



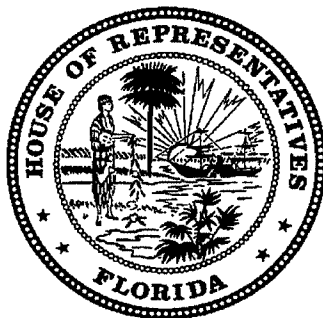
Finance and Tax Committee

Tuesday, February 7, 2012

3:45 p.m.

404 House Office Building

MEETING PACKET



Finance and Tax Committee

AGENDA

February 7, 2012

3:45 p.m.

404 House Office Building

I. Call to Order/Roll Call

II. Consideration of the following bill(s):

HJR 169 Additional Homestead Tax Exemption for Seniors by Oliva

HB 357 Homestead Exemptions for Seniors by Oliva

CS/HB 465 District School Board Bonds by PreK-12 Appropriations Subcommittee, Diaz

HB 547 Community Redevelopment Agencies by Fresen

CS/HB 801 Emergency Telecommunications Service by Community & Military Affairs Subcommittee, Steube, Passidomo

HB 1015 Tourist Development Tax by Hooper

CS/HB 1343 Discretionary Sales Surtaxes by PreK-12 Appropriations Subcommittee, Fresen

Consideration of the following proposed committee bill(s):

PCB FTC 12-06 -- Property Tax Exemption for Deployed Servicemembers

III. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 169 Additional Homestead Tax Exemption for Seniors

SPONSOR(S): Oliva and others

TIED BILLS: HB 357 **IDEN./SIM. BILLS:** SJR 1740

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Aldridge <i>AA</i>	Langston <i>AL</i>
2) Community & Military Affairs Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The joint resolution proposes an amendment to the state constitution that would allow the Legislature by general law to permit counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of homestead property to certain low income seniors.

To be eligible for the additional homestead exemption, the following conditions must be met:

- The county or municipality must have granted the exemption by ordinance;
- The owner must have title to the property and must have maintained his or her permanent residence thereon for at least twenty years;
- The owner is 65 years of age or older; and
- The owner's annual household income is less than \$15,000.

The general law implementing the constitutional provision must require counties and municipalities choosing to provide the additional homestead exemption to certain low income seniors to do so by ordinance. The general law must also provide for the periodic adjustment of the income limitation for changes in the cost of living.

The Revenue Estimating Conference has not yet estimated the revenue impacts of the joint resolution, however the revenue impact on local governments would be negative to an indeterminate degree. This is because the constitutional amendment proposed by the joint resolution must first:

- Be approved by the voters,
- Be implemented by general law, and
- Be adopted by ordinance by counties or municipalities wishing to offer the additional exemption.

The joint resolution would have a nonrecurring expenditure impact on the state for the cost of advertising the proposed amendment.

To be placed on the ballot, the joint resolution must be approved by three-fifths of the membership of each house.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Property Taxation in Florida

Local governments, including counties, school districts and municipalities have the constitutional ability to levy ad valorem taxes. Special districts may also be given this ability by law.¹ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

Ad valorem taxes are capped by the state constitution as follows:²

- Ten mills for county purposes.
- Ten mills for municipal purposes.
- Ten mills for school purposes.
- A millage fixed by law for a county furnishing municipal services.
- A millage authorized by law and approved by voters for special districts.

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations. Millage rates vary among local governments and are fixed by ordinance or resolution of the taxing authority's governing body.³

Regardless of the body imposing the taxes, two county constitutional officers have primary responsibility for the administration and collection of ad valorem taxes. The county property appraiser calculates the fair market value, assessed value and the value of applicable exemptions of the property. The tax collector collects all ad valorem taxes levied by the county, school district, municipalities, and any special taxing districts within the county and distributes the taxes to each taxing authority.⁴

The Department of Revenue (DOR) supervises the assessment and valuation of property so that all property is placed on the tax rolls and valued according to its just valuation.⁵ Additionally, the DOR prescribes and furnishes all forms as well as prescribes rules and regulations to be used by property appraisers, tax collectors, clerks of circuit court, and value adjustment boards in administering and collecting ad valorem taxes.⁶

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.⁷ However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit – not variations in rates between taxing units.⁸

The Florida Constitution grants property tax relief in the form of certain valuation differentials,⁹ assessment limitations,¹⁰ and exemptions,¹¹ including the homestead exemptions.

¹ Article VII, s. 9, Fla. Const.

² A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of taxable value.

³ Section 200.001(7), F.S.

⁴ Section 197.383, F.S.

⁵ Section 195.002, F.S.

⁶ Chapter 195, F.S.

⁷ Article VII, s. 2, Fla. Const.

⁸ See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. Dist. Ct. App. 4th Dist. 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

⁹ Article VII, s. 4, Fla. Const., authorizes valuation differentials, which are based on character or use of property.

¹⁰ Article VII, s. 4(c), Fla. Const., authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed

Homestead Exemption

The Homestead Exemption provides an exemption from all ad valorem taxes on the first \$25,000 of assessed value for owners of homestead property, provided that the tax roll in their county has been approved.¹² An additional \$25,000 exemption is provided for assessed values between \$50,000 and \$75,000; however, this exemption does not apply to school taxes.¹³

Save Our Homes

The "Save Our Homes" provision in s. 4, Art. VII of the Florida Constitution limits the amount a homestead's assessed value can increase annually to the lesser of three percent or the inflation rate as measured by the Consumer Price Index (CPI).¹⁴ Homestead property owners who establish a new homestead may transfer up to \$500,000 of their accrued "Save Our Homes" benefit to that homestead.¹⁵

Section 193.155, Florida Statutes

In 1994, the Legislature implemented the "Save Our Homes" amendment in s. 193.155, F.S. The legislation required all homestead property to be assessed at just value by January 1, 1994. Starting on January 1, 1995, or the year after the property receives a homestead exemption (whichever is later), property receiving a homestead exemption must be reassessed annually on January 1 of each year. As provided in the constitution, s. 193.155, F.S., requires that any change resulting from the reassessment may not exceed the lesser of three percent or the growth in the CPI. Pursuant to s. 193.155(2), F.S., if the assessed value of the property exceeds its just value, the assessed value must be lowered to the just value of the property.

Low-Income Seniors

Counties and cities may allow an additional homestead exemption of up to \$50,000 for anyone 65 years or older whose household income does not exceed \$20,000, adjusted annually by the percentage change in the average cost-of-living index.¹⁶ The exemption only applies to taxes levied by the county or city enacting the exemption.¹⁷

Under the Homestead Property Tax Deferral Act, any homesteader 65 years or older who would qualify for the exemption would also qualify to defer all ad valorem taxes.¹⁸ All senior homesteaders may defer the portion of their tax levy exceeding 3-percent of household income, so long as tax deferrals and other liens do not exceed 85-percent of assessed value and the primary mortgage does not exceed 70 percent. Deferred tax and interest up to 7 percent are due when the property is sold, property insurance is not maintained, or the property ceases to qualify for homestead exemption.

value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the "Granny Flats" assessment limitation.

¹¹ Article VII, s. 3, Fla. Const., provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

¹² Article VII, s. 6, Fla. Const.

¹³ *Id.* See also Am. C.S. for S.J.R. 2-D, 2007.

¹⁴ Article VII, s. 4(d), Fla. Const.

¹⁵ *Id.*

¹⁶ Article VII, s. 6, Fla. Const. See also s. 196.075, F.S. For 2012, that indexed household income amount is \$27,030. See: <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited February 4, 2012)

¹⁷ Section 196.075(4), F.S.

¹⁸ Section 197.243, F.S.

Proposed Changes

The joint resolution proposes an amendment to the state constitution that would allow the Legislature by general law to permit counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of homestead property to certain low income seniors.

To be eligible for the additional homestead exemption, the following conditions must be met:

- The county or municipality must have granted the exemption by ordinance;
- The owner must have title to the property and must have maintained his or her permanent residence thereon for at least twenty years;
- The owner is 65 years of age or older; and
- The owner's annual household income is less than \$15,000.

The general law implementing the constitutional provision must require counties and municipalities choosing to provide the additional homestead exemption to certain low income seniors to do so by ordinance. The general law must also provide for the periodic adjustment of the income limitation for changes in the cost of living.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Division of Elections is required to publish the proposed constitutional amendment twice in a newspaper of general circulation in each county.¹⁹ The Division estimates the cost of advertising the proposed constitutional amendment would be \$93,403.²⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the revenue impacts of this joint resolution on local governments. However, the amendment, if passed, would only affect a county or municipality that chose to allow the additional low income senior homestead exemption.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

¹⁹Article XI, s. 5(d), Fla. Const.

²⁰Department of State, *House Joint Resolution 169 (2012) Fiscal Analysis* (October 11, 2011).

The resolution could reduce property taxes on certain qualifying seniors. Such a reduction in the property tax base could result in a corresponding shift in property tax burden to other property tax owners.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision is not applicable to Joint Resolutions.

2. Other:

Article XI, s. 1 of the Florida Constitution, provides the Legislature the authority to propose amendments to the constitution by joint resolution approved by three-fifths of the membership of each house. 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 or may be placed at a special election held for that purpose.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII of the State Constitution to authorize the Legislature, by general law, to allow counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of the property to an owner who has maintained permanent residency on the property for a specified duration, who has attained age 65, and whose household income does not exceed a specified amount.

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

That the following amendment to Section 6 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand

29 dollars and up to seventy-five thousand dollars, upon
 30 establishment of right thereto in the manner prescribed by law.
 31 The real estate may be held by legal or equitable title, by the
 32 entireties, jointly, in common, as a condominium, or indirectly
 33 by stock ownership or membership representing the owner's or
 34 member's proprietary interest in a corporation owning a fee or a
 35 leasehold initially in excess of ninety-eight years. The
 36 exemption shall not apply with respect to any assessment roll
 37 until such roll is first determined to be in compliance with the
 38 provisions of section 4 by a state agency designated by general
 39 law. This exemption is repealed on the effective date of any
 40 amendment to this Article which provides for the assessment of
 41 homestead property at less than just value.

42 (b) Not more than one exemption shall be allowed any
 43 individual or family unit or with respect to any residential
 44 unit. No exemption shall exceed the value of the real estate
 45 assessable to the owner or, in case of ownership through stock
 46 or membership in a corporation, the value of the proportion
 47 which the interest in the corporation bears to the assessed
 48 value of the property.

49 (c) By general law and subject to conditions specified
 50 therein, the Legislature may provide to renters, who are
 51 permanent residents, ad valorem tax relief on all ad valorem tax
 52 levies. Such ad valorem tax relief shall be in the form and
 53 amount established by general law.

54 (d) The legislature may, by general law, allow counties or
 55 municipalities, for the purpose of their respective tax levies
 56 and subject to the provisions of general law, to grant an

57 additional homestead tax exemption not exceeding:

58 (1) Fifty thousand dollars to any person who has the legal
 59 or equitable title to real estate and maintains thereon the
 60 permanent residence of the owner and who has attained age sixty-
 61 five and whose household income, as defined by general law, does
 62 not exceed twenty thousand dollars; ~~or-~~

63 (2) The value assessable to any person who has the legal
 64 or equitable title to real estate and who has maintained thereon
 65 the permanent residence of the owner for not less than twenty
 66 years and who has attained age sixty-five and whose household
 67 income, as defined by general law, does not exceed fifteen
 68 thousand dollars.

69
 70 The general law must allow counties and municipalities to grant
 71 this additional exemption, within the limits prescribed in this
 72 subsection, by ordinance adopted in the manner prescribed by
 73 general law, and must provide for the periodic adjustment of the
 74 income limitation prescribed in this subsection for changes in
 75 the cost of living.

76 (e) Each veteran who is age 65 or older who is partially
 77 or totally permanently disabled shall receive a discount from
 78 the amount of the ad valorem tax otherwise owed on homestead
 79 property the veteran owns and resides in if the disability was
 80 combat related, the veteran was a resident of this state at the
 81 time of entering the military service of the United States, and
 82 the veteran was honorably discharged upon separation from
 83 military service. The discount shall be in a percentage equal to
 84 the percentage of the veteran's permanent, service-connected

85 | disability as determined by the United States Department of
 86 | Veterans Affairs. To qualify for the discount granted by this
 87 | subsection, an applicant must submit to the county property
 88 | appraiser, by March 1, proof of residency at the time of
 89 | entering military service, an official letter from the United
 90 | States Department of Veterans Affairs stating the percentage of
 91 | the veteran's service-connected disability and such evidence
 92 | that reasonably identifies the disability as combat related, and
 93 | a copy of the veteran's honorable discharge. If the property
 94 | appraiser denies the request for a discount, the appraiser must
 95 | notify the applicant in writing of the reasons for the denial,
 96 | and the veteran may reapply. The Legislature may, by general
 97 | law, waive the annual application requirement in subsequent
 98 | years. This subsection shall take effect December 7, 2006, is
 99 | self-executing, and does not require implementing legislation.

100 | BE IT FURTHER RESOLVED that the following statement be
 101 | placed on the ballot:

102 | CONSTITUTIONAL AMENDMENT

103 | ARTICLE VII, SECTION 6

104 | ADDITIONAL HOMESTEAD EXEMPTION; LOW-INCOME SENIORS WHO
 105 | MAINTAIN LONG-TERM RESIDENCY ON PROPERTY; NOT EXCEEDING ASSESSED
 106 | VALUE.—Proposing an amendment to the State Constitution to
 107 | authorize the Legislature, by general law and subject to
 108 | conditions set forth in the general law, to allow counties and
 109 | municipalities to grant an additional homestead tax exemption
 110 | not exceeding the assessed value of the property to an owner who
 111 | has maintained permanent residency on the property for not less
 112 | than 20 years, who has attained age 65, and whose household

HJR 169

2012

113 | income does not exceed \$15,000. The general law must allow
114 | counties and municipalities to grant this additional exemption
115 | by ordinance and must provide for periodic adjustment of the
116 | household income limitation of \$15,000 for changes in the cost
117 | of living.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
2 Representative Oliva offered the following:

3
4 **Amendment (with ballot and title amendments)**

5 Remove lines 56-71 and insert:

6 and subject to the provisions of general law, to grant ~~an~~ either
7 or both of the following additional homestead tax exemptions ~~not~~
8 exceeding:

9 (1) An exemption not exceeding fifty thousand dollars to
10 any person who has the legal or equitable title to real estate
11 and maintains thereon the permanent residence of the owner and
12 who has attained age sixty-five and whose household income, as
13 defined by general law, does not exceed twenty thousand dollars;
14 or-

15 (2) An exemption equal to the assessed value of the
16 property to any person who has the legal or equitable title to
17 real estate with a just value less than two hundred and fifty
18 thousand dollars and who has maintained thereon the permanent
19 residence of the owner for not less than twenty-five years and

Amendment No. 1

20 who has attained age sixty-five and whose household income does
21 not exceed the income limitation prescribed in paragraph (1).

22
23 The general law must allow counties and municipalities to grant
24 ~~this~~ these additional exemptions, within the limits prescribed
25 in this

26
27
28
29 -----
30 **B A L L O T A M E N D M E N T**



31 Remove lines 110-117 and insert:
32 equal to the assessed value of homestead property if the
33 property has a just value less than \$250,000 to an owner who has
34 maintained permanent residency on the property for not less than
35 25 years, who has attained age 65, and and who has a low
36 household income as defined by general law.

37
38
39
40 -----
41 **T I T L E A M E N D M E N T**

42 Remove lines 6-10 and insert:
43 exemption equal to the assessed value of homestead property if
44 the property has a just value lower than a specified amount, to
45 an owner who has maintained permanent residency on the property
46 for a specified duration, who has attained age 65, and whose
47 household income does not exceed a specified amount.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 357 Homestead Exemptions for Seniors
SPONSOR(S): Oliva
TIED BILLS: HJR 169 **IDEN./SIM. BILLS:** SB 1738

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee		Aldridge 	Langston 
2) Community & Military Affairs Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill implements the amendment to the Florida Constitution proposed by HJR 169, if approved by the voters. The bill authorizes by general law counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of homestead property to certain low income seniors.

To be eligible for the additional homestead exemption, the following conditions must be met:

- The county or municipality must have granted the exemption by ordinance;
- The owner must have title to the property and must have maintained his or her permanent residence thereon for at least twenty years;
- The owner is 65 years of age or older; and
- The owner's annual household income is less than \$15,000.

The bill provides that beginning January 1, 2014, the \$15,000 annual household income limitation is to be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that.

The bill takes effect upon approval by the voters of the amendment proposed by HJR 169 at the general election to be held in November 2012 or at an earlier special election specifically authorized by law for that purpose.

The Revenue Estimating Conference has not yet estimated the revenue impacts of the joint resolution, however the revenue impact on local governments would be negative to an indeterminate degree. This is because the constitutional amendment proposed by the joint resolution must first:

- Be approved by the voters,
- Be implemented by general law, and
- Be adopted by ordinance by counties or municipalities wishing to offer the additional exemption.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Property Taxation in Florida

Local governments, including counties, school districts and municipalities have the constitutional ability to levy ad valorem taxes. Special districts may also be given this ability by law.¹ Ad valorem taxes are collected on the fair market value of the property, adjusting for any exclusions, differentials or exemptions.

Ad valorem taxes are capped by the state constitution as follows:²

- Ten mills for county purposes.
- Ten mills for municipal purposes.
- Ten mills for school purposes.
- A millage fixed by law for a county furnishing municipal services.
- A millage authorized by law and approved by voters for special districts.

Taxes levied for the payment of bonds and taxes levied for periods not longer than two years, when authorized by a vote of the electors, are not subject to millage limitations. Millage rates vary among local governments and are fixed by ordinance or resolution of the taxing authority's governing body.³

Regardless of the body imposing the taxes, two county constitutional officers have primary responsibility for the administration and collection of ad valorem taxes. The county property appraiser calculates the fair market value, assessed value and the value of applicable exemptions of the property. The tax collector collects all ad valorem taxes levied by the county, school district, municipalities, and any special taxing districts within the county and distributes the taxes to each taxing authority.⁴

The Department of Revenue (DOR) supervises the assessment and valuation of property so that all property is placed on the tax rolls and valued according to its just valuation.⁵ Additionally, the DOR prescribes and furnishes all forms as well as prescribes rules and regulations to be used by property appraisers, tax collectors, clerks of circuit court, and value adjustment boards in administering and collecting ad valorem taxes.⁶

All ad valorem taxation must be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property.⁷ However, the Florida constitutional provision requiring that taxes be imposed at a uniform rate refers to the application of a common rate to all taxpayers within each taxing unit – not variations in rates between taxing units.⁸

The Florida Constitution grants property tax relief in the form of certain valuation differentials,⁹ assessment limitations,¹⁰ and exemptions,¹¹ including the homestead exemptions.

¹ Article VII, s. 9, Fla. Const.

² A mill is defined as 1/1000 of a dollar, or \$1 per \$1000 of taxable value.

³ Section 200.001(7), F.S.

⁴ Section 197.383, F.S.

⁵ Section 195.002, F.S.

⁶ Chapter 195, F.S.

⁷ Article VII, s. 2, Fla. Const.

⁸ See, for example, *Moore v. Palm Beach County*, 731 So. 2d 754 (Fla. Dist. Ct. App. 4th Dist. 1999) citing *W. J. Howey Co. v. Williams*, 142 Fla. 415, 195 So. 181, 182 (1940).

⁹ Article VII, s. 4, Fla. Const., authorizes valuation differentials, which are based on character or use of property.

¹⁰ Article VII, s. 4(c), Fla. Const., authorizes the "Save Our Homes" property assessment limitation, which limits the increase in assessment of homestead property to the lesser of 3 percent or the percentage change in the Consumer Price Index. Section 4(e) authorizes counties to provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed

Homestead Exemption

The Homestead Exemption provides an exemption from all ad valorem taxes on the first \$25,000 of assessed value for owners of homestead property, provided that the tax roll in their county has been approved.¹² An additional \$25,000 exemption is provided for assessed values between \$50,000 and \$75,000; however, this exemption does not apply to school taxes.¹³

Save Our Homes

The “Save Our Homes” provision in s. 4, Art. VII of the Florida Constitution limits the amount a homestead’s assessed value can increase annually to the lesser of three percent or the inflation rate as measured by the Consumer Price Index (CPI).¹⁴ Homestead property owners who establish a new homestead may transfer up to \$500,000 of their accrued “Save Our Homes” benefit to that homestead.¹⁵

Section 193.155, Florida Statutes

In 1994, the Legislature implemented the “Save Our Homes” amendment in s. 193.155, F.S. The legislation required all homestead property to be assessed at just value by January 1, 1994. Starting on January 1, 1995, or the year after the property receives a homestead exemption (whichever is later), property receiving a homestead exemption must be reassessed annually on January 1 of each year. As provided in the constitution, s. 193.155, F.S., requires that any change resulting from the reassessment may not exceed the lesser of three percent or the growth in the CPI. Pursuant to s. 193.155(2), F.S., if the assessed value of the property exceeds its just value, the assessed value must be lowered to the just value of the property.

Low-Income Seniors

Counties and cities may allow an additional homestead exemption of up to \$50,000 for anyone 65 years or older whose household income does not exceed \$20,000, adjusted annually by the percentage change in the average cost-of-living index.¹⁶ The exemption only applies to taxes levied by the county or city enacting the exemption.¹⁷

Under the Homestead Property Tax Deferral Act, any homesteader 65 years or older who would qualify for the exemption would also qualify to defer all ad valorem taxes.¹⁸ All senior homesteaders may defer the portion of their tax levy exceeding 3-percent of household income, so long as tax deferrals and other liens do not exceed 85-percent of assessed value and the primary mortgage does not exceed 70 percent. Deferred tax and interest up to 7 percent are due when the property is sold, property insurance is not maintained, or the property ceases to qualify for homestead exemption.

value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. This provision is known as the “Granny Flats” assessment limitation.

¹¹ Article VII, s. 3, Fla. Const., provides authority for the various property tax exemptions. The statutes also clarify or provide property tax exemptions for certain licensed child care facilities operating in an enterprise zone, properties used to provide affordable housing, educational facilities, charter schools, property owned and used by any labor organizations, community centers, space laboratories, and not-for-profit sewer and water companies.

¹² Article VII, s. 6, Fla. Const.

¹³ *Id.* See also Am. C.S. for S.J.R. 2-D, 2007.

¹⁴ Article VII, s. 4(d), Fla. Const.

¹⁵ *Id.*

¹⁶ Article VII, s. 6, Fla. Const. See also s. 196.075, F.S. For 2012, that indexed household income amount is \$27,030. See: <http://dor.myflorida.com/dor/property/resources/limitations.html> (last visited February 4, 2012)

¹⁷ Section 196.075(4), F.S.

¹⁸ Section 197.243, F.S.

Proposed Changes

The bill implements the amendment to the Florida Constitution proposed by HJR 169, if approved by the voters. The bill authorizes by general law counties and municipalities to grant an additional homestead tax exemption not exceeding the assessed value of homestead property to certain low income seniors.

To be eligible for the additional homestead exemption, the following conditions must be met:

- The county or municipality must have granted the exemption by ordinance;
- The owner must have title to the property and must have maintained his or her permanent residence thereon for at least twenty years;
- The owner is 65 years of age or older; and
- The owner's annual household income is less than \$15,000.

The bill provides that beginning January 1, 2014, the \$15,000 annual household income limitation is to be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that.

The bill takes effect upon approval by the voters of the amendment proposed by HJR 169 at the general election to be held in November 2012 or at an earlier special election specifically authorized by law for that purpose.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.075, F.S., provides an additional homestead tax exemption up to the assessed value of the property to certain low income seniors.

Section 2: Amends s. 196.031(7), F.S., to conform to changes made in section 1.

Section 3: Amends s. 197.252(2), F.S., to conform to changes made in section 1.

Section 4: Provides a contingent 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:

The Revenue Estimating Conference has not estimated the revenue impacts of this joint resolution on local governments. However, the amendment, if passed, would only affect a county or municipality that chose to allow the additional low income senior homestead exemption.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could reduce property taxes on certain qualifying seniors. Such a reduction in the property tax base could result in a corresponding shift in property tax burden to other property tax owners.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill implements a constitutional amendment to which the mandates provision of Art. VII, section 18 of the Florida Constitution does not apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

29 | older.—

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

31 | (a) "Household" means a person or group of persons living
 32 | together in a room or group of rooms as a housing unit, but the
 33 | term does not include persons boarding in or renting a portion
 34 | of the dwelling.

35 | (b) "Household income" means the adjusted gross income, as
 36 | defined in s. 62 of the United States Internal Revenue Code, of
 37 | all members of a household.

38 | (2) In accordance with s. 6(d), Art. VII of the State
 39 | Constitution, the board of county commissioners of any county or
 40 | the governing authority of any municipality may adopt an
 41 | ordinance to allow an additional homestead exemption of up to:

42 | (a) Fifty-thousand dollars ~~\$50,000~~ for any person who has
 43 | the legal or equitable title to real estate and maintains
 44 | thereon the permanent residence of the owner, who has attained
 45 | age 65, and whose household income does not exceed \$20,000; ~~and~~

46 | (b) The amount of the assessed value for any person who
 47 | has the legal or equitable title to real estate and has
 48 | maintained thereon the permanent residence of the owner for at
 49 | least 20 years, who has attained age 65, and whose household
 50 | income does not exceed \$15,000.

51 | (3) Beginning January 1, 2001, the \$20,000 income
 52 | limitation and beginning January 1, 2014, the \$15,000 income
 53 | limitation shall be adjusted annually, on January 1, by the
 54 | percentage change in the average cost-of-living index in the
 55 | period January 1 through December 31 of the immediate prior year
 56 | compared with the same period for the year prior to that. The

57 | index is the average of the monthly consumer-price-index figures
 58 | for the stated 12-month period, relative to the United States as
 59 | a whole, issued by the United States Department of Labor.

60 | (4) An ordinance granting additional homestead exemption
 61 | as authorized by this section must meet the following
 62 | requirements:

63 | (a) It must be adopted under the procedures for adoption
 64 | of a nonemergency ordinance specified in chapter 125 by a board
 65 | of county commissioners, or chapter 166 by a municipal governing
 66 | authority.

67 | (b) It must specify that the exemption applies only to
 68 | taxes levied by the unit of government granting the exemption.
 69 | Unless otherwise specified by the county or municipality, this
 70 | exemption will apply to all tax levies of the county or
 71 | municipality granting the exemption, including dependent special
 72 | districts and municipal service taxing units.

73 | (c) It must specify the amount of the exemption, which may
 74 | not exceed the applicable amount specified in subsection (2)
 75 | ~~\$50,000~~. If the county or municipality specifies a different
 76 | exemption amount for dependent special districts or municipal
 77 | service taxing units, the exemption amount must be uniform in
 78 | all dependent special districts or municipal service taxing
 79 | units within the county or municipality.

80 | (d) It must require that a taxpayer claiming the exemption
 81 | annually submit to the property appraiser, not later than March
 82 | 1, a sworn statement of household income on a form prescribed by
 83 | the Department of Revenue.

84 | (5) The department must require by rule that the filing of

85 the statement be supported by copies of any federal income tax
 86 returns for the prior year, any wage and earnings statements (W-
 87 2 forms), any request for an extension of time to file returns,
 88 and any other documents it finds necessary, for each member of
 89 the household, to be submitted for inspection by the property
 90 appraiser. The taxpayer's sworn statement shall attest to the
 91 accuracy of the documents and grant permission to allow review
 92 of the documents if requested by the property appraiser.
 93 Submission of supporting documentation is not required for the
 94 renewal of an exemption under this section unless the property
 95 appraiser requests such documentation. Once the documents have
 96 been inspected by the property appraiser, they shall be returned
 97 to the taxpayer or otherwise destroyed. The property appraiser
 98 is authorized to generate random audits of the taxpayers' sworn
 99 statements to ensure the accuracy of the household income
 100 reported. If so selected for audit, a taxpayer shall execute
 101 Internal Revenue Service Form 8821 or 4506, which authorizes the
 102 Internal Revenue Service to release tax information to the
 103 property appraiser's office. All reviews conducted in accordance
 104 with this section shall be completed on or before June 1. The
 105 property appraiser may not grant or renew the exemption if the
 106 required documentation requested is not provided.

107 (6) The board of county commissioners or municipal
 108 governing authority must deliver a copy of any ordinance adopted
 109 under this section to the property appraiser no later than
 110 December 1 of the year prior to the year the exemption will take
 111 effect. If the ordinance is repealed, the board of county
 112 commissioners or municipal governing authority shall notify the

113 property appraiser no later than December 1 of the year prior to
114 the year the exemption expires.

115 (7) Those persons entitled to the homestead exemption in
116 s. 196.031 may apply for and receive an additional homestead
117 exemption as provided in this section. Receipt of the additional
118 homestead exemption provided for in this section shall be
119 subject to the provisions of ss. 196.131 and 196.161, if
120 applicable.

121 (8) If title is held jointly with right of survivorship,
122 the person residing on the property and otherwise qualifying may
123 receive the entire amount of the additional homestead exemption.

124 (9) If the property appraiser determines that for any year
125 within the immediately previous 10 years a person who was not
126 entitled to the additional homestead exemption under this
127 section was granted such an exemption, the property appraiser
128 shall serve upon the owner a notice of intent to record in the
129 public records of the county a notice of tax lien against any
130 property owned by that person in the county, and that property
131 must be identified in the notice of tax lien. Any property that
132 is owned by the taxpayer and is situated in this state is
133 subject to the taxes exempted by the improper homestead
134 exemption, plus a penalty of 50 percent of the unpaid taxes for
135 each year and interest at a rate of 15 percent per annum.
136 However, if such an exemption is improperly granted as a result
137 of a clerical mistake or omission by the property appraiser, the
138 person who improperly received the exemption may not be assessed
139 a penalty and interest. Before any such lien may be filed, the
140 owner must be given 30 days within which to pay the taxes,

141 penalties, and interest. Such a lien is subject to the
 142 procedures and provisions set forth in s. 196.161(3).

143 Section 2. Paragraph (d) of subsection (7) of section
 144 196.031, Florida Statutes, is amended to read:

145 196.031 Exemption of homesteads.—

146 (7) The exemptions provided in paragraphs (1)(a) and (b)
 147 and other homestead exemptions shall be applied as follows:

148 (d) Other exemptions include and shall be applied in the
 149 following order: widows, widowers, blind persons, and disabled
 150 persons, as provided in s. 196.202; disabled ex-servicemembers
 151 and surviving spouses, as provided in s. 196.24, applicable to
 152 all levies; the local option low-income senior exemption ~~up to~~
 153 ~~\$50,000~~, applicable to county levies or municipal levies, as
 154 provided in s. 196.075; and the veterans percentage discount, as
 155 provided in s. 196.082.

156 Section 3. For the purpose of incorporating the amendment
 157 made by this act to section 196.075, Florida Statutes, in a
 158 reference thereto, paragraph (a) of subsection (2) of section
 159 197.252, Florida Statutes, is reenacted to read:

160 197.252 Homestead tax deferral.—

161 (2)(a) Approval of an application for homestead tax
 162 deferral shall defer the combined total of ad valorem taxes and
 163 non-ad valorem assessments:

164 1. Which exceeds 5 percent of the applicant's household
 165 income for the prior calendar year if the applicant is younger
 166 than 65 years old;

167 2. Which exceeds 3 percent of the applicant's household
 168 income for the prior calendar year if the applicant is 65 years

169 old or older; or

170 3. In its entirety if the applicant's household income:

171 a. For the previous calendar year is less than \$10,000; or

172 b. Is less than the designated amount for the additional
 173 homestead exemption under s. 196.075 and the applicant is 65
 174 years old or older.

175 Section 4. This act shall take effect upon the approval of
 176 House Joint Resolution 169, or a similar joint resolution having
 177 substantially the same specific intent and purpose, at the
 178 general election to be held in November 2012 or at an earlier
 179 special election specifically authorized by law for that
 180 purpose.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
 2 Representative Oliva offered the following:

Amendment (with title amendment)

Remove lines 41-66 and insert:

ordinance to allow ~~an~~ either or both of the following additional
homestead exemptions of up to:

(a) Fifty-thousand dollars ~~\$50,000~~ for any person who has
the legal or equitable title to real estate and maintains
thereon the permanent residence of the owner, who has attained
age 65, and whose household income does not exceed \$20,000; or-

(b) The amount of the assessed value of the property for
any person who has the legal or equitable title to real estate
with a just value less than two hundred and fifty thousand
dollars and has maintained thereon the permanent residence of
the owner for at least 25 years, who has attained age 65, and
whose household income does not exceed the income limitation
prescribed in (a) and as calculated in (3).

Amendment No. 1

19 (3) Beginning January 1, 2001, the \$20,000 income
20 limitation shall be adjusted annually, on January 1, by the
21 percentage change in the average cost-of-living index in the
22 period January 1 through December 31 of the immediate prior year
23 compared with the same period for the year prior to that. The
24 index is the average of the monthly consumer-price-index figures
25 for the stated 12-month period, relative to the United States as
26 a whole, issued by the United States Department of Labor.

27 (4) An ordinance granting an additional homestead
28 exemption as authorized by this section must meet the following
29 requirements:

30 (a) It must be adopted under the procedures for adoption
31 of a nonemergency ordinance specified in chapter 125 by a board
32 of county commissioners, or chapter 166 by a municipal governing
33 authority, except that the exemption authorized by paragraph
34 (2)(b) must be authorized by a super majority (a majority plus
35 one) vote of the members of the governing body of the county or
36 municipality granting such exemption.

41 -----
42 **T I T L E A M E N D M E N T**

43 Remove lines 7-16 and insert:
44 the assessed value of property with a just value lower than a
45 specified amount, to an owner who has maintained permanent
46 residency on the property for a specified duration, who has

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 357 (2012)

Amendment No. 1

47 | attained age 65, and whose household income does not exceed a
48 | specified amount; providing definitions applicable to such
49 | additional exemption; providing applicability of requirements
50 | relating to the adoption of a local ordinance granting such
51 | exemption;
52 |

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
 2 Representative Oliva offered the following:

3
 4 **Amendment (with title amendment)**

5 Remove lines 175-180 and insert:

6 Section 4. Effective July 1, 2012, the sum of \$93,403 in
 7 nonrecurring funds is appropriated from the General Revenue Fund
 8 to the Department of State for purposes of publishing, as
 9 required under s. 5(d), Art. XI of the State Constitution, the
 10 proposed constitutional amendment contained in House Joint
 11 Resolution 169, or a similar joint resolution having
 12 substantially the same specific intent and purpose.

13 Section 5. Except as otherwise expressly provided in this
 14 act, this act shall take effect upon the approval of House Joint
 15 Resolution 169, or a similar joint resolution having
 16 substantially the same specific intent and purpose, at the
 17 general election to be held in November 2012 or at an earlier
 18 special election specifically authorized by law for that
 19 purpose, and shall first apply to the 2013 tax roll.

Amendment No. 2

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

Remove line 21 and insert:
in reference thereto; providing an appropriation; providing a
contingent effective

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 465 District School Board Bonds

SPONSOR(S): Diaz and others

TIED BILLS: IDEN./SIM. **BILLS:** SB 750

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Appropriations Subcommittee	12 Y, 0 N, As CS	Seifert	Heflin
2) Finance & Tax Committee		Wilson <i>W</i>	Langston <i>gj</i>
3) Appropriations Committee			

SUMMARY ANALYSIS

CS/HB 465 amends statutes relating to the issuance and retirement of bonds by district school boards. The bill:

- Increases the period within which district school board bonds must be retired without approval from the Department of Education, from 20 years to 30 years;
- Removes the requirement that certain bonds be callable within 10-years from date of issuance and allows the district school board to determine the callable term of bonds.

See FISCAL COMMENTS.

The bill takes effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Bonds

A bond is a debt security in which the authorized issuer owes the holders a debt and, depending on the terms of the bond, is obliged to pay interest (the coupon) to use and/or to repay the principal at a later date, termed maturity. A bond is a formal contract to repay borrowed money with interest at fixed intervals (semi-annual, annual, sometimes monthly).

Thus a bond is like a loan: the holder of the bond is the lender (creditor), the issuer of the bond is the borrower (debtor), and the coupon is the interest. Bonds provide the borrower with external funds to finance long-term investments.

Some bonds give the issuer the right to repay the bond before the maturity date on the call dates. These bonds are referred to as callable bonds. Most callable bonds allow the issuer to repay the bond at face value.

A general obligation bond is a common type of municipal bond that is secured by a state or local government's pledge to use legally available resources, including tax revenues, to repay bond holders.

A bond referendum is a provision permitting voters in a school district to accept or reject the granting of school board authority to issue (sell) bonds to generate revenue for the purpose specified in the referendum. Authorized expenditures include acquiring, building, enlarging, furnishing, or otherwise improving buildings or school grounds, or for any other exclusive use of the public schools within the district.¹ The Florida Constitution allows local governments to issue bonds payable from ad valorem taxation only to finance or refinance capital projects and when approved by vote of the electors.² Prior to a bond referendum, a school board must adopt a resolution authorizing that an election be held for the purpose of determining whether bonds shall be issued for the stated amount and purpose. The resolution must be approved by the Department of Education prior to school board adoption.³ The bonds are generally issued for a 20-year period and are repaid with property tax revenue.

District School Boards

Currently, Florida district school boards are required:

- to arrange annual bond debt service payments to be nearly equal amounts for each year;
- to retire the bonds within 20 years from the date of issuance;
- to seek approval by the Department of Education on bonds retiring beyond 20 years; and
- to have the bonds, bearing interest in excess of 2.99 percent, callable beginning within 10 years from the date of issuance.

Effect of the Bill

The bill increases the period within which district school board bonds must be retired from 20 years to 30 years. A bond schedule longer than 30 years must be approved by the Department of Education.

The bill changes the requirement so that bonds are callable at the times and upon the terms determined by the district school board. The bill removes the requirement that bonds that bear interest in excess of 2.99 percent be callable beginning no later than 10 years from the date of issuance.

¹ Section 1010.40, F.S.

² Article VII, section 12, Florida Constitution.

³ Section 1010.41(3), F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 1010.49, F.S., to increase the bond schedule from 20 to 30 years; removes the 10-year callable term from date of issuance of the bond; and allows the district school board to determine the callable term of the bonds issued.

Section 2: Providing 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:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The increased interest revenue generated by the bond is indeterminate.

D. FISCAL COMMENTS:

If district school boards exercise the discretion to issue bonds with maturities greater than 20 years, additional interest costs may be incurred. As of June 30, 2010, four school districts had outstanding bonds issued under this section. Removing the requirement that bonds bearing interest in excess of 2.99 percent must be callable beginning no later than 10 years from the date of issue will allow districts to extend consideration of refinancing such bonds. The potential impact is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 31, 2012, the PreK-12 Appropriations Subcommittee adopted one amendment and reported the bill favorably as a Committee Substitute (CS). The amendment maintains the equal payment schedule for bonds as currently provided in law and increases the bond schedule from 20 to 30 years.

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A bill to be entitled
An act relating to district school board bonds;
amending s. 1010.49, F.S.; revising provisions
relating to the issuance and retirement of bonds;
providing an effective date.

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

Section 1. Section 1010.49, Florida Statutes, is amended
to read:

1010.49 Form and denomination of bonds.—The district
school board may prescribe the denomination of the bonds to be
issued, and such bonds may be issued with or without interest
coupons in the discretion of the board. The form of the bonds to
be issued may be prescribed by the State Board of Education on
the recommendation of the Department of Legal Affairs. The
schedule of maturities of the proposed bonds shall be so
arranged that the total payments required each year shall be as
nearly equal as practicable. The schedule shall provide that all
bonds are to be retired within a period of 30 ~~20~~ years from the
date of issuance unless a longer period is required and has been
specifically approved by the Department of Education. All bonds
issued under this section ~~that bear interest in excess of 2.99~~
~~percent~~ shall be callable at the times and upon the ~~on~~ terms
prescribed by the district school board ~~beginning not later than~~
~~10 years from the date of issuance.~~

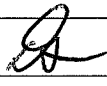
Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 547 Community Redevelopment Agencies

SPONSOR(S): Fresen

TIED BILLS: IDEN./SIM. BILLS: SB 840

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	9 Y, 5 N	Duncan	Hoagland
2) Finance & Tax Committee		Flemming <i>PF</i>	Langston 
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The Community Redevelopment Act of 1969, Ch. 163, Part II, F.S. (Act), was enacted to provide a mechanism to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state." The Act authorizes each local government to establish a Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a "finding of necessity" and a further finding of a need for a CRA to carry out community redevelopment.

The bill applies to counties defined in s. 125.011(1), F.S., and requires community redevelopment agencies (CRAs) operating within such counties to submit annual performance reviews conducted by and at the discretion of the board of county commissioners (Board). The bill grants these counties with the power to terminate a CRA operating or located within its boundaries, if the Board determines certain conditions exist. The Board is required to notify the CRA of the proposed termination and the grounds for the termination in writing at least 30 days before the public hearing on the CRA's termination. An approved termination plan is required and the elements of the plan are provided in the bill. The bill also establishes additional requirements regarding the operation of a CRA's redevelopment trust fund.

The bill requires CRAs located and operating in a county as defined in s. 125.011(1), F.S., to submit to a forensic audit performed by a licensed and independent forensic accountant at least every 5 years, as requested by the Board. The forensic audit must include, but is not limited to, a review of an agency's assets, liabilities, income, and operating expenses to ensure that the agency has not engaged in financial misconduct or wasteful activity.

The bill becomes effective on July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

BACKGROUND

The Community Redevelopment Act of 1969, ss. 163.330-163.463, F.S. (Act), was enacted to provide a mechanism to revitalize slum and blighted areas “which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state.”¹ The Act authorizes each local government to establish a CRA to revitalize designated slum and blighted areas upon a “finding of necessity” and a further finding of a need for a CRA to carry out community redevelopment.²

PRESENT SITUATION

Redevelopment of distressed urban communities is primarily a local government responsibility. Local governments use the state’s redevelopment programs in conjunction with other federal and local programs to help package deals for revitalizing distressed urban communities. While Florida’s programs do not directly provide a large amount of funds, they are viewed as being useful in helping leverage other funding support and in demonstrating government commitment to revitalization. Florida’s programs also are viewed as being useful in helping local governments get community and private sector buy-in on revitalization projects.³

The Florida Legislature has created or authorized the creation of several programs and mechanisms to encourage businesses to operate in and provide jobs in distressed areas. These programs and mechanisms also assist local governments in financing infrastructure and capital projects that will result in revitalizing business and residential communities.

Special Districts

Special districts are local units of special purpose government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet.⁴

The largest categories of special districts that focus on community and/or economic development are community redevelopment agencies (CRAs) and community development districts (CDDs). As of January 13, 2012, there are 205 CRAs and 577 CDDs in Florida.⁵ Other special districts that focus on community and/or economic development are:⁶

- Neighborhood improvement districts – 29
- Industrial development districts – 24
- Downtown development/improvement districts – 14
- Municipal-type services and improvements – 12
- Economic development districts – 10
- Infrastructure development districts – 10
- Capital improvement districts – 4

¹ Section 163.335, F.S.

² Section 163.356, F.S.

³ Florida Legislature, Office of Program Policy Analysis and Government Accountability, Locals Find Urban Revitalization Programs Useful; More Centralized Program Information Would Be Helpful, Report No. 05-32, at 1(May 2005), *available at* <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0532rpt.pdf>.

⁴ Section 189.403(1), F.S.

⁵ Department of Economic Opportunity, Division of Community Development, Special District Information Program, *available at* <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/alldistricts.cfm> (last visited February 3, 2012).

⁶ *Id.*

- Business improvement districts – 1

Creation of Community Redevelopment Agencies

Upon the finding of necessity and finding a need for a CRA to function in the county or municipality to carry out community redevelopment, any county or municipality may create a CRA.⁷ A charter county having a population less than or equal to 1.6 million may create more than one CRA.⁸ CRAs of a “county have the power to function within the corporate limits of a municipality only as, if, and when the governing body of the municipality has by resolution concurred in the community redevelopment plan or plans proposed by the county’s governing body.”⁹ The governing body adopting a resolution declaring a need for a CRA is required to appoint a board of commissioners of the CRA, which must consist of five to nine commissioners, serving four-year terms.¹⁰

The county or municipal governing body is required to designate a chair and vice chair from among the commissioners.¹¹ The CRA may employ an executive director, technical experts, and other employees.¹² The CRA is required to file with the governing body, on or before March 31 of each year, a report of its activities for the preceding fiscal year.¹³ The CRA must provide a complete financial statement including its assets, liabilities, income, and operating expenses as of the end of the fiscal year.¹⁴ The CRA must publish in a newspaper of general circulation in the community a notice to the effect that the report has been filed with the county or municipality and that the report is available for inspection during business hours in the office of the clerk of the city or county commission and in the office of the CRA.¹⁵

Community Redevelopment Agency Plans

Each community redevelopment area must have an approved community redevelopment plan that is consistent with the local government comprehensive plan.¹⁶ The community redevelopment plan must be sufficiently complete to indicate any land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation to be carried out in the designated area.¹⁷ The plan must also provide for the development of affordable housing in the area or state the reasons for not addressing the issue in the plan.¹⁸ The local government may subsequently modify the community redevelopment plan upon the recommendation of the CRA.¹⁹

The Act also authorizes CRAs, those created by counties or municipalities, to recommend modification to community redevelopment plans.²⁰ Amendments to the community redevelopment plan are permitted to change the boundaries of a redevelopment area or the development and implementation of community policing innovations.²¹

CRAs are funded primarily through tax increment financing (TIF).²² As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value.²³ Each non-exempt taxing authority that levies taxes on property

⁷ Section 163.356(1), F.S.

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 163.356(2), F.S.

¹¹ Section 163.356(3)(c), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 163.360(2)(a), F.S.

¹⁷ Section 163.360(2)(b), F.S.

¹⁸ Section 163.360(2)(c), F.S.

¹⁹ Section 163.361(1), F.S.

²⁰ *Id.*

²¹ *Id.*

²² *See s. 163.387, F.S.*

²³ Harry M. Hipler, *Tax Increment Financing in Florida: A Tool for Local Government Revitalization, Renewal, and Redevelopment*, 81 FLA. B.J. 66 (Aug. 2007).

within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund.²⁴ These revenues are used primarily to service bonds issued to finance redevelopment projects.²⁵ CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years.²⁶

The Community Redevelopment Act and Counties with Home Rule Charters

The Act provides that in any county which has adopted a home rule charter, the powers must be exercised exclusively by the governing body of such county.²⁷ However, the governing body of any such county which has adopted a home rule charter may, in its discretion, by resolution delegate the exercise of the powers conferred upon the county within the boundaries of a municipality to the governing body of such municipality.²⁸ Such a delegation to a municipality must confer only such powers upon a municipality as are specifically enumerated in the delegating resolution.²⁹ Any power not specifically delegated must be reserved exclusively to the governing body of the county.³⁰ These provisions do not affect any CRA created by a municipality prior to the adoption of a county home rule charter.³¹

County Government

Chapter 125, F.S., relates to county governance. Section 125.011(1), F.S., defines "county" to mean "any county operating under a *home rule charter* adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word 'county' within the above provisions shall include 'board of county commissioners' of such county."³²

Section 6(e) of Art. VIII of the Florida Constitution provides that ss. 9, 10, 11, and 24 of Art. VIII of the Constitution of 1885, as amended, remain in full force and effect as to each county affected, until a county expressly adopts a charter or home rule plan pursuant to that article. Sections 9, 10, 11, and 24 refer to Duval, Monroe, Dade and Hillsborough counties, respectively. The Miami-Dade County Home Rule Charter was approved by its voters and adopted in 1957.³³

EFFECT OF PROPOSED CHANGES

Creation and Termination of a Community Redevelopment Agency

The provisions in this bill apply to counties defined in s. 125.011(1), F.S.,³⁴ and require CRAs operating within such counties to submit annual performance reviews conducted by, and at the discretion of, the board of county commissioners (Board). The bill grants these counties with the power to terminate a CRA operating or located within its boundaries, if the Board determines:

- The CRA has been inefficient in removing slum and blight within the community redevelopment area;
- The CRA has neglected its duties and responsibilities under the community redevelopment plan or under an interlocal agreement between the county's governing body and/or any taxing authority and the CRA;

²⁴ See s. 163.387, F.S.

²⁵ *Id.*

²⁶ Section 163.387(2)(a), F.S.

²⁷ Section 163.410, F.S.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² Section 125.011(1), F.S.

³³ Florida Association of Counties, Charter County Information, available at http://www.fl-counties.com/Pages/About_Floridas_Counties/Charter_County_Information.aspx (last visited February 3, 2012).

³⁴ See *County Government* in this Staff Analysis, p.4

- The CRA has engaged in financial misconduct or wasteful activities as evidenced by any forensic audit, annual performance review, or annual report of the CRA's activities for the previous fiscal year, including the complete financial statement; or
- There is no longer a need for the CRA.

A public hearing is required before the Board terminates the CRA by the adoption of a resolution approving the termination pursuant to a termination plan.

The Board is required to notify the CRA of the proposed termination and the grounds for the termination in writing at least 30 days before the public hearing on the CRA's termination. Once the CRA has been given notice, the CRA is prohibited from issuing bonds, incurring further debt, or entering into any contract, unless approved by the Board. The CRA must respond to the notice of proposed termination and the grounds for the termination in writing at least 5 days prior to the public hearing.

The termination plan approved by the Board:

- Must, if the CRA has outstanding debt, including debt that pledges increment revenues as a source of repayment, require repayment of the debt, or make provision for the repayment, on or before it is due and may require taxing authorities to continue making required contributions until the repayment is paid;
- May require the governing body of the county to assume the powers of the CRA and act as the CRA's board of commissioners for purposes of overseeing the continued payment of outstanding debt or the completion of projects begun before the date of the notice of termination;
- Must provide an effective date for the CRA to be terminated, which must be a date after payment or provision for payment of all outstanding debt of the CRA; and
- Must provide that after the CRA's termination the obligation of a taxing authority to contribute to the redevelopment trust fund is automatically terminated by operation of law and any funds remaining in the trust fund is required to be disbursed to the taxing authorities in proportion to the amounts contributed by such taxing authorities.

The bill further provides that notwithstanding any provision of law to the contrary, consent to termination is not required from the CRA, from the governing body of a municipality within which the CRA operates or which was delegated the authority to create the CRA, from the taxing authorities that contribute to the CRA's redevelopment trust fund, or from any other person or entity.

Community Redevelopment Plans

The bill provides that in any county defined in s. 125.011(1), F.S., any redevelopment plan that is approved or amended after July 1, 2012, must also provide a specific date by which each redevelopment activity that is a part of a redevelopment project proposed to be funded by the increment fund is scheduled to be completed.

Redevelopment Trust Fund

The bill provides that for the purpose of the expenditure of moneys in redevelopment trust funds in counties defined in s. 125.011(1), F.S., the following apply:

- A CRA operating in the county must submit an annual budget indicating any proposed expenditures of increment revenues by August 15 of each year.
- The Board may approve the budget by resolution.
- Increment revenues contributed by the county may not be expended for redevelopment activities without the approval of the Board, unless such expenditures are to pay existing debts and contractual obligations of the CRA.
- Existing debts or contractual obligations include only such debt incurred pursuant to revenue bonds issued and moneys owed from contracts entered into before the date of the termination notice. Existing debts or contractual obligations may not include salaries of at-will employees whose duties are directly associated with the provision of administrative or other services and who are employed

by a CRA or a municipality that provides administrative or other services to a CRA. Existing debts or contractual obligations may not include contracts that are terminable at will.

- The CRA may not seek permission to issue bonds, incur further indebtedness, or enter into contracts until the Board has approved the CRA's annual budget.

Notwithstanding any provision in this section, in a county as defined in s. 125.011(1), F.S., if the CRA's issuance of debt has been approved, the CRA's payment of debt service for debt secured by increment revenues does not require the approval of the Board as a part of the CRA's annual budgetary approval process.

Current law provides that on the last day of the CRA's fiscal year, any money that remains in the redevelopment trust fund after expenses have been paid must be appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan. The bill amends this provision to provide that in a county defined in s. 125.011(1), F.S., such funds may only be appropriated if:

- The project will be completed within three years after the date of such appropriation; and
- Before the appropriation, an acceptable construction timeline and budget for the project is submitted to and approved by the Board.

In addition to the audit required by the Act, a CRA located and operating in a county as defined in s. 125.011(1), F.S., is required submit to a forensic audit³⁵ performed by a licensed and independent forensic accountant³⁶ at least every 5 years, as requested by the Board. The forensic audit must include, but is not limited to, a review of an agency's assets, liabilities, income, and operating expenses to ensure that the agency has not engaged in financial misconduct or wasteful activity.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.356, F.S., requiring agencies to submit performance reviews and providing guidelines for terminating a community redevelopment agency.

Section 2: Amends s. 163.362, F.S., requiring a community redevelopment plan to include a deadline for each redevelopment activity.

Section 3: Amends s. 163.387, F.S., establishing guidelines for the expenditure of moneys in redevelopment trust funds and requiring CRAs to submit to a forensic audit at the request of the Board.

Section 4: 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.

³⁵ A "forensic audit" is the application of accounting methods to the tracking and collecting of forensic evidence, usually for investigation and prosecution of criminal acts such as embezzlement or fraud. BusinessDictionary.com *available at* <http://www.businessdictionary.com/definition/forensic-audit.html> (last visited February 3, 2012); *see* Robert M. Torok, *Accounting and You*, 66 CLEV. B.J. 31 (1995).

³⁶ Forensic accountants are professionals who use a unique blend of education and experience to apply accounting, auditing, and investigative skills to uncover truth, form legal opinions, and assist in investigations. Forensic accountants may be involved in both litigation support (providing assistance on a given case, primarily related to the calculation or estimation of economic damages and related issues) and investigative accounting (looking into illegal activities). American College of Forensic Examiners International, *available at* http://www.acfei.com/forensic_certifications/crfa/ (last visited February 3, 2012).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Community redevelopment agencies located in counties defined in s. 125.011(1), F.S., would be required to pay the cost of a forensic audit, which is required at least every five years.

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 to take an 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 a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Line 133 refers to the "increment fund." The correct term should be "redevelopment trust fund."

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.

1 A bill to be entitled
 2 An act relating to community redevelopment agencies;
 3 amending s. 163.356, F.S.; providing reporting
 4 requirements for certain community redevelopment
 5 agencies; providing for the termination of community
 6 redevelopment agencies by the board of county
 7 commissioners of certain counties; providing public
 8 hearing and notice and termination plan requirements;
 9 providing that consent from certain entities is not
 10 required for such termination; amending s. 163.362,
 11 F.S.; providing additional redevelopment plan
 12 requirements for certain counties; amending s.
 13 163.387, F.S.; providing requirements for the
 14 expenditure of moneys from redevelopment trust funds
 15 in certain counties; exempting payment of debt service
 16 in such counties from certain approval; providing
 17 requirements for the appropriation of certain trust
 18 fund moneys in such counties; requiring a forensic
 19 audit of agencies in such counties at least every 5
 20 years for certain purposes; providing an effective
 21 date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Paragraph (c) of subsection (3) of section
 26 163.356, Florida Statutes, is amended, and subsection (5) is
 27 added to that section, to read:

28 163.356 Creation and termination of a community

29 redevelopment agency.-

30 (3)

31 (c) The governing body of the county or municipality shall
 32 designate a chair and vice chair from among the commissioners.
 33 An agency may employ an executive director, technical experts,
 34 and such other agents and employees, permanent and temporary, as
 35 it requires, and determine their qualifications, duties, and
 36 compensation. For such legal service as it requires, an agency
 37 may employ or retain its own counsel and legal staff. An agency
 38 authorized to transact business and exercise powers under this
 39 part shall file with the governing body, on or before March 31
 40 of each year, a report of its activities for the preceding
 41 fiscal year, which report shall include a complete financial
 42 statement setting forth its assets, liabilities, income, and
 43 operating expenses as of the end of such fiscal year. At the
 44 time of filing the report, the agency shall publish in a
 45 newspaper of general circulation in the community a notice to
 46 the effect that such report has been filed with the county or
 47 municipality and that the report is available for inspection
 48 during business hours in the office of the clerk of the city or
 49 county commission and in the office of the agency. Agencies
 50 operating within a county as defined in s. 125.011(1) are
 51 required to submit to annual performance reviews conducted by
 52 and at the discretion of the board of county commissioners.

53 (5) (a) In any county as defined in s. 125.011(1) that has
 54 created a community redevelopment agency or has delegated the
 55 creation of a community redevelopment agency to a municipality
 56 pursuant to s. 163.410, the board of county commissioners may

57 terminate the agency operating or located in its boundaries, if
 58 the board finds:

59 1. The agency has been inefficient in removing slum and
 60 blight within the community redevelopment area;

61 2. The agency has neglected its duties and
 62 responsibilities under the approved redevelopment plan or under
 63 any interlocal agreement between the governing body of the
 64 county or any taxing authority and the agency under this part;

65 3. The agency has engaged in financial misconduct or
 66 wasteful activities as evidenced by any forensic audit required
 67 by s. 163.387(9), any annual performance review, or any annual
 68 report of the agency's activities for the previous fiscal year,
 69 including the complete financial statement required in paragraph
 70 (3)(c); or

71 4. There is no longer a need for the agency.

72 (b)1. After a public hearing on the proposed termination
 73 of an agency under this subsection, the board of county
 74 commissioners may effectuate the termination of the agency by
 75 adopting a resolution that approves termination of the agency
 76 pursuant to a termination plan consistent with the provisions of
 77 subparagraph 3.

78 2. The board of county commissioners must notify the
 79 agency of the proposed termination and the grounds for
 80 termination in writing at least 30 days before the public
 81 hearing on the termination of the agency. After the agency has
 82 been given notice pursuant to this subparagraph, the agency may
 83 not issue bonds, incur further indebtedness, or enter into any
 84 contract, unless approved by the board. The agency must respond

85 | to the notice of proposed termination and the grounds for
 86 | termination in writing at least 5 days before the public
 87 | hearing.

88 | 3. A termination plan approved by the board of county
 89 | commissioners:

90 | a. Shall, if the agency has outstanding debt, including
 91 | debt that pledges increment revenues as a source of repayment,
 92 | require repayment of the debt, or make provision for the
 93 | repayment, on or before it is due and may require taxing
 94 | authorities to continue making required contributions until the
 95 | repayment is paid;

96 | b. May require the governing body of the county to assume
 97 | the powers of the agency and act as the board of commissioners
 98 | for the agency for purposes of overseeing the continued payment
 99 | of outstanding debt or the completion of projects begun before
 100 | the date of the notice of termination;

101 | c. Shall provide an effective date of termination of the
 102 | agency, which shall be a date after payment or provision for
 103 | payment of all outstanding debt of the agency; and

104 | d. Shall provide that after termination of the agency the
 105 | obligation of a taxing authority to contribute to the trust fund
 106 | pursuant to s. 163.387 is automatically terminated by operation
 107 | of law and any funds remaining in the trust fund shall be
 108 | disbursed to the taxing authorities in proportion to the amounts
 109 | contributed by such taxing authorities.

110 | (c) Notwithstanding any provision of law to the contrary,
 111 | consent to termination under this subsection is not required
 112 | from the agency, from the governing body of a municipality

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113 within which the agency operates or which was delegated the
 114 authority to create the agency, from the taxing authorities that
 115 contribute to the redevelopment trust fund of the agency, or
 116 from any other person or entity.

117 Section 2. Subsection (10) of section 163.362, Florida
 118 Statutes, is amended, to read:

119 163.362 Contents of community redevelopment plan.—Every
 120 community redevelopment plan shall:

121 (10) Provide a time certain for completing all
 122 redevelopment financed by increment revenues. Such time certain
 123 shall occur no later than 30 years after the fiscal year in
 124 which the plan is approved, adopted, or amended pursuant to s.
 125 163.361(1). However, for any agency created after July 1, 2002,
 126 the time certain for completing all redevelopment financed by
 127 increment revenues must occur within 40 years after the fiscal
 128 year in which the plan is approved or adopted. In any county as
 129 defined in s. 125.011(1), any redevelopment plan that is
 130 approved or amended on or after July 1, 2012, must also provide
 131 a specific date by which each redevelopment activity that is a
 132 part of a redevelopment project proposed to be funded by the
 133 increment fund is scheduled to be completed.

134 Section 3. Subsections (6) and (7) of section 163.387,
 135 Florida Statutes, are amended, and subsection (9) is added to
 136 that section, to read:

137 163.387 Redevelopment trust fund.—

138 (6) (a) Moneys in the redevelopment trust fund may be
 139 expended from time to time for undertakings of a community
 140 redevelopment agency as described in the community redevelopment

141 plan for the following purposes, including, but not limited to:

142 1.(a) Administrative and overhead expenses necessary or
 143 incidental to the implementation of a community redevelopment
 144 plan adopted by the agency.

145 2.(b) Expenses of redevelopment planning, surveys, and
 146 financial analysis, including the reimbursement of the governing
 147 body or the community redevelopment agency for such expenses
 148 incurred before the redevelopment plan was approved and adopted.

149 3.(e) The acquisition of real property in the
 150 redevelopment area.

151 4.(d) The clearance and preparation of any redevelopment
 152 area for redevelopment and relocation of site occupants within
 153 or outside the community redevelopment area as provided in s.
 154 163.370.

155 5.(e) The repayment of principal and interest or any
 156 redemption premium for loans, advances, bonds, bond anticipation
 157 notes, and any other form of indebtedness.

158 6.(f) All expenses incidental to or connected with the
 159 issuance, sale, redemption, retirement, or purchase of bonds,
 160 bond anticipation notes, or other form of indebtedness,
 161 including funding of any reserve, redemption, or other fund or
 162 account provided for in the ordinance or resolution authorizing
 163 such bonds, notes, or other form of indebtedness.

164 7.(g) The development of affordable housing within the
 165 community redevelopment area.

166 8.(h) The development of community policing innovations.

167 (b) For the purpose of the expenditure of moneys in
 168 redevelopment trust funds in counties as defined in s.

169 125.011(1), the following apply:

170 1. An agency operating in the county must submit an annual
 171 budget indicating any proposed expenditures of increment
 172 revenues by August 15 of each year.

173 2. The board of county commissioners may approve the
 174 budget by resolution.

175 3. Increment revenues contributed by the county may not be
 176 expended for redevelopment activities without the approval of
 177 the board of county commissioners, unless such expenditures are
 178 to pay existing debts and contractual obligations of the agency.

179 4. Existing debts or contractual obligations, as described
 180 in paragraph 3., include only such debt incurred pursuant to s.
 181 163.385 and moneys owed from contracts entered into before the
 182 date of a notice of termination as authorized by s. 163.356(5).
 183 Existing debts or contractual obligations may not include
 184 salaries of at-will employees whose duties are directly
 185 associated with the provision of administrative or other
 186 services and who are employed by an agency or a municipality
 187 that provides administrative or other services to an agency.
 188 Existing debts or contractual obligations may not include
 189 contracts that are terminable at will.

190 5. The agency may not seek permission to issue bonds,
 191 incur further indebtedness, or enter into contracts until the
 192 governing body of the county has approved the agency's annual
 193 budget.

194 (c) Notwithstanding any provision in this section, in a
 195 county as defined in s. 125.011(1), if the agency's issuance of
 196 debt has been approved pursuant to s. 163.385, the agency's

197 payment of debt service for debt secured by increment revenues
 198 does not require the approval of the board of county
 199 commissioners as a part of the annual agency budgetary approval
 200 process.

201 (7) On the last day of the fiscal year of the community
 202 redevelopment agency, any money that ~~which~~ remains in the trust
 203 fund after the payment of expenses pursuant to subsection (6)
 204 for such year shall be:

205 (a) Returned to each taxing authority that ~~which~~ paid the
 206 increment in the proportion that the amount of the payment of
 207 such taxing authority bears to the total amount paid into the
 208 trust fund by all taxing authorities for that year;

209 (b) Used to reduce the amount of any indebtedness to which
 210 increment revenues are pledged;

211 (c) Deposited into an escrow account for the purpose of
 212 later reducing any indebtedness to which increment revenues are
 213 pledged; or

214 (d) Appropriated to a specific redevelopment project
 215 pursuant to an approved community redevelopment plan. However,
 216 in a county as defined in s. 125.011(1), such funds may only be
 217 appropriated in accordance with this paragraph if:

218 1. The ~~which~~ project will be completed within 3 years
 219 after ~~from~~ the date of such appropriation.

220 2. Before the appropriation, an acceptable construction
 221 timeline and budget for the project is submitted to and approved
 222 by the board of county commissioners.

223 (9) In addition to the audit required by subsection (8),
 224 an agency located and operating in a county as defined in s.

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225 | 125.011(1) shall submit to a forensic audit performed by a
 226 | licensed and independent forensic accountant at least every 5
 227 | years, as requested by the board of county commissioners. The
 228 | forensic audit shall include, but is not limited to, a review of
 229 | an agency's assets, liabilities, income, and operating expenses
 230 | to ensure that the agency has not engaged in financial
 231 | misconduct or wasteful activity.

232 | Section 4. This act shall take effect July 1, 2012.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
 2 Representative Fresen offered the following:

4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraph (c) of subsection (3) of section
 7 163.356, Florida Statutes, is amended, and subsection (5) is
 8 added to that section, to read:

9 163.356 Creation and termination of a community
 10 redevelopment agency.—

11 (3)

12 (c) The governing body of the county or municipality shall
 13 designate a chair and vice chair from among the commissioners.
 14 An agency may employ an executive director, technical experts,
 15 and such other agents and employees, permanent and temporary, as
 16 it requires, and determine their qualifications, duties, and
 17 compensation. For such legal service as it requires, an agency
 18 may employ or retain its own counsel and legal staff. An agency
 19 authorized to transact business and exercise powers under this

Amendment No. 1

20 part shall file with the governing body, on or before March 31
21 of each year, a report of its activities for the preceding
22 fiscal year, which report shall include a complete financial
23 statement setting forth its assets, liabilities, income, and
24 operating expenses as of the end of such fiscal year. At the
25 time of filing the report, the agency shall publish in a
26 newspaper of general circulation in the community a notice to
27 the effect that such report has been filed with the county or
28 municipality and that the report is available for inspection
29 during business hours in the office of the clerk of the city or
30 county commission and in the office of the agency. Agencies
31 operating within a county as defined in s. 125.011(1) are
32 required to submit to annual performance reviews conducted by
33 and at the discretion of the board of county commissioners.

34 (5)(a) In any county as defined in s. 125.011(1) that has
35 created a community redevelopment agency or has delegated the
36 creation of a community redevelopment agency to a municipality
37 pursuant to s. 163.410, the board of county commissioners may
38 terminate the agency operating or located in its boundaries, if
39 the board finds pursuant to a forensic audit conducted under s.
40 163.387(8):

41 1. The agency has neglected its duties and
42 responsibilities under the approved redevelopment plan or under
43 any interlocal agreement between the governing body of the
44 county or any taxing authority and the agency under this part;
45 or

46 2. The agency has engaged in financial misconduct.

Amendment No. 1

47 (b)1. After a public hearing on the proposed
48 termination of an agency under this subsection, the board of
49 county commissioners may effectuate the termination of the
50 agency by adopting a resolution that approves termination of the
51 agency pursuant to a termination plan consistent with the
52 provisions of subparagraph 3.

53 2. The board of county commissioners must notify the
54 agency of the proposed termination and the grounds for
55 termination in writing at least 30 days before the public
56 hearing on the termination of the agency. After the agency has
57 been given notice pursuant to this subparagraph, the agency may
58 not issue bonds, incur further indebtedness, or enter into any
59 contract, unless approved by the board. The agency must respond
60 to the notice of proposed termination and the grounds for
61 termination in writing at least 5 days before the public
62 hearing.

63 3. A termination plan approved by the board of county
64 commissioners:

65 a. Shall, if the agency has outstanding debt, including
66 debt that pledges increment revenues as a source of repayment,
67 require repayment of the debt, or make provision for the
68 repayment, on or before it is due and may require taxing
69 authorities to continue making required contributions until the
70 repayment is paid;

71 b. May require the governing body of the county to assume
72 the powers of the agency and act as the board of commissioners
73 for the agency for purposes of overseeing the continued payment

Amendment No. 1

74 of outstanding debt or the completion of projects begun before
75 the date of the notice of termination;

76 c. Shall provide an effective date of termination of the
77 agency, which shall be a date after payment or provision for
78 payment of all outstanding debt of the agency; and

79 d. Shall provide that after termination of the agency the
80 obligation of a taxing authority to contribute to the trust fund
81 pursuant to s. 163.387 is automatically terminated by operation
82 of law and any funds remaining in the trust fund shall be
83 disbursed to the taxing authorities in proportion to the amounts
84 contributed by such taxing authorities.

85 (c) Notwithstanding any provision of law to the contrary,
86 consent to termination under this subsection is not required
87 from the agency, from the governing body of a municipality
88 within which the agency operates or which was delegated the
89 authority to create the agency, from the taxing authorities that
90 contribute to the redevelopment trust fund of the agency, or
91 from any other person or entity.

92 Section 2. Subsection (10) of section 163.362, Florida
93 Statutes, is amended, to read:

94 163.362 Contents of community redevelopment plan.—Every
95 community redevelopment plan shall:

96 (10) Provide a time certain for completing all
97 redevelopment financed by increment revenues. Such time certain
98 shall occur no later than 30 years after the fiscal year in
99 which the plan is approved, adopted, or amended pursuant to s.
100 163.361(1). However, for any agency created after July 1, 2002,
101 the time certain for completing all redevelopment financed by

Amendment No. 1

102 increment revenues must occur within 40 years after the fiscal
103 year in which the plan is approved or adopted. In any county as
104 defined in s. 125.011(1), any redevelopment plan that is
105 approved or amended on or after July 1, 2012, must also provide
106 a specific date by which each redevelopment activity that is a
107 part of a redevelopment project proposed to be funded by the
108 increment fund is scheduled to be completed.

109 Section 3. Subsections (6) and (8) of section 163.387,
110 Florida Statutes, are amended to read:

111 163.387 Redevelopment trust fund.—

112 (6) (a) Moneys in the redevelopment trust fund may be
113 expended from time to time for undertakings of a community
114 redevelopment agency as described in the community redevelopment
115 plan for the following purposes, including, but not limited to:

116 1. (a) Administrative and overhead expenses necessary or
117 incidental to the implementation of a community redevelopment
118 plan adopted by the agency.

119 2. (b) Expenses of redevelopment planning, surveys, and
120 financial analysis, including the reimbursement of the governing
121 body or the community redevelopment agency for such expenses
122 incurred before the redevelopment plan was approved and adopted.

123 3. (c) The acquisition of real property in the
124 redevelopment area.

125 4. (d) The clearance and preparation of any redevelopment
126 area for redevelopment and relocation of site occupants within
127 or outside the community redevelopment area as provided in s.
128 163.370.

Amendment No. 1

129 ~~5.(e)~~ The repayment of principal and interest or any
130 redemption premium for loans, advances, bonds, bond anticipation
131 notes, and any other form of indebtedness.

132 ~~6.(f)~~ All expenses incidental to or connected with the
133 issuance, sale, redemption, retirement, or purchase of bonds,
134 bond anticipation notes, or other form of indebtedness,
135 including funding of any reserve, redemption, or other fund or
136 account provided for in the ordinance or resolution authorizing
137 such bonds, notes, or other form of indebtedness.

138 ~~7.(g)~~ The development of affordable housing within the
139 community redevelopment area.

140 ~~8.(h)~~ The development of community policing innovations.

141 (b) For the purpose of the expenditure of moneys in
142 redevelopment trust funds in counties as defined in s.
143 125.011(1), the following apply in addition to any requirement
144 imposed by interlocal agreement:

145 1. An agency operating in the county must submit an annual
146 budget indicating any proposed expenditures of increment
147 revenues attributable to the county share of revenues by August
148 15 of each year.

149 2. The board of county commissioners may, within 90 days
150 of receipt approve the budget by resolution or reject the budget
151 and return it to the agency. If the board of county
152 commissioners does not act within 90 days, the budget shall be
153 deemed approved. The agency may then revise the budget within 30
154 days and resubmit it to the board of county commissioners, which
155 would then have 90 days to act on it.

Amendment No. 1

156 3. Increment revenues contributed by the county may not be
157 expended for redevelopment activities without the approval of
158 the board of county commissioners, unless such expenditures are
159 to pay existing debts and contractual obligations of the agency.

160 4. Existing debts or contractual obligations, as described
161 in paragraph 3., include only such debt incurred pursuant to s.
162 163.385 and moneys owed from contracts entered into before the
163 date of a notice of termination as authorized by s. 163.356(5).

164 Existing debts or contractual obligations may not include
165 salaries of at-will employees whose duties are directly
166 associated with the provision of administrative or other
167 services and who are employed by an agency or a municipality
168 that provides administrative or other services to an agency.

169 Existing debts or contractual obligations may not include
170 contracts that are terminable at will.

171 5. The agency may not seek permission to issue bonds,
172 incur further indebtedness, or enter into contracts until the
173 governing body of the county has approved the agency's annual
174 budget.

175 (c) Notwithstanding any provision in this section, in a
176 county as defined in s. 125.011(1), if the agency's issuance of
177 debt has been approved pursuant to s. 163.385, the agency's
178 payment of debt service for debt secured by increment revenues
179 does not require the approval of the board of county
180 commissioners as a part of the annual agency budgetary approval
181 process.

182 (8) Each community redevelopment agency shall provide for
183 an external audit of the trust fund each fiscal year a report of

Amendment No. 1

184 such audit to be prepared by an independent certified public
185 accountant or firm. Such report shall describe the amount and
186 source of deposits into, and the amount and purpose of
187 withdrawals from, the trust fund during such fiscal year and the
188 amount of principle and interest paid during such year on any
189 indebtedness to which increment revenues are pledged and the
190 remaining amount of such indebtedness. The agency shall provide
191 by registered mail a copy of the report to each taxing
192 authority. If the external audit finds evidence of financial
193 misconduct related to expenditure of tax increment revenues
194 attributable to funds derived from the county taxes, then the
195 board of county commissioners may require a forensic audit.

196 Section 4. This act shall take effect July 1, 2012.

197
198
199 -----
200 **T I T L E A M E N D M E N T**

201 Remove lines 7-21 and insert:
202 commissioners of certain counties pursuant to a
203 forensic audit; providing public hearing and notice
204 and termination plan requirements; providing that
205 consent from certain entities is not required for such
206 termination; amending s. 163.362, F.S.; providing
207 additional redevelopment plan requirements for certain
208 counties; amending s. 163.387, F.S.; providing
209 requirements for the expenditure of moneys from
210 redevelopment trust funds in certain counties in
211 addition to any requirements imposed by interlocal

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 547 (2012)

Amendment No. 1

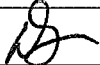
212 | agreements; providing protocol for the approval of
213 | agency budgets by resolution; exempting payment of
214 | debt service in such counties from certain approval;
215 | providing for an annual external audit of the agency
216 | trust fund; provides that a forensic audit may be
217 | required under certain circumstances; providing an
218 | effective date.

219

220

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 801 Emergency 911 Service
SPONSOR(S): Community & Military Affairs Subcommittee and Steube
TIED BILLS: IDEN./SIM. BILLS: SB 1042

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Energy & Utilities Subcommittee	13 Y, 0 N	Keating	Collins
2) Community & Military Affairs Subcommittee	13 Y, 0 N, As CS	Read	Hoagland
3) Finance & Tax Committee		Flieger BF	Langston 
4) State Affairs Committee			

SUMMARY ANALYSIS

Section 365.172, F.S., established a statewide enhanced 911 ("E911") system for wireless telephone users. To fund the E911 system, the act imposes a fee, capped at 50 cents, on voice communications services.

Florida law requires voice communications services providers to collect the E911 fee from the subscribers of voice communications services on a service identifier basis, up to a maximum of 25 access lines per account bill. The fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice-over-Internet Protocol ("VoIP").

The E911 Board helps implement and oversee the E911 system and administers the funds derived from the E911 fee. The Board consists of nine members: the E911 system director (the secretary of the Department of Management Services or his or her designee) who serves as chair of the board; four county 911 coordinators; two local exchange carrier representatives; and two wireless telecommunications industry representatives recommended by the Florida Telecommunications Industry Association ("FTIA").

CS/HB 801 amends provisions of the Emergency Communications Number E911 Act to do the following:

- Modify industry membership on the E911 Board by: expanding the number of local exchange carrier representatives from 2 to 3; adding a requirement that one of these 3 Board members represent a competitive local exchange telecommunications company; and reducing the number of wireless telecommunications industry representatives on the Board from 2 to 1.
- Clarify how the E911 fee will be billed by certain voice communications services providers, including billing to customers served through certain high-capacity lines.
- Clarify that the indemnification and liability provisions related to the provision of 911 or E911 service will apply to non-voice communications (e.g., text, data, images, video) that may be utilized in Next Generation 911 applications currently being developed.
- Reflect the recent dissolution of the FTIA.

The bill also amends the Telecommunications Access System Act of 1991 to reflect the dissolution of the FTIA, which was known until 1996 as the Florida Telephone Association.

The bill allows 911 public safety telecommunicators to disclose the location of persons having a confirmed coronary emergency to private persons or entities that have automated external defibrillators nearby.

This bill has not been evaluated by the Revenue Estimating Conference but it does not appear to have a fiscal impact.

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Emergency Communications Number E911 Act¹ establishes a statewide E911 system for wireless telephone users. To fund the E911 system, the act imposes a fee, capped at \$.50 per access line or service number, on voice communications services. This fee funds costs incurred by local governments to install and operate 911 systems and reimburses providers for costs incurred to provide 911 or E911 services. As of March 31, 2008, all 67 counties reported capability to receive a call back number and location information provided for the cellular caller from the service provider.²

Florida law requires voice communications services providers to collect the E911 fee from the subscribers of voice communications services on a service identifier basis, up to a maximum of 25 access lines per account bill.³ "Service identifier" is defined as the service number, access line, or other unique identifier assigned to a customer for purposes of routing calls to the E911 system.⁴ Consistent with the statutory definition for "voice communications services provider"⁵, the fee is imposed upon local exchange service, wireless service, and other services that have access to E911 service, such as Voice-over-Internet Protocol⁶ ("VoIP").

For customers who take service through a digital transmission link that can be channelized and split into 23 or 24 voice or data grade channels for communications (such as primary rate interface service or Digital Signal 1 level service), local exchange carriers are required by rule⁷ to bill the E911 fee on the basis of five access lines for each digital transmission link up to a maximum of 25 access lines per account bill. A customer using one digital transmission link for service is able to use that link for 23 or 24 voice or data channels. The rule assumes that five of those channels, on average, are used as voice lines with access to the E911 system, and the customer is billed the E911 fee for five lines. The rule does not currently apply to voice communications services providers other than local exchange carriers.

The E911 Board, formerly the Wireless 911 Board, helps implement and oversee the E911 system and administers the funds derived from the E911 fee. The primary function of the E911 Board (Board) is to make disbursements from the E911 Trust Fund to county governments and wireless providers in accordance with s. 365.173, F.S. The Board consists of nine members: the E911 system director (the secretary of the Department of Management Services or his or her designee) who serves as chair of the board; four county 911 coordinators; two local exchange carrier representatives; and two wireless telecommunications industry representatives recommended by the Florida Telecommunications Industry Association ("FTIA") in consultation with the wireless industry.⁸ According to the Florida Department of State, Division of Corporations website, the Florida Telecommunications Industry Association was voluntarily dissolved in June 2011.

Florida law protects voice communications services providers from liability for damages resulting from or in connection with 911 or E911 service or for identification of the telephone number, address, or

¹ Section 365.172, F.S. Originally cited as the "Wireless Emergency Communications Act," Chapter 99-367, L.O.F., codified in s. 365.172, F.S.

² Florida Department of Management Services, *Florida E911*, http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911 (last visited Jan. 13, 2012).

³ Section 365.172(8), F.S.

⁴ Section 365.172(3)(z), F.S.

⁵ Section 365.172(3)(bb) and (cc), F.S.

⁶ Voice-over-Internet Protocol, or VoIP, is the method commonly used by traditional cable television service providers to provide voice communications service. In addition, companies referred to as "over-the-top" providers, like Vonage, use VoIP.

⁷ Rule 60FF1-5.007, Florida Administrative Code.

⁸ Section 365.172(5)(b), F.S.

name associated with any person accessing 911 or E911 service, absent malicious purpose or wanton and willful disregard of the rights, safety, or property of the person.⁹ Further, the law authorizes local governments to indemnify local exchange carriers against liability in accordance with the carrier's lawfully filed tariffs. Since 2009, however, local exchange carriers have not been required to file tariffs (i.e., rate schedules) with the Public Service Commission ("PSC"). Instead, these carriers are required to publish their rate schedules through electronic or physical media and to inform customers where the schedules can be viewed.

Chapter 427, Florida Statutes, establishes the Telecommunications Access System Act of 1991 (TASA). Pursuant to TASA, the PSC is responsible for establishing, implementing, promoting, and overseeing the administration of a statewide system to provide access to telecommunications relay services by people who are deaf, hard of hearing, or speech impaired and those who communicate with them.¹⁰ TASA establishes an advisory committee to assist the PSC. The advisory committee provides the expertise, experience, and perspective of people who are hearing impaired or speech impaired to the PSC regarding the operation of the telecommunications access system. The advisory committee consists of 10 members: two deaf persons; one hearing-impaired person; one deaf and blind person; one speech-impaired person; two representatives of telecommunications companies recommended by the Florida Telephone Association; one person with experience in providing relay services; one person recommended by the Advocacy Center for Persons with Disabilities; and one person recommended by the Florida League of Seniors.¹¹ According to the Florida Department of State, Division of Corporations website, the Florida Telephone Association was renamed the Florida Telecommunications Industry Association in May 1996.

Effect of Proposed Changes

CS/HB 801 amends certain provisions of the Emergency Communications Number E911 Act to do the following:

- Modify industry membership on the E911 Board,
- Clarify the application of the E911 fee to a customer using digital transmission link and service (i.e. T-1 and Primary Rate Interface (PRI)),¹²
- Clarify the indemnification and liability provisions related to provision of 911 or E911 service with respect to non-voice communications,
- Reflect the recent dissolution of the FTIA.

The bill also amends the Telecommunications Access System Act of 1991 to reflect the dissolution of the FTIA.

E911 Board Membership

The bill amends s. 365.172(5)(b), F.S., to modify telecommunications industry representation on the E911 Board. The bill expands the number of local exchange carrier representatives on the E911 Board from two to three. The bill retains the requirement that one of these Board members represent the local exchange company with the greatest number of access lines in the state. The bill adds a requirement that one of these three Board members represent a competitive local exchange telecommunications company (e.g., a traditional landline competitive company or a cable voice service provider.) Finally, the bill reduces the number of wireless telecommunications industry representatives on the E911 Board from two to one. The bill retains the requirement that consideration be given to wireless providers that are not affiliated with local exchange carriers. To reflect the dissolution of the FTIA in June 2011, the bill removes the requirement that the wireless industry representative be recommended by the FTIA.

⁹ Section 365.172(11), F.S.

¹⁰ Section 427.704, F.S.

¹¹ Section 427.706, F.S.

¹² T-1 and PRI are defined in Rule 60-FF1-5.007(3)(a) and (b), F.A.C., respectively, as "[a] digital transmission link and service that can be channelized and split into 23 or 24 voice or data grade channels for communications."

E911 Fee

The bill amends s. 365.172(8)(a), F.S., to clarify and modernize application of the E911 fee. The bill amends subparagraph 1. to provide that all voice communications services providers other than wireless providers must bill the E911 fee to each subscriber based on the number of access lines with access to the E911 system, on a service-identifier basis. Based on the applicable definition of "voice communications services provider," this provision should encompass every voice communications technology that is required by the Federal Communications Commission ("FCC") to provide E911 service, including VoIP, other than wireless service. The bill retains the existing provisions related to collection of the E911 fee by wireless service providers. The bill also retains the existing provision that limits application of the E911 fee to a maximum of 25 access lines per account bill.

The bill creates a new provision as subparagraph 2. to establish how voice communications services providers other than wireless providers will bill the E911 fee to customers that use a digital transmission link that can be channelized and split into 23 or 24 voice or data grade channels for communications. Consistent with the existing rule of the E911 Board and FCC practice, these customers will be billed the fee for five service-identified access lines for each digital transmission link, up to a maximum of 25 access lines per account bill. The bill provides that a "digital transmission link" includes primary rate interface service or equivalent Digital Signal 1 level service. This is a codification of Rule 60FF1-5.007, F.A.C. which was enacted December 3, 2010.

The bill retains the existing provisions in s. 365.172(8)(a), F.S., that specify how wireless providers must bill the E911 fee to their customers.

The bill also retains provisions in s. 365.172(8)(a), F.S., that specify how voice communications services providers other than those previously described must bill the E911 fee. It is not clear that this provision is still necessary, as the provisions discussed above appear to address all voice communications services providers.

Indemnification and Liability

Section 365.172(11), F.S., provides protection to voice communications services providers from liability for damages resulting from or in connection with 911 or E911 service. The bill provides a definition for the term "911 or E911 service" for purposes of that subsection. Specifically, the bill defines the term as

"a telecommunications service, voice or nonvoice communications service, or other wireline or wireless service, including, but not limited to, a service using Internet protocol, which provides, in whole or in part, any of the following functions: providing members of the public with the ability to reach an answering point by using the digits 9-1-1; directing 911 calls to answering points by selective routing; providing for automatic number identification and automatic location-identification features; or providing wireless E911 services as defined [by specified orders of the FCC]."

The bill appears to clarify application of the existing liability provisions to include services that are capable of providing access to the E911 system for nonvoice communications (e.g., text, data, images and video). These "Next Generation 911" systems are currently being developed.

Further, the bill reflects that local exchange carriers are no longer required to file tariffs with the PSC. To do this, the bill provides that local governments may indemnify a local exchange carrier against liability in accordance with the carrier's lawfully published rate schedules, rather than its filed tariffs.

Automated External Defibrillators (AEDs)

The bill amends s. 365.171(12), F.S., to give 911 public safety telecommunicators¹³ (emergency dispatchers) the discretion to disclose the location of a confirmed coronary emergency to public persons or entities who have an AED nearby. This disclosure is limited to providing the location of the confirmed coronary emergency—under no circumstances can the name, telephone number, or personal information be disclosed to the private persons or entities.

The bill also amends s. 401.2915(2)(b), F.S., which presently encourages persons or entities in possession of an AED to notify the local emergency medical services director about the location of the AED. The bill adds that these persons or entities should also notify the local public safety answering point¹⁴ about the location of the AED. The result of the bill should be faster response times for persons having confirmed coronary emergencies.

Miscellaneous Provisions

The Telecommunications Access System Act of 1991¹⁵ establishes an advisory committee to assist the PSC in implementing, promoting, and overseeing the administration of a statewide system to provide access to telecommunications relay services by people who are deaf, hard of hearing, or speech impaired and those who communicate with them. The bill amends s. 427.706(1), F.S., to remove an obsolete reference to the role of the Florida Telephone Association (“FTA”) in recommending members to be appointed to the advisory committee. The FTA was renamed the FTIA in 1996, and the FTIA has since been dissolved. The bill does not otherwise change the existing membership of the advisory committee.

The bill makes conforming changes to cross-references and makes other technical changes.

B. SECTION DIRECTORY:

Section 1. Amends s. 365.172, F.S., relating to the Emergency Communications Number E911 Act.

Section 2. Amends s. 427.706, F.S., relating to the advisory committee created to assist the Public Service Commission in implementing the Telecommunications Access System Act of 1991.

Section 3. Amends s. 365.171(12), F.S., relating to confidentiality of records, allowing 911 public safety telecommunicators to disclose the location of the confirmed coronary emergency to private persons or entities that have an AED nearby.

Section 4. Amends s. 401.2915, F.S., relating to AED, encouraging private owners to notify local emergency medical services directors or local public safety answering points about the location of their AED.

Section 5. Provides an effective date of July 1, 2012.

¹³ Section 401.465(1)(a), F.S. defines “911 public safety telecommunicator” as “a public safety dispatcher or 911 operator whose duties and responsibilities include the answering, receiving, transferring, and dispatching functions related to 911 calls . . .”

¹⁴ Section 365.172(3)(a), F.S. defines “answering point” as “the public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls.”

¹⁵ Sections 427.701-.708, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has not been evaluated by the Revenue Estimating Conference but it does not appear to have a fiscal impact.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an 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 a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill retains provisions in s. 365.172(8)(a), F.S., that specify how voice communications services providers other than those already identified in the law must bill the E911 fee. It is not clear that this provision is still necessary, as the provisions of the bill appear to apply to all voice communications services providers.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 18, 2011, the Community & Military Affairs Subcommittee heard the bill, adopted five amendments, and reported the bill favorably as a committee substitute. Four of the amendments were technical; the other amendment gives 911 public safety telecommunicators the discretion to contact persons or entities that own automated external defibrillators and inform them of the location of a confirmed coronary emergency if they are within a reasonable distance. The staff analysis was updated to reflect the committee substitute.

1 A bill to be entitled
2 An act relating to emergency telecommunications
3 service; amending s. 365.172, F.S.; revising the
4 qualifications required for the members of the E911
5 Board; requiring that a voice communications service
6 provider, other than a wireless service provider,
7 impose a fee based on the number of access lines to
8 the E911 system and on the basis of certain access
9 lines for each digital transmission link, up to a
10 specified number of access lines per account bill
11 rendered; revising the criteria that a local
12 government may use in order to indemnify a local
13 carrier; expanding the types of providers that may be
14 indemnified and that are not liable for certain
15 damages; revising cross-references; defining the term
16 "911 or E911 service"; amending s. 427.706, F.S.,
17 relating to the statewide telecommunications access
18 system; removing the requirement that the Florida
19 Telephone Association recommend certain
20 representatives to an advisory committee to the Public
21 Service Commission; amending s. 365.171, F.S.;
22 providing an exception to certain confidentiality
23 provisions for a 911 public safety telecommunicator
24 when a confirmed coronary emergency call is taking
25 place; amending s. 401.2915, F.S.; encouraging certain
26 persons to notify the local public safety answering
27 point of the location of an automated external
28 defibrillator; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (5), paragraphs (a) and (e) of subsection (8), and subsection (11) of section 365.172, Florida Statutes, are amended to read:

365.172 Emergency communications number ~~"E911."~~

(5) THE E911 BOARD.—

(a) The E911 Board is established to administer, with oversight by the office, the fee imposed under subsection (8), including receiving revenues derived from the fee; distributing portions of the revenues to wireless providers, counties, and the office; accounting for receipts, distributions, and income derived by the funds maintained in the fund; and providing annual reports to the Governor and the Legislature for submission by the office on amounts collected and expended, the purposes for which expenditures have been made, and the status of E911 service in this state. In order to advise and assist the office in implementing ~~carrying out~~ the purposes of this section, the board, which has ~~shall have~~ the power of a body corporate, has the powers enumerated in subsection (6).

(b) The board shall consist of nine members, one of whom must be the system director designated under s. 365.171(5), or his or her designee, who shall serve as the chair of the board. The remaining eight members of the board shall be appointed by the Governor and must be composed of four county 911 coordinators, consisting of a representative from a rural county, a representative from a medium county, a representative

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57 | from a large county, and an at-large representative recommended
 58 | by the Florida Association of Counties in consultation with the
 59 | county 911 coordinators; three ~~two~~ local exchange carrier member
 60 | representatives ~~members~~, one of whom ~~which~~ must be a
 61 | representative of the local exchange carrier having the greatest
 62 | number of access lines in the state and one of whom must be a
 63 | representative of a certificated competitive local exchange
 64 | telecommunications company; and one member representative ~~two~~
 65 | ~~members~~ from the wireless telecommunications industry, with
 66 | ~~recommended by the Florida Telecommunications Industry~~
 67 | ~~Association in consultation with the wireless telecommunications~~
 68 | ~~industry. In recommending members from the wireless~~
 69 | ~~telecommunications industry,~~ consideration ~~must be~~ given to
 70 | wireless providers that ~~who~~ are not affiliated with local
 71 | exchange carriers. Not more than one member may be appointed to
 72 | represent any single provider on the board.

73 | (8) E911 FEE.—

74 | (a) Each voice communications services provider shall
 75 | collect the fee described in this subsection. Each provider, as
 76 | part of its monthly billing process, shall bill the fee as
 77 | follows. The fee may ~~shall~~ not be assessed on any pay telephone
 78 | in the state.

79 | 1. Each voice communications service provider other than a
 80 | wireless provider ~~local exchange carrier~~ shall bill the fee to a
 81 | subscriber based on the number of access lines having access to
 82 | the E911 system, ~~the local exchange subscribers~~ on a service-
 83 | identifier basis, up to a maximum of 25 access lines per account
 84 | bill rendered.

85 2. Each voice communications service provider other than a
 86 wireless provider shall bill the fee to a subscriber on a basis
 87 of five service-identified access lines for each digital
 88 transmission link, including primary rate interface service or
 89 equivalent Digital Signal 1 level service, which can be
 90 channelized and split into 23 or 24 voice or data grade channels
 91 for communications, up to a maximum of 25 access lines per
 92 account bill rendered.

93 ~~3.2.~~ Except in the case of prepaid wireless service, each
 94 wireless provider shall bill the fee to a subscriber on a per-
 95 service-identifier basis for service identifiers whose primary
 96 place of use is within this state. Before July 1, 2013, the fee
 97 may ~~shall~~ not be assessed on or collected from a provider with
 98 respect to an end user's service if that end user's service is a
 99 prepaid calling arrangement that is subject to s. 212.05(1)(e).

100 a. An ~~No~~ E911 fee shall not be collected from the sale of
 101 prepaid wireless service before ~~prior to~~ July 1, 2013.

102 b. For purposes of this section, the term:

103 (I) "Prepaid wireless service" means the right to access
 104 telecommunications services, which ~~that~~ must be paid for in
 105 advance and is sold in predetermined units or dollars enabling
 106 the originator to make calls such that the number of units or
 107 dollars declines with use in a known amount.

108 (II) "Prepaid wireless service providers" includes those
 109 persons who sell prepaid wireless service regardless of its
 110 form, ~~either~~ as a retailer or reseller.

111 ~~4.3.~~ The ~~All~~ voice communications services providers not
 112 addressed under subparagraphs 1., 2., and 3. ~~2.~~ shall bill the

113 fee on a per-service-identifier basis for service identifiers
 114 whose primary place of use is within the state up to a maximum
 115 of 25 service identifiers for each account bill rendered.

116
 117 The provider may list the fee as a separate entry on each bill,
 118 in which case the fee must be identified as a fee for E911
 119 services. A provider shall remit the fee to the board only if
 120 the fee is paid by the subscriber. If a provider receives a
 121 partial payment for a monthly bill from a subscriber, the amount
 122 received shall first be applied to the payment due the provider
 123 for providing voice communications service.

124 (e) Effective September 1, 2007, voice communications
 125 services providers billing the fee to subscribers shall deliver
 126 revenues from the fee to the board within 60 days after the end
 127 of the month in which the fee was billed, together with a
 128 monthly report of the number of service identifiers in each
 129 county. Each wireless provider and other applicable provider
 130 identified in subparagraph (a)4. ~~(a)3.~~ shall report the number
 131 of service identifiers for subscribers whose place of primary
 132 use is in each county. All provider subscriber information
 133 provided to the board is subject to s. 365.174. If a provider
 134 chooses to remit any fee amounts to the board before they are
 135 paid by the subscribers, a provider may apply to the board for a
 136 refund of, or may take a credit for, any such fees remitted to
 137 the board which are not collected by the provider within 6
 138 months following the month in which the fees are charged off for
 139 federal income tax purposes as bad debt.

140 (11) INDEMNIFICATION AND LIMITATION OF LIABILITY.—A local

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141 | ~~government may~~ ~~governments are authorized to undertake to~~
 142 | indemnify local exchange carriers against liability in
 143 | accordance with the published schedules ~~lawfully filed tariffs~~
 144 | of the company. Notwithstanding an indemnification agreement, a
 145 | local exchange carrier, voice communications services provider,
 146 | or other service provider that provides 911 or E911 service on a
 147 | retail or wholesale basis is not liable for damages resulting
 148 | from or in connection with 911 or E911 service, or for
 149 | identification of the telephone number, or address, or name
 150 | associated with any person accessing 911 or E911 service, unless
 151 | ~~the carrier or the voice communications services~~ provider acted
 152 | with malicious purpose or in a manner exhibiting wanton and
 153 | willful disregard of the rights, safety, or property of a person
 154 | when providing such services. A carrier or ~~voice communications~~
 155 | ~~services~~ provider is not liable for damages to any person
 156 | resulting from or in connection with the carrier's or provider's
 157 | provision of any lawful assistance to any investigative or law
 158 | enforcement officer of the United States, this state, or a
 159 | political subdivision thereof, or of any other state or
 160 | political subdivision thereof, in connection with any lawful
 161 | investigation or other law enforcement activity by such law
 162 | enforcement officer. For purposes of this subsection, the term
 163 | "911 or E911 service" means a telecommunications service, voice
 164 | or nonvoice communications service, or other wireline or
 165 | wireless service, including, but not limited to, a service using
 166 | Internet protocol, which provides, in whole or in part, any of
 167 | the following functions: providing members of the public with
 168 | the ability to reach an answering point by using the digits 9-1-

169 1; directing 911 calls to answering points by selective routing;
 170 providing for automatic number identification and automatic
 171 location-identification features; or providing wireless E911
 172 services as defined in the order.

173 Section 2. Paragraph (e) of subsection (1) and subsection
 174 (3) of section 427.706, Florida Statutes, are amended to read:

175 427.706 Advisory committee.—

176 (1) The commission shall appoint an advisory committee to
 177 assist the commission with the implementation of the provisions
 178 of this part. The committee shall be composed of no more than 10
 179 persons and shall include, to the extent practicable, the
 180 following:

181 (e) Two representatives of telecommunications companies,
 182 ~~one representing a local exchange telecommunications company and~~
 183 ~~one representing an interexchange telecommunications company,~~
 184 ~~recommended by the Florida Telephone Association.~~

185 (3) Members of the committee may ~~shall~~ not be compensated
 186 for their services but are ~~shall be~~ entitled to receive
 187 reimbursement for per diem and travel expenses as provided in s.
 188 112.061. The commission shall use funds from the Florida Public
 189 Service Regulatory Trust Fund to cover the costs incurred by
 190 members of the advisory committee.

191 Section 3. Subsection (12) of section 365.171, Florida
 192 Statutes, is amended to read:

193 365.171 Emergency communications number E911 state plan.—

194 (12) CONFIDENTIALITY OF RECORDS.—

195 (a) Any record, recording, or information, or portions
 196 thereof, obtained by a public agency or a public safety agency

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197 | for the purpose of providing services in an emergency and which
 198 | reveals the name, address, telephone number, or personal
 199 | information about, or information which may identify any person
 200 | requesting emergency service or reporting an emergency by
 201 | accessing an emergency communications E911 system is
 202 | confidential and exempt from the provisions of s. 119.07(1) and
 203 | s. 24(a), Art. I of the State Constitution, except that such
 204 | record or information may be disclosed to a public safety
 205 | agency. The exemption applies only to the name, address,
 206 | telephone number or personal information about, or information
 207 | which may identify any person requesting emergency services or
 208 | reporting an emergency while such information is in the custody
 209 | of the public agency or public safety agency providing emergency
 210 | services. A telecommunications company or commercial mobile
 211 | radio service provider shall not be liable for damages to any
 212 | person resulting from or in connection with such telephone
 213 | company's or commercial mobile radio service provider's
 214 | provision of any lawful assistance to any investigative or law
 215 | enforcement officer of the State of Florida or political
 216 | subdivisions thereof, of the United States, or of any other
 217 | state or political subdivision thereof, in connection with any
 218 | lawful investigation or other law enforcement activity by such
 219 | law enforcement officer unless the telecommunications company or
 220 | commercial mobile radio service provider acted in a wanton and
 221 | willful manner.

222 | (b) Notwithstanding paragraph (a), a 911 public safety
 223 | telecommunicator, as defined in s. 401.465, may contact any
 224 | private person or entity that owns an automated external

225 defibrillator who has notified the local emergency medical
 226 services medical director or public safety answering point of
 227 such ownership if a confirmed coronary emergency call is taking
 228 place and the location of the coronary emergency is within a
 229 reasonable distance from the location of the defibrillator, and
 230 may provide the location of the coronary emergency to that
 231 person or entity.

232 Section 4. Paragraph (b) of subsection (2) of section
 233 401.2915, Florida Statutes, is amended to read:

234 401.2915 Automated external defibrillators.—It is the
 235 intent of the Legislature that an automated external
 236 defibrillator may be used by any person for the purpose of
 237 saving the life of another person in cardiac arrest. In order to
 238 achieve that goal, the Legislature intends to encourage training
 239 in lifesaving first aid and set standards for and encourage the
 240 use of automated external defibrillators.

241 (2) In order to promote public health and safety:

242 (b) Any person or entity in possession of an automated
 243 external defibrillator is encouraged to notify the local
 244 emergency medical services medical director or the local public
 245 safety answering point, as defined in s. 365.172(3), of the
 246 location of the automated external defibrillator.

247 Section 5. This act shall take effect July 1, 2012.

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COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Finance & Tax Committee
2 Representative Steube offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:
6 Section 1. Subsection (12) of section 365.171, Florida
7 Statutes, is amended to read:

8 365.171. Emergency communications number E911 state plan.-
9 (12) CONFIDENTIALITY OF RECORDS.-

10 (a) Any record, recording, or information, or portions
11 thereof, obtained by a public agency or a public safety agency
12 for the purpose of providing services in an emergency and which
13 reveals the name, address, telephone number, or personal
14 information about, or information which may identify any person
15 requesting emergency service or reporting an emergency by
16 accessing an emergency communications E911 system is
17 confidential and exempt from the provisions of s. 119.07(1) and
18 s. 24(a), Art. I of the State Constitution, except that such
19 record or information may be disclosed to a public safety

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20 agency. The exemption applies only to the name, address,
21 telephone number or personal information about, or information
22 which may identify any person requesting emergency services or
23 reporting an emergency while such information is in the custody
24 of the public agency or public safety agency providing emergency
25 services. A telecommunications company or commercial mobile
26 radio service provider shall not be liable for damages to any
27 person resulting from or in connection with such telephone
28 company's or commercial mobile radio service provider's
29 provision of any lawful assistance to any investigative or law
30 enforcement officer of the State of Florida or political
31 subdivisions thereof, of the United States, or of any other
32 state or political subdivision thereof, in connection with any
33 lawful investigation or other law enforcement activity by such
34 law enforcement officer unless the telecommunications company or
35 commercial mobile radio service provider acted in a wanton and
36 willful manner.

37 (b) Notwithstanding paragraph (a), a 911 public safety
38 telecommunicator, as defined in s. 401.465, may contact any
39 private person or entity that owns an automated external
40 defibrillator who has notified the local emergency medical
41 services medical director or public safety answering point of
42 such ownership if a confirmed coronary emergency call is taking
43 place and the location of the coronary emergency is within a
44 reasonable distance from the location of the defibrillator, and
45 may provide the location of the coronary emergency to that
46 person or entity.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 801 (2012)

Amendment No. 1

47 Section 2. Paragraphs (a) and (b) of subsection (5),
48 paragraphs (a) and (e) of subsection (8), and subsection (11) of
49 section 365.172, Florida Statutes, are amended to read:

50 365.172 Emergency communications number -"E911."-

51 (5) THE E911 BOARD.-

52 (a) The E911 Board is established to administer, with
53 oversight by the office, the fee imposed under subsection (8),
54 including receiving revenues derived from the fee; distributing
55 portions of the revenues to wireless providers, counties, and
56 the office; accounting for receipts, distributions, and income
57 derived by the funds maintained in the fund; and providing
58 annual reports to the Governor and the Legislature for
59 submission by the office on amounts collected and expended, the
60 purposes for which expenditures have been made, and the status
61 of E911 service in this state. In order to advise and assist the
62 office in implementing ~~carrying out~~ the purposes of this
63 section, the board, which has ~~shall have~~ the power of a body
64 corporate, has the powers enumerated in subsection (6).

65 (b) The board shall consist of eleven ~~nine~~ members, one of
66 whom must be the system director designated under s. 365.171(5),
67 or his or her designee, who shall serve as the chair of the
68 board. The remaining ten ~~eight~~ members of the board shall be
69 appointed by the Governor and must be composed of five ~~four~~
70 county 911 coordinators, consisting of a representative from a
71 rural county, a representative from a medium county, a
72 representative from a large county, and two ~~an~~ at-large
73 representatives ~~representative~~ recommended by the Florida
74 Association of Counties in consultation with the county 911

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75 coordinators; three ~~two~~ local exchange carrier member
76 representatives ~~members~~, one of whom ~~which~~ must be a
77 representative of the local exchange carrier having the greatest
78 number of access lines in the state and one of whom must be a
79 representative of a certificated competitive local exchange
80 telecommunications company; and two member representatives
81 ~~members~~ from the wireless telecommunications industry, with
82 ~~recommended by the Florida Telecommunications Industry~~
83 ~~Association in consultation with the wireless telecommunications~~
84 ~~industry. In recommending members from the wireless~~
85 ~~telecommunications industry, consideration must be given to~~
86 wireless providers that ~~who~~ are not affiliated with local
87 exchange carriers. Not more than one member may be appointed to
88 represent any single provider on the board.

89 (8) E911 FEE.—

90 (a) Each voice communications services provider shall
91 collect the fee described in this subsection. Each provider, as
92 part of its monthly billing process, shall bill the fee as
93 follows. The fee shall not be assessed on any pay telephone in
94 the state.

95 1. Each voice communications service provider other than a
96 wireless provider ~~local exchange carrier~~ shall bill the fee to a
97 subscriber based on the number of access lines having access to
98 the E911 system, ~~the local exchange subscribers~~ on a service-
99 identifier basis, up to a maximum of 25 access lines per account
100 bill rendered.

101 2. Each voice communications service provider other than a
102 wireless provider shall bill the fee to a subscriber on a basis

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103 of five service-identified access lines for each digital
104 transmission link, including primary rate interface service or
105 equivalent Digital-Signal-1-level service, which can be
106 channelized and split into 23 or 24 voice-or-data-grade channels
107 for communications, up to a maximum of 25 access lines per
108 account bill rendered.

109 ~~3.2.~~ Except in the case of prepaid wireless service, each
110 wireless provider shall bill the fee to a subscriber on a per-
111 service-identifier basis for service identifiers whose primary
112 place of use is within this state. Before July 1, 2013, the fee
113 shall not be assessed on or collected from a provider with
114 respect to an end user's service if that end user's service is a
115 prepaid calling arrangement that is subject to s. 212.05(1)(e).

116 a. An ~~No~~ E911 fee shall not be collected from the sale of
117 prepaid wireless service before ~~prior to~~ July 1, 2013.

118 b. For purposes of this section, the term:

119 (I) "Prepaid wireless service" means the right to access
120 telecommunications services, which ~~that~~ must be paid for in
121 advance and ~~is~~ sold in predetermined units or dollars enabling
122 the originator to make calls such that the number of units or
123 dollars declines with use in a known amount.

124 (II) "Prepaid wireless service providers" includes those
125 persons who sell prepaid wireless service regardless of its
126 form, ~~either~~ as a retailer or reseller.

127 ~~4.3.~~ The ~~All~~ voice communications services providers not
128 addressed under subparagraphs 1., 2., and 3. ~~2.~~ shall bill the
129 fee on a per-service-identifier basis for service identifiers

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130 whose primary place of use is within the state up to a maximum
131 of 25 service identifiers for each account bill rendered.

132
133 The provider may list the fee as a separate entry on each bill,
134 in which case the fee must be identified as a fee for E911
135 services. A provider shall remit the fee to the board only if
136 the fee is paid by the subscriber. If a provider receives a
137 partial payment for a monthly bill from a subscriber, the amount
138 received shall first be applied to the payment due the provider
139 for providing voice communications service.

140 (e) Effective September 1, 2007, voice communications
141 services providers billing the fee to subscribers shall deliver
142 revenues from the fee to the board within 60 days after the end
143 of the month in which the fee was billed, together with a
144 monthly report of the number of service identifiers in each
145 county. Each wireless provider and other applicable provider
146 identified in subparagraph (a)4. ~~(a)3.~~ shall report the number
147 of service identifiers for subscribers whose place of primary
148 use is in each county. All provider subscriber information
149 provided to the board is subject to s. 365.174. If a provider
150 chooses to remit any fee amounts to the board before they are
151 paid by the subscribers, a provider may apply to the board for a
152 refund of, or may take a credit for, any such fees remitted to
153 the board which are not collected by the provider within 6
154 months following the month in which the fees are charged off for
155 federal income tax purposes as bad debt.

156 (11) INDEMNIFICATION AND LIMITATION OF LIABILITY.—A local
157 government may ~~governments are authorized to undertake to~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

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158 indemnify local exchange carriers against liability in
159 accordance with the published schedules lawfully filed tariffs
160 of the company. Notwithstanding an indemnification agreement, a
161 local exchange carrier, voice communications services provider,
162 or other service provider that provides 911 or E911 service on a
163 retail or wholesale basis is not liable for damages resulting
164 from or in connection with 911 or E911 service, or for
165 identification of the telephone number, or address, or name
166 associated with any person accessing 911 or E911 service, unless
167 the carrier or ~~the voice communications services~~ provider acted
168 with malicious purpose or in a manner exhibiting wanton and
169 willful disregard of the rights, safety, or property of a person
170 when providing such services. A carrier or ~~voice communications~~
171 services provider is not liable for damages to any person
172 resulting from or in connection with the carrier's or provider's
173 provision of any lawful assistance to any investigative or law
174 enforcement officer of the United States, this state, or a
175 political subdivision thereof, or of any other state or
176 political subdivision thereof, in connection with any lawful
177 investigation or other law enforcement activity by such law
178 enforcement officer. For purposes of this subsection, the term
179 "911 or E911 service" means a telecommunications service, voice
180 or nonvoice communications service, or other wireline or
181 wireless service, including, but not limited to, a service using
182 Internet protocol, which provides, in whole or in part, any of
183 the following functions: providing members of the public with
184 the ability to reach an answering point by using the digits 9-1-
185 1; directing 911 calls to answering points by selective routing;

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186 providing for automatic number identification and automatic
187 location-identification features; or providing wireless E911
188 services as defined in the order.

189 Section 3. Paragraph (b) of subsection (2) of section
190 401.2915, Florida Statutes, is amended to read:

191 401.2915 Automated external defibrillators.—It is the
192 intent of the Legislature that an automated external
193 defibrillator may be used by any person for the purpose of
194 saving the life of another person in cardiac arrest. In order to
195 achieve that goal, the Legislature intends to encourage training
196 in lifesaving first aid and set standards for and encourage the
197 use of automated external defibrillators.

198 (2) In order to promote public health and safety:

199 (b) Any person or entity in possession of an automated
200 external defibrillator is encouraged to notify the local
201 emergency medical services medical director or the local public
202 safety answering point, as defined in s. 365.172(3), of the
203 location of the automated external defibrillator.

204 Section 4. Paragraph (e) of subsection (1) and subsection
205 (3) of section 427.706, Florida Statutes, are amended to read:

206 427.706 Advisory committee.—

207 (1) The commission shall appoint an advisory committee to
208 assist the commission with the implementation of the provisions
209 of this part. The committee shall be composed of no more than 10
210 persons and shall include, to the extent practicable, the
211 following:

212 (e) Two representatives of telecommunications companies,
213 ~~one representing a local exchange telecommunications company and~~

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214 ~~one representing an interexchange telecommunications company,~~
215 ~~recommended by the Florida Telephone Association.~~

216 (3) Members of the committee shall not be compensated for
217 their services but are ~~shall be~~ entitled to receive
218 reimbursement for per diem and travel expenses as provided in s.
219 112.061. The commission shall use funds from the Florida Public
220 Service Regulatory Trust Fund to cover the costs incurred by
221 members of the advisory committee.

222 Section 5. This act shall take effect July 1, 2012.

223

224

225

226

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

227

Remove the entire title and insert:

228

A bill to be entitled

229

An act relating to emergency 911 service; amending s.

230

365.171, F.S.; providing an exception to certain

231

confidentiality provisions for a 911 public safety

232

telecommunicator when a confirmed coronary emergency

233

call is taking place; amending s. 365.172, F.S.;

234

increasing the membership of the E911 Board and

235

revising the qualifications required for the members;

236

requiring that a voice communications service

237

provider, other than a wireless service provider,

238

impose a fee based on the number of access lines to

239

the E911 system and on the basis of certain access

240

lines for each digital transmission link, up to a

241

specified number of access lines per account bill

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242 rendered; revising the criteria that a local
243 government may use in order to indemnify a local
244 carrier; expanding the types of providers that may be
245 indemnified and that are not liable for certain
246 damages; revising cross-references; defining the term
247 "911 or E911 service"; amending s. 401.2915, F.S. ;
248 providing for a person or entity in possession of an
249 automated external defibrillator to notify the local
250 public safety answering point regarding the location
251 of the defibrillator; amending s. 427.706, F.S. ;
252 removing the requirement that the Florida Telephone
253 Association recommend certain representatives to an
254 advisory committee to the Public Service Commission;
255 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1015 Tourist Development Tax
SPONSOR(S): Hooper
TIED BILLS: IDEN./SIM. BILLS: SB 1274

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	10 Y, 0 N	Fennell	Creamer
2) Finance & Tax Committee		Flieger <i>BF</i>	Langston <i>RL</i>
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill amends s. 125.0104, F.S., to permit counties to use tax revenues raised from levying any tourist development tax for purposes related to publicly owned and operated aquariums, including the acquisition, construction, maintenance, or promotion of such aquariums.

The bill has not been evaluated by the Revenue Estimating Committee but appears to have no state or local government revenue or expenditure impact.

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Tourist Development Tax

Section 125.0104, F.S., authorizes the levy of five separate local option taxes on the renting of transient accommodations, to be used in various ways to promote tourism within the county. The authorized uses of each local option tax vary according to the particular levy.

Section 125.0104(3)(c), F.S., permits a tourist development tax may be levied at the rate of 1 or 2 percent. All 67 counties are eligible to levy this tax, and currently 62 counties levy this tax at 2 percent.¹ Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.

An additional tourist development tax of 1 percent may be levied. 56 counties are eligible; currently 45 of those eligible levy the tax.² Revenue from this tax may be bonded to finance certain facilities and projects, but may not be used for certain debt service or refinancing unless approved by an extraordinary vote of the governing board. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.

A professional sports franchise facility tax may be levied up to an additional 1 percent. Currently 35 counties levy this additional tax, though all 67 counties are eligible.³ Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers and to promote and advertise tourism.

An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax. Out of 35 counties that levy a professional sports facility tax, 20 levy an additional professional sports franchise facility tax.⁴ Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers and to promote and advertise tourism.

A high tourism impact tax may be levied at an additional 1 percent. Five counties are eligible to levy this tax (Broward, Monroe, Orange, Osceola, and Walton). Of these five counties, three (Monroe, Orange, and Osceola) levy this additional tax.⁵ Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds.

Local option tourist taxes are significant revenue sources to Florida's county governments and represent important funding mechanisms for a variety of tourism-related expenditures such as beach and shoreline maintenance, construction of convention centers and professional sports franchise facilities, and tourism promotion. Generally, the revenues from these levies may be used for capital construction, maintenance, and promotion of tourist-related facilities, tourism promotion, and beach and shoreline maintenance. Tourist-related facilities include convention centers, sports stadiums and arenas, coliseums, auditoriums, and museums that are publically owned and operated within the area that the tax is levied. Tax revenues may also be used to promote zoos.

¹ <http://edr.state.fl.us/Content/local-government/reports/lgh11.pdf> (last viewed February 3, 2012)

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

Florida Aquariums

Visit Florida's website⁶ lists over 25 attractions in the category of "aquarium," including the Key West Aquarium, the Miami Seaquarium, the Mote Marine Laboratory and Aquarium in Sarasota, the Florida Aquarium in Tampa, and the Florida's Gulfarium in Fort Walton Beach.

Effect of Proposed Changes

The bill permits counties to use the tax revenues from the tourist development tax for purposes related to publicly owned and operated aquariums, including the acquisition, construction, maintenance, or promotion of such aquariums.

B. SECTION DIRECTORY:

Section 1 amends s. 125.0104, F.S., to include aquariums as an eligible use of the tourism development tax.

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.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that the counties or municipalities

⁶ <http://www.visitflorida.com/aquariums> (last viewed February 3, 2012)

have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the tourist development tax;
 3 amending s. 125.0104, F.S.; providing for the proceeds
 4 of the tourist development tax to be used for the
 5 benefit of certain aquariums; providing an effective
 6 date.

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

9
 10 Section 1. Paragraph (a) of subsection (5) and subsection
 11 (7) of section 125.0104, Florida Statutes, are amended to read:
 12 125.0104 Tourist development tax; procedure for levying;
 13 authorized uses; referendum; enforcement.—

14 (5) AUTHORIZED USES OF REVENUE.—

15 (a) All tax revenues received pursuant to this section by
 16 a county imposing the tourist development tax shall be used by
 17 that county for the following purposes only:

- 18 1. To acquire, construct, extend, enlarge, remodel,
 19 repair, improve, maintain, operate, or promote one or more
 20 publicly owned and operated convention centers, sports stadiums,
 21 sports arenas, coliseums, ~~or~~ auditoriums, aquariums, or museums
 22 that are publicly owned and operated or owned and operated by
 23 not-for-profit organizations and open to the public, within the
 24 boundaries of the county or subcounty special taxing district in
 25 which the tax is levied. Tax revenues received pursuant to this
 26 section may also be used for promotion of zoological parks that
 27 are publicly owned and operated or owned and operated by not-
 28 for-profit organizations and open to the public. However, these

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29 purposes may be implemented through service contracts and leases
30 with lessees with sufficient expertise or financial capability
31 to operate such facilities;

32 2. To promote and advertise tourism in the State of
33 Florida and nationally and internationally; however, if tax
34 revenues are expended for an activity, service, venue, or event,
35 the activity, service, venue, or event shall have as one of its
36 main purposes the attraction of tourists as evidenced by the
37 promotion of the activity, service, venue, or event to tourists;

38 3. To fund convention bureaus, tourist bureaus, tourist
39 information centers, and news bureaus as county agencies or by
40 contract with the chambers of commerce or similar associations
41 in the county, which may include any indirect administrative
42 costs for services performed by the county on behalf of the
43 promotion agency; or

44 4. To finance beach park facilities or beach improvement,
45 maintenance, renourishment, restoration, and erosion control,
46 including shoreline protection, enhancement, cleanup, or
47 restoration of inland lakes and rivers to which there is public
48 access as those uses relate to the physical preservation of the
49 beach, shoreline, or inland lake or river. However, any funds
50 identified by a county as the local matching source for beach
51 renourishment, restoration, or erosion control projects included
52 in the long-range budget plan of the state's Beach Management
53 Plan, pursuant to s. 161.091, or funds contractually obligated
54 by a county in the financial plan for a federally authorized
55 shore protection project may not be used or loaned for any other
56 purpose. In counties of less than 100,000 population, no more

57 | than 10 percent of the revenues from the tourist development tax
 58 | may be used for beach park facilities.

59 | (7) AUTOMATIC EXPIRATION ON RETIREMENT OF BONDS.—Anything
 60 | in this section to the contrary notwithstanding, if the plan for
 61 | tourist development approved by the governing board of the
 62 | county, as amended from time to time pursuant to paragraph
 63 | (4)(d), includes the acquisition, construction, extension,
 64 | enlargement, remodeling, repair, or improvement of a publicly
 65 | owned and operated convention center, sports stadium, sports
 66 | arena, coliseum, ~~or~~ auditorium, aquarium, or a museum that is
 67 | publicly owned and operated or owned and operated by a not-for-
 68 | profit organization, the county ordinance levying and imposing
 69 | the tax shall automatically expire upon the later of:

70 | (a) Retirement of all bonds issued by the county for
 71 | financing the same; or

72 | (b) The expiration of any agreement by the county for the
 73 | operation or maintenance, or both, of a publicly owned and
 74 | operated convention center, sports stadium, sports arena,
 75 | coliseum, auditorium, aquarium, or museum. However, nothing
 76 | herein shall preclude that county from amending the ordinance
 77 | extending the tax to the extent that the board of the county
 78 | determines to be necessary to provide funds with which to
 79 | operate, maintain, repair, or renew and replace a publicly owned
 80 | and operated convention center, sports stadium, sports arena,
 81 | coliseum, auditorium, aquarium, or museum or from enacting an
 82 | ordinance which shall take effect without referendum approval,
 83 | unless the original referendum required ordinance expiration,
 84 | pursuant to the provisions of this section reimposing a tourist

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85 | development tax, upon or following the expiration of the
86 | previous ordinance.

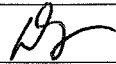
87 | Section 2. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1343 Discretionary Sales Surtaxes

SPONSOR(S): Fresen

TIED BILLS: IDEN./SIM. BILLS: SB 980

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Appropriations Subcommittee	11 Y, 2 N, As CS	Seifert	Heflin
2) Finance & Tax Committee		Flieger SA	Langston 
3) Appropriations Committee			

SUMMARY ANALYSIS

The bill amends statutes relating to the School Capital Outlay Sales Surtax levied pursuant to s. 212.055(6), F.S., by:

- Expanding the allowable use of the surtax;
- Requiring a decrease in the current discretionary capital outlay property tax millage levy if the surtax is implemented; and
- Creating a section of chapter law that will disallow the expanded use of the surtax funds by school districts levying the surtax prior to July 1, 2012, unless approved by vote of the electors in the school district.

See Fiscal Comments.

The bill takes effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Capital Outlay Surtax

The School Capital Outlay Surtax, more commonly known as the school half-cent sales tax, is a sales tax that may be levied by a school board after a favorable vote of the electorate through a local referendum.¹ The sales tax may not exceed .5 percent.²

The school half-cent sales tax proceeds must be used for fixed capital expenditures or fixed capital costs associated with the construction, reconstruction, or improvement of school facilities and campuses that have a useful life expectancy of five or more years, and any land acquisition, land improvement, design, and engineering costs associated with such facilities and campuses. Additionally, the plan for the projects must include the costs of retrofitting and providing for technology implementation, including hardware and software, for the various sites within the school district. Surtax revenues may be used for the purpose of servicing bond indebtedness to finance projects, and any interest accrued thereto may be held in trust to finance such projects. Neither the proceeds of the surtax nor any interest accrued thereto shall be used for operational expenses.³

The voters in 14 school districts have passed a school half-cent sales tax that will generate an estimated \$346.5 million during the county fiscal year ending September 30, 2012.⁴

School District	Effective Date	Tax Rate (percent)	Estimated Revenue
Bay	Jan. 1, 2011 to Dec. 31, 2020	.5	\$14,443,479
Calhoun	Jan. 1, 2009 to Dec. 31, 2018	.5	\$373,918
Escambia	Jan. 1, 2003 to Dec. 31, 2017	.5	\$19,783,694
Flagler	Jan. 1, 2003 to Dec. 31, 2012	.5	\$4,073,054
Hernando	Jan. 1, 2005 to Dec. 31, 2014	.5	\$7,897,587
Jackson	Jul. 1, 2006 to Dec. 31, 2015	.5	\$2,007,881
Leon	Jan. 1, 2003 to Dec. 31, 2012	.5	\$17,401,087
Manatee	Jan. 1, 2003 to Dec. 31, 2017	.5	\$22,023,612
Monroe	Jan. 1, 2006 to Dec. 31, 2015	.5	\$12,648,470
Orange	Jan. 1, 2003 to Dec. 31, 2015	.5	\$166,828,401
Polk	Jan. 1, 2004 to Dec. 31, 2018	.5	\$30,216,281
St. Lucie	Jan. 1, 2006 to Dec. 31, 2026	.5	\$12,476,274
Santa Rosa	Oct. 1, 1998 to Dec. 31, 2018	.5	\$6,251,530
Volusia	Jan. 1, 2002 to Dec. 16, 2016	.5	\$30,040,095
TOTAL			\$346,465,361

The resolution of a district school board providing for the imposition of the school half-cent sales tax may include a covenant to decrease the Capital Outlay Discretionary Property Tax⁵ and to maintain that tax at the reduced millage as long as the tax is in effect. The resolution may also provide that the

¹ Section 212.055(6)(a), F.S.

² Id.

³ Section 212.055(6)(c), F.S.

⁴ 2011 Local Government Financial Information Handbook, <http://edr.state.fl.us/Content/local-government/reports/lghfih11.pdf>

⁵ Section 1011.71(2), F.S.

tax shall sunset on December 31 of any year in which the district school board levies the Capital Outlay Discretionary Tax at a millage rate in excess of the reduced millage rate promised in the resolution.⁶

For example, if voters approved the levy of a school half-cent sales tax for 15 years in order to raise capital outlay revenues under the condition that a half-mill of the Capital Outlay Discretionary Tax is reduced while the school half-cent sales tax is in effect.

Proposed Changes

The bill requires the authorizing resolution to require a general description of the new or existing projects to be funded by the surtax in place of the current requirement to include a general description of the school capital outlay projects.

The bill revises requirements for the authorizing resolution to allow it to include a capital outlay plan for using the process of the surtax to fund the expenses authorized under section 1011.71(2), Florida Statutes.

In addition to the previously noted uses of the surtax, the bill expands the allowable use of the surtax to include⁷:

- New construction and remodeling projects included in the district's educational plant survey.
- Maintenance, renovation, and repair of school plants or leased facilities to correct deficiencies.
- Purchase, lease-purchase, or lease of school buses.
- Purchase, lease-purchase, or lease of new and replacement equipment.
- Payments for educational facilities⁸ and sites due under a lease-purchase agreement not exceeding in the aggregate, an amount equal to three-fourths of the proceeds from the millage levied by a district pursuant to s. 1011.71(2), F.S.
- Payment of loans that are renewed annually with the consent of the lender and are for a period not to exceed four years for the purpose of the purchase of school buses, land, and equipment for educational purposes or to address an emergency condition in an existing school plant that demands immediate correction in order to prevent further damage to the building or equipment or to eliminate a safety hazard that constitutes an immediate danger to the students and other occupants.⁹
- Payment of costs directly related to complying with state and federal environmental statutes, rules, and regulations governing school facilities.
- Rental or lease of existing buildings or for conversion of these buildings for use as educational facilities.¹⁰
- Payment of the cost of school buses when a school district contracts with a private entity to provide student transportation services.
- Opening day collection for the library media center of a new school.

⁶ Sections 1011.715 and 1011.71(2), F.S.

⁷ Section 1011.71(2), F.S.

⁸ Section 1013.01(6), F.S.

⁹ Section 1011.15, F.S.

¹⁰ Section 1013.14(4)(a), F.S.

The bill specifies that the expanded list of expenditures is not applicable to school districts currently levying the surtax, unless the district obtains approval of the voters by referendum to expand the uses of the current surtax.

The bill also requires a school board to covenant to decrease the Capital Outlay Discretionary Property Tax¹¹ and to maintain that tax at the reduced millage as long as the sales surtax being used for the expanded uses is in effect.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.055(6), F.S., expanding the allowable use of the surtax; and requiring a decrease to the discretionary capital outlay levy if the surtax is implemented.

Section 2: Creating an unnumbered section of law that disallows the expanded use of the surtax funds by school districts levying the surtax prior to July 1, 2012.

Section 3: Providing 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:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Combining or swapping capital millage with school surtax revenues to fund capital needs will expand the tax base and reduce the tax burden to homeowners.

D. FISCAL COMMENTS:

According to the 2011 Local Government Financial Information Handbook, there are 53 districts that are not levying the local discretionary sales surtax which results in a combined estimate of unrealized tax revenues of \$1.005 billion.

The bill provides greater flexibility in how sales surtax proceeds may be spent. With decreasing ad valorem taxes, the local revenues available to school districts are also decreasing. The bill would provide flexibility in the use of available revenues to meet the capital outlay needs of the school districts.

The bill has the potential to increase local taxes if a local levy is approved by voter referendum.

¹¹ Section 1011.71(2), F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 31, 2012, the PreK-12 Appropriations Subcommittee adopted one amendment and reported the bill favorably as a Committee Substitute (CS). The amendment maintains the name and intent of the surtax to be for capital outlay and limits the additional uses of the surtax.

1 A bill to be entitled
 2 An act relating to discretionary sales surtaxes;
 3 amending s. 212.055, F.S.; expanding the purposes for
 4 which revenues from the school capital outlay surtax
 5 may be used; making the use of surtax revenues for
 6 specified additional purposes contingent upon certain
 7 school board actions relating to the reduction of
 8 certain property taxes during the time surtax is in
 9 effect; requiring approval of the electors in order to
 10 use the surtax revenues for the additional purposes
 11 authorized by the act; providing an effective date.

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

14
 15 Section 1. Subsection (6) of section 212.055, Florida
 16 Statutes, is amended to read:

17 212.055 Discretionary sales surtaxes; legislative intent;
 18 authorization and use of proceeds.—It is the legislative intent
 19 that any authorization for imposition of a discretionary sales
 20 surtax shall be published in the Florida Statutes as a
 21 subsection of this section, irrespective of the duration of the
 22 levy. Each enactment shall specify the types of counties
 23 authorized to levy; the rate or rates which may be imposed; the
 24 maximum length of time the surtax may be imposed, if any; the
 25 procedure which must be followed to secure voter approval, if
 26 required; the purpose for which the proceeds may be expended;
 27 and such other requirements as the Legislature may provide.
 28 Taxable transactions and administrative procedures shall be as

29 | provided in s. 212.054.

30 | (6) SCHOOL CAPITAL OUTLAY SURTAX.—

31 | (a) The school board in each county may levy, pursuant to
 32 | resolution conditioned to take effect only upon approval by a
 33 | majority vote of the electors of the county voting in a
 34 | referendum, a discretionary sales surtax at a rate that may not
 35 | exceed 0.5 percent.

36 | (b) The resolution shall include a statement that provides
 37 | a brief and general description of the new or existing school
 38 | capital outlay projects to be funded by the surtax. The
 39 | statement shall conform to the requirements of s. 101.161 and
 40 | shall be placed on the ballot by the governing body of the
 41 | county. The following question shall be placed on the ballot:
 42 |

43 | FOR THE CENTS TAX

44 | AGAINST THE CENTS TAX

45 | (c) The resolution providing for the imposition of the
 46 | surtax shall set forth a plan for use of the surtax proceeds for
 47 | fixed capital expenditures or fixed capital costs associated
 48 | with the construction, reconstruction, or improvement of school
 49 | facilities and campuses which have a useful life expectancy of 5
 50 | or more years, and any land acquisition, land improvement,
 51 | design, and engineering costs related thereto. Additionally, the
 52 | plan shall include the costs of retrofitting and providing for
 53 | technology implementation, including hardware and software, for
 54 | the various sites within the school district. Surtax revenues

55 | may be used for the purpose of servicing bond indebtedness to
 56 | finance projects authorized by this subsection, and any interest
 57 | accrued thereto may be held in trust to finance such projects.
 58 | Neither the proceeds of the surtax nor any interest accrued
 59 | thereto shall be used for operational expenses.

60 | (d) The resolution may also set forth a plan for using the
 61 | proceeds of the surtax to fund the expenses authorized under s.
 62 | 1011.71(2). The plan may provide that the proceeds of the
 63 | surtax, including interest accrued on the revenues of the
 64 | surtax, shall be used for the expenses of maintaining,
 65 | renovating, or repairing existing school facilities or for
 66 | maintaining, securing, or upgrading capital technology equipment
 67 | and infrastructure for schools. However, in order to use the
 68 | surtax revenues for the purposes specified in this paragraph, a
 69 | school board shall covenant to decrease the capital local school
 70 | property tax levied pursuant to s. 1011.71(2) and to maintain
 71 | that tax at the reduced millage for as long as the surtax is in
 72 | effect.

73 | (e)~~(d)~~ Surtax revenues collected by the Department of
 74 | Revenue pursuant to this subsection shall be distributed to the
 75 | school board imposing the surtax in accordance with law.

76 | Section 2. A school district that levies the surtax under
 77 | s. 212.055(6), Florida Statutes, before July 1, 2012, may not
 78 | use the surtax revenues for the additional purposes authorized
 79 | in this act unless the plan for such use is approved by a
 80 | majority vote of the electors of the county voting in a
 81 | referendum.

82 | Section 3. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTC 12-06 Property Tax Exemption for Deployed Servicemembers

SPONSOR(S): Finance & Tax Committee

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee		Aldridge <i>WA</i>	Langston <i>AL</i>

SUMMARY ANALYSIS

The bill amends s. 196.173(2), F.S., to make changes to the designated operations for which deployed servicemembers may qualify for an ad valorem tax exemption. The changes are based upon the report required to be delivered by the Department of Military Affairs to the legislature of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year. The bill makes the following changes to the statutory list of operations:

- Operation Noble Eagle, which began on September 15, 2001, and is ongoing, is added,
- Operation Odyssey Dawn which began March 19, 2011, and ended on October 31, 2011, added,
- Operation New Dawn, which began September 1, 2010, and is currently identified in statute, is has its ending date of December 15, 2011 added.

The bill amends 196.173(3), F.S., to recognize these changes in statute.

The bill provides an exception to the March 1 application deadline in s. 196.173(5), F.S., for 2012 only, by establishing June 1, 2012, as the deadline for an eligible servicemember to file a claim for an additional tax exemption for qualifying deployment during the 2011 calendar year.

The Revenue Estimating Conference estimated a negative \$0.1 million impact on local governments in FY 2012-13.

The bill is effective upon becoming law and first applies to ad valorem tax rolls for 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 196.173, F.S., provides an additional ad valorem tax exemption for homestead property owned by a person who was a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard deployed outside of the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature.

Eligible Military Operations

The exemption is available to servicemembers who were deployed during the previous calendar year on active duty outside the continental United State, Alaska, or Hawaii in support of:

- Operation Enduring Freedom which began on October 7, 2001;
- Operation Iraqi Freedom which began on March 19, 2003 and ended on August 31, 2010; or
- Operation New Dawn which began September 1, 2010.

Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year. To the extent possible, the report must include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The number of servicemembers deployed to each military operation;
- The number of servicemembers deployed to each military operation who were based in this state at the time of deployment, including the number by county of residence or military base, if known;
- The date each military operation commenced;
- The date each military operation terminated, unless the operation is ongoing; and
- Any other relevant information.

Amount of Exemption

The amount of the exemption is equal to the taxable value of the homestead of the servicemember on January 1 of the year in which the exemption is sought multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year and divided by the number of days in that year.

Exemption Application

A servicemember who seeks to claim the additional tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment. The application must be made on a form prescribed by the Department of Revenue and furnished by the property appraiser. The servicemember must provide:

Proof that the servicemember participated in a qualifying deployment;
The dates of the qualifying deployment; and
Other information necessary to verify eligibility for and the amount of the exemption.

In the event a servicemember is unable to apply for the deployed servicemember exemption for reasons such as deployment, a spouse who also owns the homestead as entireties or jointly with the right of survivorship, an individual with the servicemember's power of attorney, or the personal representative of the servicemember's estate may apply for the exemption on the servicemember's behalf.

Exemption Approval or Denial

The property appraiser must consider a servicemember's application for the exemption within 30 days after receipt of the application. If a servicemember's application for the exemption is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision to the value adjustment board along with the procedures for filing such appeal.

Definition of "Servicemember"

The term "servicemember" as used in this section, is defined to mean "a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard."

Proposed Changes

The Department of Military Affairs has submitted the report required by s. 196.173(3), F.S., described above and providing the names, dates, locations and general purposes of all known and unclassified military operations that occurred outside the United States in calendar year 2011.¹

The report identified three differences from the designated operations currently identified in s. 196.173(2), F.S.:

- Operation Noble Eagle, which began on September 15, 2001, and is ongoing, is not currently identified in statute.
- Operation New Dawn, which began September 1, 2010, and is currently identified in statute, ended on December 15, 2011.
- Operation Odyssey Dawn which began March 19, 2011, and ended on October 31, 2011, is not currently identified in statute.

The bill amends 196.173(3), F.S., to recognize these changes in statute.

The bill provides an exception to the March 1 application deadline in s. 196.173(5), F.S., for 2012 only, by establishing June 1, 2012, as the deadline for an eligible servicemember to file a claim for an additional tax exemption for qualifying deployment during the 2011 calendar year. Any applicant who fails to meet the June 1 deadline must subsequently submit an application to the property appraiser on or before the 25th day following the mailing by the property appraiser of the notices required under s.194.011(1), F.S. Upon receipt of the application, the property appraiser may grant the tax exemption if the property appraiser determines the applicant failed to meet the application deadline due to extenuating circumstances.

If the property appraiser determines that extenuating circumstances did not prevent an applicant from meeting the deadline and denies the application, the applicant may file a petition with the value adjustment board requesting that the exemption be granted. No filing fee is due for this petition. The

¹ On file with the Finance and Tax Committee.

value adjustment board may grant the exemption for the current year if the board determines that extenuating circumstances existed.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.173(2), F.S., to designate military operations for which deployed servicemembers may qualify for an additional homestead property tax exemption.

Section 2: Moves the March 1 application deadline to June 1 for qualifying deployment during calendar year 2011.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated a negative \$0.1 million impact on local governments in FY 2012-13.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Qualifying servicemembers who were deployed overseas during 2011 on or in support of the operations designated by this bill may see a reduction in their property taxes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill expands the designated operations which certain deployed servicemembers may be eligible for an exemption from ad valorem taxes; however, an exemption may apply because the fiscal impact is insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the additional ad valorem tax
 3 exemption for deployed servicemembers; amending s.
 4 196.173, F.S.; authorizing servicemembers who receive
 5 a homestead exemption and who are deployed in certain
 6 military operations to receive an additional ad
 7 valorem tax exemption; providing a deadline for
 8 claiming tax exemptions for qualifying deployments
 9 during the 2011 calendar year; providing procedures
 10 and requirements for filing applications and petitions
 11 to receive the tax exemption after expiration of the
 12 deadline; providing application; providing an
 13 effective date.

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

16
 17 Section 1. Subsection (2) of section 196.173, Florida
 18 Statutes, is amended to read:

19 196.173 Exemption for deployed servicemembers.--

20 (2) The exemption is available to servicemembers who were
 21 deployed during the preceding calendar year on active duty
 22 outside the continental United States, Alaska, or Hawaii in
 23 support of:

24 (a) Operation Noble Eagle, which began on September 15,
 25 2001;

26 (b)-(a) Operation Enduring Freedom, which began on October
 27 7, 2001;

28 (c)-(b) Operation Iraqi Freedom, which began on March 19,

PCB FTC 12-06

ORIGINAL

2012

29 2003, and ended on August 31, 2010; ~~or~~

30 (d)(e) Operation New Dawn, which began on September 1, and
31 ended on December 15, 2011; or-

32 (e) Operation Odyssey Dawn, which began on March 19, 2011,
33 and ended on October 31, 2011.

34

35 The Department of Revenue shall notify all property appraisers
36 and tax collectors in this state of the designated military
37 operations.

38 Section 2. Notwithstanding the application deadline in s.
39 196.173(5), Florida Statutes, the deadline for an eligible
40 servicemember to file a claim for an additional ad valorem tax
41 exemption for a qualifying deployment during the 2011 calendar
42 year is June 1, 2012. Any applicant who seeks to claim the
43 additional exemption and who fails to file an application by
44 June 1 must file an application for the exemption with the
45 property appraiser on or before the 25th day following the
46 mailing by the property appraiser of the notices required under
47 s. 194.011(1), Florida Statutes. Upon receipt of sufficient
48 evidence, as determined by the property appraiser, demonstrating
49 the applicant was unable to apply for the exemption in a timely
50 manner or otherwise demonstrating extenuating circumstances
51 judged by the property appraiser to warrant granting the
52 exemption, the property appraiser may grant the exemption. If
53 the applicant fails to produce sufficient evidence demonstrating
54 the applicant was unable to apply for the exemption in a timely
55 manner or otherwise demonstrating extenuating circumstances as
56 judged by the property appraiser, the applicant may file,

57 pursuant to s. 194.011(3), Florida Statutes, a petition with the
 58 value adjustment board requesting that the exemption be granted.
 59 Such petition must be filed during the taxable year on or before
 60 the 25th day following the mailing of the notice by the property
 61 appraiser as provided in s. 194.011(1), Florida Statutes.
 62 Notwithstanding s. 194.013, Florida Statutes, the applicant is
 63 not required to pay a filing fee for such a petition. Upon
 64 reviewing the petition, if the applicant is qualified to receive
 65 the exemption and demonstrates particular extenuating
 66 circumstances judged by the value adjustment board to warrant
 67 granting the exemption, the value adjustment board may grant the
 68 exemption for the current year.

69 Section 3. This act shall take effect upon becoming a law
 70 and first applies to ad valorem tax rolls for 2012.