must consult with the Department of Agriculture and Consumer Services (DACS) and the Public Service Commission (PSC), and may consult with the Governor's Action Team on Energy and Climate Change (Action Team). The DEP cannot adopt rules until after January 1, 2010. The rules cannot become effective until they are ratified by the Legislature.

The bill also provided that the rules of the cap-and-trade regulatory program must include:

- A statewide limit or cap on the amount of GHG emissions emitted by major emitters.
- Methods, requirements, and conditions for allocating the cap among major emitters.
- Methods, requirements, and conditions for emissions allowances and the process for issuing emissions allowances.
- The relationship between allowances and the specific amounts of GHGs they represent.
- The length of allowance periods and the time over which entities must account for emissions and surrender allowances equal to emissions.
- The time path of allowances from the initiation of the program through 2050.
- A process for trading allowances between major emitters.
- Cost containment mechanisms to reduce price and cost risks associated with the electric generation market in the state. Methods to be considered include:

    - Allowing major emitters to borrow allowances from future time periods to meet their emissions limit.
    - Allowing major emitters to bank emissions reductions in the current year to be used to meet future emissions limits.
    - Allowing major emitters to purchase emissions offsets from other entities who produce reductions in unregulated GHGs or who produce reductions in GHGs through capture and storage.
    - Providing a safety valve mechanism to ensure that the market prices for allowances or offsets do not surpass a predetermined level of affordability of electric utility rates and well being of the state's economy.

- A process to allow the DEP to discourage leakage of GHG emissions to neighboring states.
- Provisions for a trial period on the trading of allowances before fully implementing a trading system.

The bill further required the following factors be considered in recommending and evaluating the proposed features of the cap-and-trade system:

- The overall cost-effectiveness of the cap-and-trade system in combination with other policies and measures in meeting statewide targets.
- Minimizing the administrative burden to the state of implementing, monitoring, and enforcing the program.
- Minimizing the administrative burden on entities covered under the cap.
- The impacts on electricity prices for consumers.
- The specific benefits to Florida's economy for early adoption of a cap-and-trade system in the context of federal climate change legislation and the development of new international compacts.
- The specific benefits to Florida's economy associated with the creation and sale of emissions offsets from economic sectors outside of the emissions cap.
- The potential effects on leakage if economic activity relocates out of the state.
- The effectiveness of the combination of measures in meeting identified targets.
- The implications for near-term periods of long run targets specified in the overall policy.

- The overall cost to the Florida economy.
- How to moderate the economic impacts on low income consumers.
- Consistency of the program with other state and possible Federal programs.
- The feasibility and cost-effectiveness of extending the program scope as broadly as possible among emitting activities and sinks in Florida.
- Evaluation of the conditions under which Florida should consider linking its trading system to other states' or other countries' systems, and how that might be affected by the potential inclusion in the rule of a safety valve.

In addition, the bill required the DEP, prior to submitting the proposed rules to the Legislature for its consideration, to submit the proposed rules to DACS, which must review the proposed rules and submit a report to the Governor, the President of the Florida Senate, the Speaker of the Florida House of Representatives, and the DEP. The report must address the following:

- The overall cost-effectiveness of the proposed cap-and-trade system in combination with other policies and measures in meeting statewide targets.
- The administrative burden to the state of implementing, monitoring, and enforcing the program.
- The administrative burden on entities covered under the cap.
- The impacts on electricity prices for consumers.
- The specific benefits to Florida's economy for early adoption of a cap-and-trade system in the context of federal climate change legislation and the development of new international compacts.
- The specific benefits to Florida's economy associated with the creation and sale of emissions offsets from economic sectors outside of the emissions cap.
- The potential effects on leakage if economic activity relocates out of the state.
- The effectiveness of the combination of measures in meeting identified targets.
- The economic implications for near-term periods of short-term and long-term targets specified in the overall policy.
- The overall cost to the Florida economy.
- The impacts on low income consumers that result from energy price increases.
- The consistency of the program with other state and possible Federal efforts.
- The evaluation of the conditions under which Florida should consider linking its trading system to other states' or other countries' systems, and how that might be affected by the potential inclusion in the rule of a safety valve.
- The timing and changes in the external environment, such as proposals by other states or implementation of a Federal program that would spur reevaluation of the Florida program.
- The conditions and options for eliminating the Florida program if a Federal program were to supplant it.
- The need for a regular reevaluation of the progress of other emitting regions of the country and of the world, and whether other regions are abating emissions in a commensurate manner.
- The desirability and possibility of broadening the scope of Florida's cap-and-trade system at a later date to include more emitting activities as well as sinks in Florida, and the conditions that would need to be met to do so.

Effect of Proposed Changes

The bill repeals s. 403.44, F.S., relating to the cap-and-trade program to reduce greenhouse gas emissions from electric utilities. The bill also amends a cross-reference to conform to the repeal.

B. SECTION DIRECTORY:

Section 1. Repeals s. 403.44, F.S., relating to a cap-and-trade regulatory program to reduce greenhouse gas emissions from electric utilities.

Section 2. Amends s. 366.8255, F.S., conforming a cross-reference.

Section 3. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

As noted in the "Effects of Proposed Changes" section, the DEP thus far has chosen not to exercise its authority to adopt a cap-and-trade rule. If such a rule were adopted, it would not take effect until ratified by an act of the Legislature. In the event a cap-and-trade rule was adopted and ratified by the Legislature, both state and local governments would experience increased expenditures; however, the private sector would experience the most significant negative fiscal impact. Arguably, passage of this bill will reduce the likelihood of such impacts occurring as a result of a state cap-and trade program.

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:

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 the Florida Climate Protection Act;
3 repealing s. 403.44, F.S., relating to a cap-and-trade
4 regulatory program to reduce greenhouse gas emissions
5 from electric utilities; amending s. 366.8255, F.S.;
6 conforming a cross-reference; providing an effective
7 date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Section 403.44, Florida Statutes, is repealed.
12 Section 2. Paragraph (d) of subsection (1) of section
13 366.8255, Florida Statutes, is amended to read:
14 366.8255 Environmental cost recovery.—
15 (1) As used in this section, the term:
16 (d) "Environmental compliance costs" includes all costs or
17 expenses incurred by an electric utility in complying with
18 environmental laws or regulations, including, but not limited
19 to:
20 1. Inservice capital investments, including the electric
21 utility's last authorized rate of return on equity thereon.
22 2. Operation and maintenance expenses.
23 3. Fuel procurement costs.
24 4. Purchased power costs.
25 5. Emission allowance costs.
26 6. Direct taxes on environmental equipment.
27 7. Costs or expenses prudently incurred by an electric
28 utility pursuant to an agreement entered into on or after the

29 effective date of this act and prior to October 1, 2002, between
30 the electric utility and the Florida Department of Environmental
31 Protection or the United States Environmental Protection Agency
32 for the exclusive purpose of ensuring compliance with ozone
33 ambient air quality standards by an electrical generating
34 facility owned by the electric utility.
35 ~~8. Costs or expenses prudently incurred for the~~
36 ~~quantification, reporting, and third-party verification as~~
37 ~~required for participation in greenhouse gas emission registries~~
38 ~~for greenhouse gases as defined in s. 403.44.~~
39 8. ~~9.~~ Costs or expenses prudently incurred for scientific
40 research and geological assessments of carbon capture and
41 storage conducted in this state for the purpose of reducing an
42 electric utility's greenhouse gas emissions when such costs or
43 expenses are incurred in joint research projects with Florida
44 state government agencies and Florida state universities.
45 Section 3. This act shall take effect July 1, 2012.

HB 4039

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4039 Recreation and Parks
SPONSOR(S): Porter
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	14 Y, 0 N	Cunningham	Blalock
2) State Affairs Committee		Cunningham	Hamby

SUMMARY ANALYSIS

In 1925, the Legislature enacted a law authorizing cities and counties to set aside lands and/or buildings for use as playgrounds and recreation centers and to appropriate funds to conduct, equip, and maintain these facilities. The law also authorizes the governing body of a city or a county to establish a system of supervised recreation. Cities and counties were able to finance these recreational lands and/or buildings through the issuance of bonds and the levy of an annual ad valorem tax of up to 1 mill specifically designated as the "playground and recreation tax." Since 1968, cities and counties under their home rule authority have been able to levy such taxes, subject to referendum, within their respective millage cap.

In addition, the law prescribes the duties and functions of the Division of Recreation and Parks within the Department of Environmental Protection (DEP). While the bill deletes these provisions, DEP maintains that it will still be able to conduct its outreach or training regarding the grant process, if requested by local governments, through the Florida Recreation Development Assistance Program.

The bill repeals this law.

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

Part 1, of chapter 418, F.S., was created in 1925, and authorizes cities and counties to set aside lands and/or buildings for use as playgrounds and recreation centers and appropriate funds to conduct, equip, and maintain these facilities. It also authorizes the governing body of a city or county to establish a system of supervised recreation. Cities and counties are authorized under Part 1, of chapter 418, F.S., to finance recreational lands and/or buildings through the issuance of bonds and the levy of an annual ad valorem tax of up to 1 mill specifically designated as the "playground and recreation tax." Since 1968, cities and counties under their home rule authority have been able to levy such taxes, subject to referendum, within their respective millage cap.[1]

Section 418.12, F.S., of Part 1, describes the duties and functions of the Division of Recreation and Parks within the Department of Environmental Protection.

Effect of Proposed Changes

The bill repeals Part 1 of chapter 418, F.S., ss. 418.01-418.12, F.S. Part 1 was enacted in 1925, and for the most part has not been amended since its inception. The most recent amendment to Part 1 of ch. 418, F.S., occurred in 1994 to s. 418.12, F.S., when the Department of Natural Resources was changed to the Department of Environmental Protection. While the bill deletes this section, the Department of Environmental Protection maintains that it will still be able to conduct its outreach or training regarding the grant process, if requested by local governments, through the Florida Recreation Development Assistance Program. Local governments can accomplish the provisions of Part 1 under their general authority.

B. SECTION DIRECTORY:

Section 1: Repeals sections 418.01, 418.02, 418.03, 418.04, 418.05, 418.06, 418.07, 418.08, 418.09, 418.10, 418.11, and 418.12, F.S.

Section 2: Provides an effective date of July 1, 2012.

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.

[1] See s. 201.01(1)(c), F.S., for counties and s. 200.01(2)(c), F.S., for municipalities.

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 revenue in the aggregate; or reduce the percentage of state tax shared with counties or municipalities. The tax levy authorized by s. 418.08, F.S., is subject to referendum and is therefore already included within the millages authorized for counties under s. 201.01(1)(c), F.S., and municipalities under s. 200.01(2)(c), F.S.

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 recreation and parks; repealing s.
3 418.01, F.S., relating to scope of chapter and a
4 definition; repealing s. 418.02, F.S., relating to
5 recreation centers, use and acquisition of land, and
6 equipment and maintenance; repealing s. 418.03, F.S.,
7 relating to supervision; repealing s. 418.04, F.S.,
8 relating to playground and recreation boards;
9 repealing s. 418.05, F.S., relating to cooperation
10 with other units and boards; repealing s. 418.06,
11 F.S., relating to gifts, grants, devises, and
12 bequests; repealing s. 418.07, F.S., relating to
13 issuance of bonds; repealing s. 418.08, F.S., relating
14 to petition for referendum; repealing s. 418.09, F.S.,
15 relating to resolution or ordinance providing for
16 recreation system; repealing s. 418.10, F.S., relating
17 to tax levy; repealing s. 418.11, F.S., relating to
18 payment of expenses and custody of funds; repealing s.
19 418.12, F.S., relating to duties and functions of the
20 Division of Recreation and Parks of the Department of
21 Environmental Protection; providing an effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:
24
25 Section 1. Sections 418.01, 418.02, 418.03, 418.04,
26 418.05, 418.06, 418.07, 418.08, 418.09, 418.10, 418.11, and
27 418.12, Florida Statutes, are repealed.
28 Section 2. This act shall take effect July 1, 2012.

HB 4083

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4083 Florida Water Resources Act of 1972
SPONSOR(S): Eisnaugle
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	13 Y, 0 N	Cunningham	Blalock
2) State Affairs Committee		Cunningham	Hamby

SUMMARY ANALYSIS

The Florida Water Resources Act of 1972[1] addresses various policies pertaining to water resources, water supply planning and management, water quality, and the permitting of activities that impact water resources in the state. The Department of Environmental Protection (DEP) and water management districts (WMDs) implement these policies by:

- Establishing state and regional water supply plans;
- Permitting the consumptive use of water;
- Establishing minimum flows and levels;
- Establishing alternative water supplies;
- Permitting the construction or alteration of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, including dredging, filling, and construction activities in, on, and over wetlands and other surface waters; and
- Enforcing water quality standards.

Currently, two statutes provide that the provisions of ch. 373, F.S., must be liberally construed in order to effectively carry out its purposes.

The bill repeals one of these statutes.

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

---

[1] Chapter 373, F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Water Resources Act of 1972[2] addresses various policies pertaining to water resources, water supply planning and management, water quality, and the permitting of activities that impact water resources in the state. The Department of Environmental Protection (DEP) and water management districts (WMDs) implement these policies by:

- Establishing state and regional water supply plans;
- Permitting the consumptive use of water;
- Establishing minimum flows and levels;
- Establishing alternative water supplies;
- Permitting the construction or alteration of any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, including dredging, filling, and construction activities in, on, and over wetlands and other surface waters; and
- Enforcing water quality standards.

Currently, ss. 373.616 and 373.6161, F.S., provide that ch. 373, F.S., must be liberally construed in order to effectively carry out its purposes.

Effect of Proposed Changes

The bill repeals s. 373.616, F.S., because the language is duplicative to s. 373.6161, F.S.

B. SECTION DIRECTORY:

Section 1. Repeals s. 373.616, F.S., relating to the liberal interpretation of ch. 373, F.S.

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:

   None.

---

[2] Chapter 373, F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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 the Florida Water Resources Act of
3 1972; repealing s. 373.616, F.S., relating to the
4 liberal construction of ch. 373, F.S.; providing an
5 effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Section 373.616, Florida Statutes, is repealed.
10 Section 2. This act shall take effect July 1, 2012.