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# **Community & Military Affairs Subcommittee**

**Wednesday, January 11, 2012  
11:30 AM - 2:00 PM  
Webster Hall (212 Knott)**

**Dean Cannon  
Speaker**

**Ritch Workman  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Community & Military Affairs Subcommittee

**Start Date and Time:** Wednesday, January 11, 2012 11:30 am  
**End Date and Time:** Wednesday, January 11, 2012 02:00 pm  
**Location:** Webster Hall (212 Knott)  
**Duration:** 2.50 hrs

#### Consideration of the following bill(s):

CS/HB 45 Postsecondary Education Course Registration for Veterans by K-20 Innovation Subcommittee, Smith  
HB 273 Student Safety by Kiar  
CS/HB 449 Public Fairs and Expositions by Agriculture & Natural Resources Subcommittee, Steube  
HB 575 Hillsborough County Aviation Authority by Young  
HB 609 Wage Protection for Employees by Goodson  
HB 637 Citrus County by Smith  
HB 867 City of Clearwater, Pinellas County by Hooper  
HB 869 Pinellas Planning Council, Pinellas County by Frishe, Hooper  
HB 975 Pasco County Housing Authority, Pasco County by Nehr

#### Workshop on the following:

Local Government Economic Development/Redevelopment Financing:

Presentation by Office of Economic and Demographic Research, Amy Baker, Coordinator

#### Panelists:

Commissioner Chip LaMarca, Broward County  
Crystal Stiles, Co-Executive Director, Business Development Board of Martin County  
Brooke Bennett, Director of Economic Development, City of Orlando  
Michael Parker, Director of Economic and Community Development, City of Tallahassee

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Tuesday, January 10, 2012.

By request of the Chair, all Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, January 10, 2012.

**NOTICE FINALIZED on 01/09/2012 16:27 by Manning.Karen**



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 45 Postsecondary Education Course Registration for Veterans

SPONSOR(S): K-20 Innovation Subcommittee; Smith

TIED BILLS: IDEN./SIM. BILLS: SB 94

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	15 Y, 0 N, As CS	Thomas	Sherry
2) Community & Military Affairs Subcommittee		Tait <i>MCE</i>	Hoagland <i>[Signature]</i>
3) Education Committee			

SUMMARY ANALYSIS

The bill requires institutions within the Florida College System (FCS) and the State University System (SUS) that offer priority course registration for a segment of the student population (or upon the implementation of such a policy), to provide priority course registration to veterans of the U.S. Armed Forces who are receiving GI Bill educational benefits.

The bill encourages independent postsecondary educational institutions that offer priority course registration for a segment of the student population (or upon the implementation of such a policy) to provide priority course registration to veterans of the U.S. Armed Forces, who are receiving GI Bill educational benefits.

The spouse or dependent children of the veteran to whom the GI Bill educational benefits have been transferred would also be granted priority course registration.

The bill provides that qualified GI Bill users will be eligible for priority registration until the expiration of the GI Bill educational benefits.

The fiscal impact of the bill is minimal. (See Fiscal Comments)

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



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### **Priority Course Registration**

Florida laws authorize colleges and universities to establish rules and policies to govern admission of students to programs and courses within the institutions. All State University System and Florida College System institutions have priority course registration for designated groups of students as a component of their admission policies.<sup>1</sup>

Priority course registration allows designated groups of students at colleges and universities to register for courses for an upcoming semester before the entire student population is able to register. Some examples of groups of students who may typically be eligible for priority course registration at institutions that implement such a policy include: upper division students, student athletes, students with disabilities, honors college students, and student veterans.

Postsecondary institutions are currently not required to offer veterans of the U.S. Armed Forces priority when registering for courses based on their status as a veteran.<sup>2</sup> It is at the discretion of both public and private institutions of higher education whether or not to offer priority course registration and to determine which groups of students would be eligible. If an institution does not offer priority registration for veterans, students who are veterans register for courses at the same time as the general student population.

Currently, the following public colleges and universities offer priority course registration for veterans: Florida International University, Florida State University, the University of South Florida, Tallahassee Community College, St. Petersburg College, Northwest Florida State College, and Miami-Dade College. The institutions licensed by the Commission for Independent Education (Commission) currently enroll veterans but do not generally provide priority course registration for a segment of the population.<sup>3</sup>

For those veterans who attend institutions that do not provide priority course registration for veterans using the GI Bill, the Department of Veterans Affairs provided the following example: if a veteran using the GI Bill is a junior registering for classes, the veteran may have to wait for the seniors to register first. Then, the veteran would have to compete with other juniors to register for the class seats still available. If the veteran is unable to register for classes required for the degree, he or she would be unable to take non-degree electives to maintain full-time enrollment status and could receive a reduction of benefits through the GI Bill.<sup>4</sup>

##### **Federal GI Bill Education Benefits Programs for Veterans**

The U.S. Department of Veterans Affairs (VA) administers a variety of education benefit programs, commonly known as the GI Bill, for veterans pursuing higher education. The most commonly utilized GI Bill benefits include the Montgomery GI Bill Active Duty and the Post 9/11 - GI Bill. The Post 9/11 -

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<sup>1</sup> For public universities, the Florida Board of Governor's regulation 1.001(4)(a)3., authorizes the board of trustees of each state university to adopt university regulations or policies relating to the admission and enrollment of students, which would include priority course registration policies. Section 1007.263, F.S., governs admissions of students to Florida College System institutions.

<sup>2</sup> Section 1.01(14), F.S. defines the term "veteran" as a person who serves in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later receive an upgrade discharge under honorable conditions, notwithstanding any action by the U.S. Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.

<sup>3</sup> Department of Education Analysis, *Bill Analysis for HB 45* (August 17, 2011).

<sup>4</sup> Telephone conversation with Department of Veterans Affairs Office (November 8, 2011).

GI Bill is the most recent adaptation of the GI Bill and offers substantially enhanced financial assistance compared to the Montgomery GI Bill.

*The Montgomery GI Bill Active Duty (MGIB-AD) Educational Assistance Program  
(Chapter 30 of Title 38, U.S. Code)*

The benefits outlined in chapter 30 are available to veterans who served on active duty service beginning on or after July 1, 1985. In order to use benefits under the MGIB-AD, service members must serve on active duty for a minimum of two years and receive a fully honorable discharge. Recipients receive one month of benefits for each month of active duty.

The GI Bill monthly payment rate is determined by two factors: student status (full time, half time, or part time) and duty status. In most cases a student would be considered a full time student if he or she is taking 12 or more credits per semester. If a student is on active duty, the GI Bill will only reimburse for the actual tuition and expenses. Once a student leaves active duty service, the GI Bill will pay the full payment rate regardless of the actual cost of tuition.<sup>5</sup>

*The Post 9/11 Veterans Educational Assistance Program (Post-9/11)  
(Chapter 33 of Title 38, U.S. Code)*

In order to qualify for chapter 33 benefits, a service member must have served on active duty for a minimum of 90 days after September 10, 2001. A veteran's eligibility for benefits under this chapter expires 15 years from the date of the last discharge. Individuals eligible under chapter 33 are entitled to 36 months of educational assistance. Service members enrolled in the Post-9/11 GI Bill program are able to transfer unused education benefits to their spouses or children.

The new Post 9/11 GI Bill, which went into effect on August 1, 2009, provides education benefits for service members who have served on active duty for 90 or more days since Sept. 10, 2001. These benefits are tiered based on the number of days served on active duty, creating a benefit package that gives current and previously activated National Guard and Reserve members the same benefits as active duty service members.<sup>6</sup>

## **Veterans in Florida**

Florida's population of 1.6 million veterans is the third largest in the nation, after California and Texas.<sup>7</sup> Florida is home to approximately 127,000 veterans whose ages range from 18-34, which demonstrates a significant concentration of "college age" veterans who may be interested in pursuing higher education either at the undergraduate or the graduate level.

Both nationwide and in Florida, there has recently been an influx of veterans on college campuses. Nationwide, the number of veterans enrolling in colleges has increased to approximately 800,000 veterans using the GI Bill in 2010, which is an increase of 40 percent from 2009.<sup>8</sup> In Florida there is a large student veteran presence in universities and colleges. For the 2010 academic year, 10,966 veterans and/or spouses or dependent children were enrolled in the State University System of

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<sup>5</sup> Active Duty Montgomery GI Bill User's Guide available at <http://www.military.com/education/content/gi-bill/active-duty-gi-bill-users-guide.html>

<sup>6</sup> New Post 9/11 GI Bill Overview available at <http://www.military.com/education/content/gi-bill/new-post-911-gi-bill-overview.html>.

<sup>7</sup> Florida Department of Veterans' Affairs 2009-10 Annual Report available at [http://www.floridavets.org/pdf/ann\\_rprt\\_10.pdf](http://www.floridavets.org/pdf/ann_rprt_10.pdf)

<sup>8</sup> Trevor Hughes, *Vets Go From Combat to Campus*, USA Today, April 12, 2011, available at [http://www.usatoday.com/news/education/2011-04-11-college-vets\\_N.htm](http://www.usatoday.com/news/education/2011-04-11-college-vets_N.htm)

Florida;<sup>9</sup> 15,604 in the Florida College System;<sup>10</sup> 16,500 in private for-profit institutions; and 4,490 in private non-profit institutions.<sup>11</sup>

### **Effect of Proposed Changes**

This bill is intended to extend priority registration opportunities to veterans if the institution offers such opportunities to other students. More specifically, the bill requires institutions within the Florida College System and the State University System that offer priority course registration for a segment of the student population, or upon the implementation of such a policy, to provide priority course registration to veterans of the U.S. Armed Forces who are receiving GI Bill educational benefits. The bill also allows for the spouse or dependent children of the veteran to whom the GI Bill educational benefits have been transferred to be granted priority course registration. The bill will enable veterans who are utilizing GI Bill educational benefits to have greater access to available courses, thereby decreasing the number of excess hours taken by veterans and reducing the time to graduation.

The bill encourages independent postsecondary educational institutions<sup>12</sup> that offer priority course registration for a segment of the student population, or upon the implementation of such a policy, to provide priority course registration to veterans of the U.S. Armed Forces who are receiving GI Bill educational benefits. The spouse or dependent children of the veteran to whom the GI Bill educational benefits have been transferred must also be granted priority course registration. Since independent postsecondary institutions are not required to implement a priority course registration policy, the impact on veterans enrolled in those institutions will depend upon whether a policy is adopted.

The bill provides that qualified GI Bill recipients will be eligible for priority course registration until the expiration of the GI Bill educational benefits.

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

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

**Section 1:** Creates s. 1004.075, F.S., relating to priority course registration for veterans – requiring institutions within the Florida College System and the State University System to provide priority course registration for veterans if a priority course registration policy is implemented or exists, providing eligibility requirements.

**Section 2:** Creates s. 1005.09, F.S. relating to priority course registration for veterans – encouraging certain independent postsecondary educational institutions to provide priority course registration for veterans.

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

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

<sup>9</sup> Board of Governors Analysis, *Bill Analysis for HB 45* (September 16, 2011).

<sup>10</sup> Email, Florida Department of Education, Division of Florida Colleges (October 28, 2011).

<sup>11</sup> Independent Colleges & Universities of Florida Accountability Report, 13, (2010), *available at* <http://www.icuf.org/newdevelopment/publications/icuf-accountability-report>

<sup>12</sup> Section 1005.02(11), F.S. defines the term “independent postsecondary educational institutions” as any postsecondary educational institution that operates in this state or makes application to operate in this state, and is not provided, operated, and supported by the State of Florida, its political subdivisions, or the Federal Government.”

2. Expenditures:  
None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.
2. Expenditures:  
None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

A veteran or his or her spouse or dependent children receiving GI Bill educational benefits may benefit from priority course registration which would give the recipient greater access to the courses needed in order to move through a degree/certificate program rapidly and graduate earlier.

**D. FISCAL COMMENTS:**

The State University System and the Florida College System expect a minimal fiscal impact as a result of the priority course registration. Both systems acknowledge that minimal expenses may occur due to computer programming and related administrative costs of implementation.<sup>13</sup>

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:  
Not Applicable. This bill does not appear to affect county or municipal governments.
2. Other:  
None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On December 6, 2011, the K-20 Innovation Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provided a definition of independent postsecondary educational institutions, as defined in s. 1005.02(11), F.S., that are encouraged to provide priority course registration for veterans.

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<sup>13</sup> Department of Education Analysis, *Bill Analysis for HB 45* (August 17, 2011).

CS/HB 45

2012

1                                   A bill to be entitled  
 2           An act relating to postsecondary education course  
 3           registration for veterans; creating s. 1004.075, F.S.;  
 4           requiring certain Florida College System institutions  
 5           and state universities to provide priority course  
 6           registration for veterans; providing eligibility  
 7           requirements; creating s. 1005.09, F.S.; encouraging  
 8           certain independent postsecondary educational  
 9           institutions to provide priority course registration  
 10          for veterans; providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1.   Section 1004.075, Florida Statutes, is created  
 15           to read:

16           1004.075 Priority course registration for veterans.—Each  
 17           Florida College System institution and state university that  
 18           offers priority course registration for a segment of the student  
 19           population, or upon implementation of priority course  
 20           registration for a segment of the student population, shall  
 21           provide priority course registration for each veteran of the  
 22           United States Armed Forces who is receiving GI Bill educational  
 23           benefits or for the spouse or dependent children of the veteran  
 24           to whom the GI Bill educational benefits have been transferred.  
 25           Each eligible veteran, or his or her spouse or dependent  
 26           children, shall be granted priority for course registration  
 27           until the expiration of the GI Bill educational benefits.

CS/HB 45

2012

28 Section 2. Section 1005.09, Florida Statutes, is created  
 29 to read:

30 1005.09 Priority course registration for veterans.—Each  
 31 independent postsecondary educational institution defined in s.  
 32 1005.02(11) that offers priority course registration for a  
 33 segment of the student population, or upon implementation of  
 34 priority course registration for a segment of the student  
 35 population, is encouraged to provide priority course  
 36 registration for each veteran of the United States Armed Forces,  
 37 or his or her spouse or dependent children, who is receiving GI  
 38 Bill educational benefits, in accordance with s. 1004.075.

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



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 273 Student Safety  
**SPONSOR(S):** Kiar  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 494

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee	12 Y, 0 N	Beagle	Ahearn
2) Community & Military Affairs Subcommittee		Duncan <i>pdd</i>	Hoagland <i>[Signature]</i>
3) Education Committee			

**SUMMARY ANALYSIS**

The bill requires the agency responsible for notifying a school district for each type of emergency to be listed in each district school board's emergency response policy and in its model emergency management and preparedness procedures. The emergency response agencies listed must notify private schools in the school district of occurrences that threaten student safety if the private school requests such notification by opting into the district school board's emergency notification procedures.

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies must include procedures for responding to fires, natural disasters, and bomb threats. Model emergency management and preparedness procedures must address life-threatening emergencies, such as weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies; and exposure resulting from manmade emergencies. Florida law does not expressly require that district school board emergency response policies and model emergency management and preparedness procedures list the agencies responsible for notifying the school district regarding each type of emergency.

Private school emergency policies are not regulated by the state. Private schools typically make arrangements to receive notification of emergencies from the appropriate emergency response agency. Florida law does not expressly authorize private schools to opt into school district emergency notification procedures for the purpose of receiving emergency notifications.

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

The bill takes effect July 1, 2012.



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies must include procedures for responding to fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.<sup>1</sup> Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies.<sup>2</sup>

Florida law does not expressly require that school district emergency response policies and model emergency management and preparedness procedures list the agencies responsible for notifying the school district regarding emergencies. However, cooperation with emergency response agencies is incorporated into the *Safety and Security Best Practices*, a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies. Among other “best practices,” the self-assessment suggests that school districts:

- Make arrangements to work with local emergency officials, including, without limitation, law enforcement; fire department; emergency management; hospital, mental health, health, and social services agencies; and court officials.
- Share comprehensive school safety plans and emergency procedures with appropriate emergency response agencies.
- Implement procedures for contacting all district schools simultaneously regarding an emergency.<sup>3</sup>

Private school emergency policies are not regulated by the state.<sup>4</sup> Private schools typically make arrangements to receive notification of emergencies from the appropriate emergency response agency. Despite such arrangements, private schools do not always receive notification.<sup>5</sup> Florida law does not expressly authorize private schools to opt into district school board emergency notification procedures for the purpose of receiving notification of emergencies from an emergency response agency.<sup>6</sup>

#### Effect of Proposed Changes

The bill requires the agency responsible for notifying a school district for each type of emergency to be listed in each district school board’s emergency response policy and in its model emergency management and preparedness procedures. The emergency response agencies listed must notify private schools in the school district of occurrences that threaten student safety if the private school requests such notification by opting into the district school board’s emergency notification procedures.

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<sup>1</sup> Section 1006.07(4)(a), F.S.

<sup>2</sup> Section 1006.07(4)(b), F.S.

<sup>3</sup> Section 1006.07(6), F.S.; Florida Department of Education, *District Safety and Security Best Practices*, <http://www.fldoe.org/EM/security-practices.asp> (last visited March 10, 2011). The Best Practices are developed by the Office of Program Policy Analysis and Government Accountability. *Id.* Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the self-assessment results. The self-assessment results and superintendent’s recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent’s recommendations must be reported to the Commissioner of Education within 30 days after the school board meeting. Section 1006.07(6), F.S.

<sup>4</sup> Telephone interview with Bureau Chief, Emergency Management, Florida Department of Education (March 17, 2011).

<sup>5</sup> Telephone interview with Executive Director, Florida Council of Independent Schools (March 11, 2011).

<sup>6</sup> See s. 1002.42, F.S.

This will enable a private school to receive emergency notifications on the same basis as district public schools.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1006.07, F.S., relating to district school board duties regarding student discipline and school safety; requires school boards to identify in emergency policies and procedures the agency responsible for notifying the school district regarding emergencies.

**Section 2.** Amends s. 1002.42, F.S., relating to private schools; requires an emergency response agency to notify private schools of emergencies that threaten student safety; authorizes private schools to request such notification by opting into school board notification procedures.

**Section 3.** 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. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to student safety; amending s.  
 3           1006.07, F.S.; requiring district school board  
 4           policies to list the emergency response agencies that  
 5           are responsible for notifying the school district of  
 6           emergencies; amending s. 1002.42, F.S.; requiring the  
 7           emergency response agencies to notify private schools  
 8           in the school district under certain circumstances;  
 9           providing an effective date.

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

12  
 13           Section 1. Subsection (4) of section 1006.07, Florida  
 14 Statutes, is amended to read:

15           1006.07 District school board duties relating to student  
 16 discipline and school safety.—The district school board shall  
 17 provide for the proper accounting for all students, for the  
 18 attendance and control of students at school, and for proper  
 19 attention to health, safety, and other matters relating to the  
 20 welfare of students, including:

21           (4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

22           (a) Formulate and prescribe policies and procedures for  
 23 emergency drills and for actual emergencies, including, but not  
 24 limited to, fires, natural disasters, and bomb threats, for all  
 25 the public schools of the district which comprise grades K-12.  
 26 District school board policies shall include commonly used alarm  
 27 system responses for specific types of emergencies and  
 28 verification by each school that drills have been provided as

29 | required by law and fire protection codes. The emergency  
 30 | response agency that is responsible for notifying the school  
 31 | district for each type of emergency must be listed in the  
 32 | district's emergency response policy.

33 |       (b) ~~The district school board shall~~ Establish model  
 34 | emergency management and emergency preparedness procedures,  
 35 | including emergency notification procedures pursuant to  
 36 | paragraph (a), for the following life-threatening emergencies:

- 37 |       1. Weapon-use and hostage situations.
- 38 |       2. Hazardous materials or toxic chemical spills.
- 39 |       3. Weather emergencies, including hurricanes, tornadoes,  
 40 | and severe storms.
- 41 |       4. Exposure as a result of a manmade emergency.

42 |       Section 2. Subsection (16) is added to section 1002.42,  
 43 | Florida Statutes, to read:

44 |       1002.42 Private schools.—

45 |       (16) EMERGENCY PROCEDURES.—The emergency response agencies  
 46 | identified in a district school board's emergency response  
 47 | policy pursuant to s. 1006.07(4) that are responsible for  
 48 | notifying the school district of an occurrence that threatens  
 49 | student safety shall also notify private schools in the district  
 50 | that request such notification by opting into the district  
 51 | school board's emergency notification procedures.

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


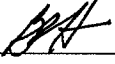


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 449 Public Fairs and Expositions

**SPONSOR(S):** Steube

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N, As CS	Kaiser	Blalock
2) Community & Military Affairs Subcommittee		Gibson 	Hoagland 
3) Finance & Tax Committee			
4) State Affairs Committee			

### SUMMARY ANALYSIS

Part I of ch. 616, F.S., gives the Department of Agriculture and Consumer Services (department) statutory authority for permitting fair associations and addresses the operation and regulation of public fairs and expositions in the state. In addition to the state fair held in Tampa every year, there are approximately fifty other district, regional or county fair associations that hold annual public fairs as well as other fairs and expositions.

The bill makes several technical changes to ch. 616, F.S., which modernizes the terminology since the statute was last revised in 1993, such as replacing "peace officer" with "law enforcement officer," "chickens" with "poultry," and "occupational license fee" with "local business tax."

The bill provides a specific definition for "annual public fair" to distinguish between the annual fair events held by fair associations and other events. Because the term "concessions" is used throughout the chapter, a definition for "concessions" is provided to identify third parties that provide rides, games, food, beverages, merchandise for sale, exhibits, projects, activities, events, programs, or other uses on property under the control of the fair association.

Additional substantive changes of the bill include:

- Recognizing that the primary objective of the fair association, other than public service, is holding, conducting, and promoting public fairs or expositions.
- Providing that a fair association may also file its charter and charter amendments with the Department of State for recognition as a not-for-profit organization.
- Providing that any projects, activities, events, programs and uses authorized by ch. 616, F.S., serve an essential government purpose and are not taxable or subject to assessments.
- Providing that a fair association organized under ch. 616, F.S., is a noncommercial activity provider.
- Recognizing the Department of Transportation as being able to make contributions of money, property, or services to fair associations to assist in carrying out the purposes of the association.
- Allowing the state or its entities and/or the mayor or city council of any municipality within the county to expend such moneys as they deem in the best interests of their counties for the development of exhibitions and resources in their counties in connection with public fairs.
- Prohibiting a fair association from conducting more than one annual public fair each calendar year.
- Reducing the number of days from 60 to 30 for a waiver to the minimum exhibit requirements to be filed with the department.
- Amending the definition of trespass, as it pertains to entering fairgrounds, to include acts that disrupt the authorized activity of a licensee or the general public on those grounds.

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

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

STORAGE NAME: h0449b.CMAS.DOCX

DATE: 1/6/2012

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

Fairs and expositions have been regulated by the state since 1917 when the first legislation dealing with these entities was passed. In 1974, legislation was enacted that created the Florida State Fair Authority. The authority is responsible for staging the annual state fair held in Tampa, Florida.

In addition to the state fair held in Tampa every year, there are approximately fifty other district, regional or county fair associations that hold annual fairs as well as other fairs and expositions. Forty-nine of the fair associations are members of the Florida Federation of Fairs and Livestock Shows (federation). The mission statement of the federation is "to increase the overall quality of agricultural fairs, provide members the support and guidance needed to enlighten our youth and educate the fairgoers on agriculture, trade, entertainment and heritage of Florida."<sup>1</sup>

Public fairs, expositions, and fair associations are currently regulated under ch. 616, F.S. The last major revisions to ch. 616, F.S., took place in 1993 when the statute was reviewed under the provisions of the Regulatory Sunset Act.<sup>2</sup> The bill makes various revisions to ch. 616, F.S., pertaining to public fairs and expositions.

### Section 1

#### Present Situation

Section 616.001, F.S., provides definitions for "authority," "community fair," "county fair," "department," "district fair," "entry," "exhibit," "exhibitor," "fair association" or "association," "public fair or exposition," "regional fair" or "interstate fair," "specialized show," and "state fair."

#### Effect of Proposed Changes

The bill amends s. 616.001, F.S., to define an "annual public fair" as a "community, county, district, regional, or state fair that is held and conducted by a fair association and permitted by the Department of Agriculture and Consumer Services (department) pursuant to s. 616.15, F.S."<sup>3</sup> Providing a separate definition for "annual public fair" clarifies the difference between the official annual public fair and the other off-season uses of the fairgrounds. The bill also amends the term "public fair or exposition" to specify that it includes "a project, activity, event, or program and use by a fair association, including the annual public fair event.

The bill also defines the term "concession" to mean "use by a fair association, or a grant, lease, or license to a third party, of a portion of the land under the ownership, custody, or control of a fair association for specific uses, or the right to enter upon the land for specific purposes, such as providing rides, games, food, beverage, merchandise for sale, exhibits, projects, activities, events, programs, or other uses authorized in this chapter."<sup>4</sup> This term is used throughout ch. 616, F.S., but has never been defined in statute.

The bill amends the definitions of "community fair," "county fair," "district fair," "public fair or exposition," "regional fair," and "state fair" to include the reference to the new definition of "annual public fair."

The definition of "exhibit" is amended to specifically include parades and displays of articles or a collection of articles, whether static, interactive, or dynamic, by a fair association or a third party

<sup>1</sup> For more information see <http://www.floridafairs.org/> (last accessed January 6, 2012).

<sup>2</sup> 93-168, L.O.F.

<sup>3</sup> S. 616.15, F.S., provides the various requirements that a fair association must meet to obtain a permit in order to conduct a public fair or exposition.

<sup>4</sup> Ch. 616, F.S., Public Fairs and Expositions.



contracting with a fair association, such as exhibits of animals, art, housewares, or motor vehicles. The term "exhibitor" is also amended to include a fair association or third party contracting with a fair association.

## **Section 2**

### Present Situation

Section 616.01, F.S., provides that in order to establish a not-for-profit association for the purpose of conducting and operating public fairs or expositions, twenty-five or more persons who are residents and qualified electors of the county where the fair is to be located must submit a proposed charter to the department for review and approval. The proposed charter must also be presented to the judge of the circuit court for the county where the principal office of the association is to be located. The proposed charter also must be signed by the intended incorporators and include:

- The name of the association, which must include the word, "Inc.," and the place where the principal office is to be located.
- The general nature of its objects and powers, including a provision that the sole purpose of incorporation is conducting and operating public fairs or expositions.
- The qualifications and terms of members and the manner of their admission or expulsion. The charter may include ex officio membership as well as the number of years in a term of membership.
- The period of time for which the charter is to exist.
- The names and residences of the subscribers.
- Which officers shall manage the affairs of the charter and the time at which the officers will be elected or appointed.
- The names of the officers who are to manage its affairs until the first election or appointment under the charter.
- By whom its bylaws are to be made, altered, or rescinded.
- The longest amount of indebtedness or liability to which it may at any time subject itself.

### Effect of Proposed Changes

The bill amends s. 616.01, F.S., to incorporate references to the annual public fair, as opposed to the fair. The bill also identifies the persons establishing the charter as the "subscribers."

## **Section 3**

### Present Situation

Section 616.02, F.S., requires the proposed charter of a fair association to be acknowledged by at least three of its subscribers in the presence of an officer authorized to acknowledge deeds.

### Effect of Proposed Changes

The bill amends s. 616.02, F.S., to establish that the primary objective of the fair association, other than public service, is holding, conducting, and promoting public fairs or expositions.

## **Sections 4, 5, and 6**

### Present Situation

Section 616.03, F.S., provides that subscribers intending to apply for a charter of a fair association must provide notice to the circuit judge stating the time when the application will be made, and then must forward the notice to the department for approval. The notice must be published in a newspaper in the county where the principal office of the association is to be located once each week for 4

consecutive weeks. The notice must set forth the charter and objects of the association to be formed. The proposed charter must be submitted to and approved by the board of county commissioners of the county in which the principal office of the association is to be located. During the time of publication, the proposed charter must be on file in the office of the clerk of the circuit court. Once approved by the department and the board of county commissioners, the proposed charter, with proof of approval and publication, is then submitted to the circuit judge at the time stated in the notice. If no cause is shown to the contrary and the judge finds the proposed charter to be in proper form and so sworn to and for the primary object of public service, the judge may approve the charter and render a decree incorporating the subscribers under the charter for the objects and purposes and with the powers therein specified. The charter and decree of incorporation must be recorded in the office of the clerk of the circuit court in the county where the principal office of the association is to be located as well as the office of the department.

Section 616.05, F.S., provides that an association may amend the charter by resolution as provided in its bylaws. The proposed amendment must be submitted to the department for approval. When approved, the proposed amendment can be incorporated into the original charter, upon:

- Publication of notice in the same manner as provided in s. 616.03, F.S., outlined above;
- Placement on file in the office of the clerk of the circuit court and in the office of the department;
- The rendering of a decree of the circuit judge approving and allowing the amendment; and
- Being recorded in the clerk's office.

Section 616.051, F.S., provides that an association may dissolve a charter by resolution as provided in its bylaws. The proposal for dissolving the charter must be presented to the department for approval. Upon approval, publication of notice, as prescribed above, and proof that all indebtedness has been paid and no claims are outstanding against the association, the circuit judge may dissolve the association by decree. The judge may also order any public funds remaining in the association to be distributed as recommended by the board of directors.

### Effect of Proposed Changes

The bill amends these sections of law to update and revise some technical terms regarding the procedures for obtaining or amending a charter. For example, application must be made to the circuit court rather than the circuit judge. Also, a charter may be amended or dissolved by resolution as provided in its charter or bylaws.

The bill also provides that obtaining a charter as explained above does not prevent a fair association from also filing its charter with the Department of State pursuant to ch. 617, F.S., for notice purposes.<sup>5</sup> The bill requires a fair association that has filed its charter with the Department of State to also file a copy of any amendments to the charter with the Department of State.

## **Section 7**

### Present Situation

Section 616.07, F.S., provides that no member, officer, director or trustee of a fair association is personally liable for any of the debts of the association, and no money or property of a fair association can be distributed as profits or dividends among the members, officers, directors, or trustees of the fair association. All money and property of the fair association must, except for payment of debts and liabilities:

- Remain perpetually public property;
- Be administered by the association trustee;
- Be used exclusively for the legitimate purposes of the association; and

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<sup>5</sup> Ch. 617, F.S., addresses not-for-profit corporations.

- Be exempt from all forms of taxation, including special assessments.

Public funds or property remaining in a fair association, when the association dissolves, must be distributed by resolution of the board of directors, upon order of the circuit judge to any county or any municipality within the county. The distribution resolution may provide terms of a public project for which the funds or property may be used. However, if the property has been contributed by a municipality or county, the property must be re-conveyed to the municipality or county that contributed the property.

### Effect of Proposed Changes

The bill amends s. 616.07, F.S., to provide that, in addition to the statutory tax exemptions described above that the fair associations currently benefit from, any projects, activities, events, programs, and uses authorized by part I, ch. 616, F.S., serve an essential governmental purpose and, therefore, are also not taxable and are not subject to assessments.<sup>6</sup>

## **Section 8**

### Present Situation

Section 616.08, F.S., empowers fair associations to hold, conduct, and operate public fairs and expositions annually, and in order to accomplish this goal to:

- Buy, lease, acquire and occupy lands, erect buildings and make improvements as needed;
- Develop lands, buildings and improvements;
- Sell, mortgage, lease or convey such property or any part thereof for the purpose of public fairs and expositions;
- Charge and receive compensation for admission to the fairs and expositions, for the sale or renting of space for exhibitions, and for other privileges;
- Conduct and hold public meetings;
- Supervise and conduct lectures and all kinds of demonstration work in connection with or for the improvement of agriculture, horticulture, stock raising and poultry raising, and all kinds of farming and matters connected therewith;
- Hold exhibits of agricultural and horticultural products and livestock, chickens, and other domestic animals;
- Give certificates or diplomas of excellence;
- Promote the progress of the geographical areas it represents and serves and stimulate public interest in the advantages and development of that area by providing facilities for agricultural and industrial exhibitions, public gatherings, cultural activities and other functions which the association determines will enhance the educational, physical, economic, and cultural interests of the public; and,
- Generally carry out all matters, acts, and business usual or proper in connection with public fairs and expositions.

Section 616.08, F.S., also specifies that this enumeration of particular powers does not limit any special provisions of the association's charter in carrying out its business and the conduct of its affairs as it relates to creating, defining, limiting and regulating the powers of the association or its officers or members. The treasurer or similar officer of the association must provide a sufficient bond, which is payable to the association, with a surety company authorized under the laws of the state. The bond must be in an amount equal to the value of the total monies and properties in that officer's possession or custody, in addition to the value of any money and property of the association that may reasonably be expected to come into that officer's possession or custody.

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<sup>6</sup> This language aims to codify the finding that fair associations perform essential governmental purposes, and therefore, are exempt from taxation and assessments. See AGO 95-17 and *Carswell v. State*, 159 So. 15 (Fla. 1935).

## Effect of Proposed Changes

The bill amends s. 616.08, F.S., to incorporate various references to the "annual public fair," as opposed to the "fair." The bill also provides that, in addition to the facilities that a fair association can provide to promote the progress of the geographical areas it represents, a fair association can also provide other facilities for the benefit and development of the educational, horticultural, livestock, equestrian, charitable, historical, civic, cultural, scientific, or other resources of the state, any county of the state, or any municipality or other community of any county of the state, including facilities for exhibits, concessions, entertainment events, recreational vehicle parking, auctions, trade shows, and concerts. The bill also states that a fair association organized under ch. 616, F.S., is a noncommercial activity provider.

### **Section 9**

#### Present Situation

Section 616.101, F.S., requires an annual review of the accounts and records of each fair association whose fair has an annual attendance of more than 25,000. The review must be made by a qualified accountant licensed by the state. Fair associations whose fairs have an annual attendance of 25,000 or less must submit an annual financial statement signed by an officer of the county. The results of the annual reviews must be kept in the official records of each fair association and made available to all directors of the association.

A certified copy of the review must be filed with the department when the association is applying for a fair permit or upon request by the department to certify expenditures of state premium or building funds when there is evidence of violation of state laws.

#### Effect of Proposed Changes

The bill amends s. 616.101, F.S., to incorporate the references to the "annual public fair," as opposed to the "fair." The bill also clarifies that when examining premiums or building funds for evidence of violation, the premiums are those awarded to exhibitors of the fair.

### **Section 10**

#### Present Situation

Section 616.11, F.S., provides that any fair association can enter into a contract, lease, or agreement with any municipality or county in the state or with the state or with an agency or subdivision of the state for the donation or use and occupation of lands owned, leased, or held by the county, municipality, or the state or agency or subdivision of the state. The terms and length of time the association may use the property is subject to the agreement reached with the local government or state entity. The association has the right to charge and receive an admission fee to the fair or exposition.

The state or its entities, the board of county commissioners of any county where the fair is held, and the mayor and city council of any municipality within the county may also make contributions of money, property, or services to fair associations to assist in carrying out the purposes of the fair associations.

The boards of county commissioners of the various counties where the fairs are held may expend in their discretion such moneys as they deem in the best interest of their counties and in the development of the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and any other resources of their counties in connection with public fairs, including offering to pay the premiums for the exhibitions of resources for their respective counties.

## Effect of Proposed Changes

The bill amends s. 616.11, F.S., to specify that a fair association may use the property leased or contracted from a local government or state entity for public exposition purposes. The bill also specifies that the Department of Transportation can make contributions of money, property, or services to fair associations to assist in carrying out the purposes of the association.

Additionally, other than the board of county commissioners within a county where a fair is held, the bill authorizes the state or an agency or subdivision of the state and the mayor or city council of any municipality within the county to expend in their discretion such moneys as they deem in the best interest of their counties and in the development of the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and any other resources of their counties in connection with public fairs, including offering to pay the premiums for the exhibitions of resources of the state, county, or municipality.

## **Section 11**

### Present Situation

Section 616.12(1), F.S., provide that every person operating an exhibition of any kind within the grounds of, and in connection with, a public fair or exposition must pay license taxes as provided by law. However, if the fair association secures a fair permit from the department and qualifies with all other provisions of ch. 616, F.S., the persons operating the exhibitions are not required to pay any license taxes but may operate under a tax exemption certificate issued to the fair association by the department. The department must set forth the proper forms and rules for carrying out the intent and purpose of this section, including the necessary tax exemption certificate, which must be signed by the tax collector, showing that the persons operating the exhibition has met all the requirements of ch. 616, F.S., and is fully exempt.

Section 616.12(2), F.S., provides that fair associations securing the required fair permit from the department are exempt from occupational license fees, occupational permit fees, or any occupational taxes assessed by the county, municipality, political subdivision, or agency, or instrumentality where the fair is held.

### Effect of Proposed Changes

The bill amends s. 616.12(1), F.S., to incorporate the reference to the annual public fair, as opposed to the fair. The bill also adds the local business tax authorized by ch. 205, F.S., to the license taxes that persons operating certain shows, exhibitions, carnivals, games, and other attractions within the grounds the grounds of any public fair are exempt from paying if the fair association satisfies the requirements of ch. 616, F.S., which includes securing the required fair permit from the department. The bill updates the language in the subsection to include the local business tax, which was formally referred to as an occupational license tax. The bill also no longer requires the tax exemption certificate to be signed by the tax collector.

The bill amends s. 616.12(2), F.S., to remove the term "occupational license fees" and replace it with the updated term "local business tax as defined by chapter 205" in reference to exemptions provided to any fair association that has secured the required annual fair permit from the department.

## **Section 12**

### Present Situation

Section 616.121, F.S., provides that persons who make a false statement either to obtain a permit to hold a public fair or exhibition or in an application for distribution of the amount paid for license taxes

with the intent of obtaining the permit or any part of that amount for him/herself or for any firm or corporation in which that person has a financial interest, commits a misdemeanor of the first degree.<sup>7</sup>

#### Effect of Proposed Changes

The bill amends s. 616.121, F.S., to incorporate the reference to the "annual public fair," as opposed to the "fair." This language has been reworded but the intent is unchanged.

### **Section 13**

#### Present Situation

Section 616.14, F.S., provides that any fair association that conducts more than one public fair or exhibition during any calendar year is subject to revocation of its charter by the court granting the charter. In addition, any fair association that fails to conduct a public fair or exhibition for a period of 3 calendar years must, upon recommendation of the department, have its charter revoked by the court granting the charter.

#### Effect of Proposed Changes

The bill specifically prohibits a fair association from conducting more than one annual public fair each calendar year.

### **Section 14**

#### Present Situation

Section 616.15, F.S., provides that all public fairs and expositions conducted by a fair association must be permitted by the department. To obtain a permit, an applicant must present a permit application to the department at least 3 months before holding the fair or exposition. The application must be signed by an officer of the association and accompanied by a fee in an amount to be determined by the department. The fee may not be more than \$366 or less than \$183 and is used to process the application as well as conduct any required investigation. Fees collected under this section must be deposited into the General Inspection Trust Fund in a special account known as the "Agricultural and Livestock Fair Account."

A copy of the application must also be sent to each fair association within 50 miles of the site of the proposed fair at the same time the application is presented to the department.

In order for the department to issue the permit, the application must set forth:

- The opening and closing dates of the proposed fair or exposition.
- The name and address of the owner of the central amusement attraction to operate during the fair and exposition.
- A properly executed affidavit of the association applying for a permit certifying the existence of a binding contract between the association and the owner of the central amusement attraction covering the period for which the permit applies.
- A statement that the main purpose of the association is to conduct and operate the proposed fair or exposition for the benefit and development of educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and other resources of the geographical area the fair or exhibition represents and serves. The statement must be in writing and duly acknowledged by an officer of the association.
- A list of the premiums for the current fair or exposition to be conducted or a list from the previous year showing the premiums and awards to be offered to exhibitors in the various departments of the fair. The list may be submitted separately at any time not later than 60 days

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<sup>7</sup> The penalty for a first degree misdemeanor is a term of imprisonment not exceeding one year or a fine not to exceed \$1,000.

before the fair or exposition is to be held. The department may issue the permit within 10 days thereafter if the applicant is properly qualified.

- Proof of liability insurance in an amount of not less than \$300,000 per occurrence.
- A copy of the most recent review.
- A list of all of the current members of the board of directors of the association and their home addresses.

The department must enforce and administer the provisions of ch. 616, F.S., except for the regulation of the games, which is the responsibility of local law enforcement agencies. The department has rule-making authority to carry out the provisions of the permitting process. The department is authorized to order a full investigation of any fair association to determine whether or not it meets the requirements of ch. 616, F.S., and accordingly can withhold a permit from, deny a permit to, or withdraw a permit once issued from an association.

The department can also decide if any proposed fair or exposition can compete with another fair or exposition within 50 miles of the proposed fair or exposition with respect to the name, dates of operation, or market. Competition with another fair association is just cause for withholding a permit from a proposed fair or exposition. Preference is given to existing fair associations with established dates, locations, and names. The determination by the department is considered final.

#### Effect of Proposed Changes

The bill amends s. 616.15, F.S., to incorporate the reference to the “annual public fair,” as opposed to the “fair.” In addition, the bill requires the application for permit to include the contact information for members of the board of directors for the association in addition to their home addresses.

### **Section 15**

#### Present Situation

Section 616.17, F.S., provides that fair associations display a certain minimum number of exhibits at public fairs or exhibitions in order to be approved for a tax exemption certificate by the department.<sup>8</sup> However, the requirement does not limit a fair association from displaying more than the minimum number of exhibits. Specialized livestock shows and fruit or vegetable festivals must comply with their own minimum number of exhibits to obtain the tax exemption certificate from the department.<sup>9</sup>

The department may grant a waiver to the minimum exhibit requirements to a fair association that submits a waiver application at least 60 days prior to the start of the annual public fair or exposition and shows good cause why the requirements cannot be met.

A fair association providing exhibits as set forth in this section or other exhibits or concessions, whether provided directly by the association or through a third party agreement, is not subject to criminal penalties or civil damages arising out of the personal injury or death of any person, or property damage, resulting from such exhibits or concessions. The waiver of liability does not apply if the personal injury, death, or property damage was due to an act of omission committed by the fair association in bad faith, with malicious purpose, or with wanton and willful disregard of human rights, safety, or property. Third parties providing exhibits or concessions are not covered by the waiver of liability.

#### Effect of Proposed Changes

The bill amends s. 616.17, F.S., to incorporate the reference to the “annual public fair,” as opposed to the “fair.” The bill also requires the waiver to the minimum exhibit requirements to be provided at least 30 days prior to the start of the annual public fair as opposed to 60 days.

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<sup>8</sup> S. 616.17(1)(a)-(j), F.S.

<sup>9</sup> S. 616.17 (2)(a)-(b), F.S.

## Section 16

### Present Situation

Section 616.185, F.S., provides that for the purposes of ch. 616, F.S., trespassing upon the grounds of the Florida State Fair Authority or any other public fair or exposition is defined to mean:

- Entering and remaining on the grounds of the fair authority or any other public fair or exhibition and committing an act which disrupts the orderly conduct of an authorized activity of the fair organization in charge or its lessees on the grounds or facility of the public fair; or
- Entering and remaining on the grounds or facilities after being directed not to enter or to leave by the executive director of the authority, chief administrative officer of the fair or exposition, or any employee or agent designated by the executive director or administrator after it has been determined that entering and remaining on the grounds is in violation of the rules and regulations of the fair authority or the public fair or such presence is disruptive to the orderly conduct of any authorized activity of the fair organization in charge or its lessees on the grounds or facilities.

Persons found guilty of trespassing on the fair authority or public fair or exhibition grounds commit a misdemeanor of the second degree.<sup>10</sup> A peace officer may arrest any person on or off the premises, without a warrant, if the officer has probable cause for believing such person has trespassed upon the grounds of the fair authority or public fair. Such arrest does not render the peace officer criminally or civilly liable for false arrest, false imprisonment, or unlawful detention.

### Effect of Proposed Changes

The bill amends s. 616.185, F.S., to revise the definition of trespassing to include a disruption of orderly conduct for the licensees or the general public, as well as the fair association and its lessees. Also, a technical change is made to identify a "peace" officer as a "law enforcement" officer.

## Sections 17, 18 and 20

The changes made by the bill to ss. 616.19, 616.21, and 616.23, F.S., are non-substantive, technical revisions that do not change the statutory meaning.

## Section 19

### Present Situation

Section 616.23, F.S., provides that the buildings authorized by ch. 616, F.S., may be used by the county, municipality, or fair association for which the buildings are built as agricultural or livestock exhibition buildings for public fair or exposition purposes in the promotion of the agricultural and livestock industries. These buildings may also be used as office space for agricultural agents; however, no more than 20 percent of the buildings may be so used.

### Effect of Proposed Changes

The bill amends s. 616.23, F.S., to authorize the buildings to be used for public fair and exposition purposes, regardless of whether it is for the promotion of the agricultural or livestock industries.

## Section 21

This section corrects a cross-reference to the definition of "fair association." In adding and amending definitions to s. 616.001, F.S., the statutory reference to "fair association" changed from s. 616.001(9), F.S., to s. 616.001(11), F.S.

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<sup>10</sup> The penalty for a second degree misdemeanor is a term of imprisonment not exceeding 60 days or a fine not to exceed \$500.



**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 616.001, F.S., providing and amending definitions.

**Section 2:** Amends s. 616.01, F.S., amending conditions relating to proposed charter.

**Section 3:** Amends s. 616.02, F.S., providing the primary objective of a fair association.

**Section 4:** Amends s. 616.03, F.S., providing criteria for a fair association to file for charter and providing for a fair association to file for charter with the Department of State in addition to the Department of Agriculture and Consumer Services.

**Section 5:** Amends s. 616.05, F.S., providing criteria for a charter to be amended; and, providing for a fair association to file an amendment to the charter with the Department of State if the charter was filed with the Department of State.

**Section 6:** Amends s. 616.051, F.S., providing criteria for a charter to be dissolved.

**Section 7:** Amends s. 616.07, F.S., revising provisions regarding the distribution of public funds and property when a fair association is dissolved; clarifying that certain authorized projects, activities, events, programs, and uses serve an essential governmental purpose and, therefore, are exempt from taxation.

**Section 8:** Amends s. 616.08, F.S., requiring each fair association to hold an annual public fair; authorizing the fair association to grant a lease or license of space for exhibits, concessions, and other purposes; and requiring the fair association to stimulate public interest in the benefit and development of certain resources of the state, any county, or a municipality.

**Section 9:** Amends s. 616.101, F.S., requiring an annual review of the accounts and records of certain fair associations; and requiring an annual financial statement for certain fair associations.

**Section 10:** Amends s. 616.11, F.S., clarifying the right of the fair association to use certain property for public purposes; authorizing the Department of Transportation to make contributions to a fair association to assist it in carrying out its purpose; and authorizing state, county, and municipal governments to fund certain projects at or connected with public fairs and expositions.

**Section 11:** Amends s. 616.12, F.S., revising provisions relating to the exemption from certain local business taxes for annual public fairs held by a fair association.

**Section 12:** Amends s. 616.121, F.S., providing a penalty for false application for a permit; and conforming terminology.

**Section 13:** Amends s. 616.14, F.S., providing that a fair association may not hold more than one annual public fair a year.

**Section 14:** Amends s. 616.15, F.S., conforming terminology regarding obtaining a permit from the Department of Agriculture and Consumer Services to conduct a public fair.

**Section 15:** Amends s. 616.17, F.S., conforming terminology regarding minimum exhibits to be displayed to qualify for a tax exemption certificate; and requiring an application for a waiver to the minimum exhibits requirements be submitted 30 days before the annual public fair.

**Section 16:** Amends s. 616.185, F.S., conforming terminology regarding trespassing on the grounds of the Florida State Fair Authority or any other fair association.

**Section 17:** Amends s. 616.19, F.S., conforming terminology regarding designation of fairs.

**Section 18:** Amends s. 616.21, F.S., conforming terminology regarding conditions for expenditures for agricultural and livestock exhibit buildings.

**Section 19:** Amends s. 616.23, F.S., providing that agricultural and livestock exhibit buildings may be used for public fair or exposition purposes.

**Section 20:** Amends s. 616.24, F.S., conforming terminology.

**Section 21:** Amends s. 288.1175, F.S., correcting a cross reference.

**Section 22:** 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:**

The bill has not yet been heard by the Revenue Estimating Impact Conference.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

### **B. RULE-MAKING AUTHORITY:**

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On December 6, 2011, the Agriculture and Natural Resources Subcommittee adopted three amendments to HB 449. **Amendment 1** clarified the definition of a “public fair or exposition” to mean “a project, activity, event, or program and use by a fair association, including the annual public fair event, which serves the purposes specified in s. 616.08 and benefits and develops the educational, agricultural, horticultural, livestock, charitable, historical, civic, cultural, scientific, and other resources of this state, or any county, municipality, or other community in this state.” **Amendment 2** removed language providing fair associations an exemption from local land use and zoning ordinances. **Amendment 3** removed language exempting fair association from inspection fees, franchise fees and taxes, utility service fees and taxes, communication service fees and taxes, surplus line fees and taxes, and impact fees. The analysis has been updated to reflect these amendments.

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A bill to be entitled

An act relating to public fairs and expositions;  
 amending s. 616.001, F.S.; redefining existing terms  
 and defining the terms "annual public fair" and  
 "concession"; amending s. 616.01, F.S., relating to  
 requirements for the proposed charter of an annual  
 public fair; revising provisions to conform to changes  
 made by the act; amending s. 616.02, F.S.; providing  
 that the primary objective of a fair association is  
 the holding, conducting, and promoting of public fairs  
 or expositions; amending s. 616.03, F.S.; providing  
 that a fair association may file its duly approved  
 charter with the Department of State in addition to  
 the Department of Agriculture and Consumer Services  
 for notice purposes; amending s. 616.05, F.S.;  
 providing the process by which a fair association may  
 amend its charter; requiring a fair association that  
 files its charter with the Department of State to file  
 a copy of amendments to its charter with that  
 department; amending s. 616.051, F.S.; revising  
 provisions regarding the process by which a fair  
 association may dissolve its charter; amending s.  
 616.07, F.S.; revising provisions regarding the  
 distribution of public funds and property when a fair  
 association is dissolved; clarifying that certain  
 authorized projects, activities, events, programs, and  
 uses serve an essential governmental purpose and,  
 therefore, are exempt from taxation; amending s.

29 616.08, F.S.; requiring each fair association to hold  
 30 an annual public fair; authorizing the fair  
 31 association to license certain property and to grant,  
 32 lease, rent, or license space for exhibits and  
 33 concessions; requiring the fair association to  
 34 stimulate public interest in the benefit and  
 35 development of certain resources of the state, any  
 36 county, or a municipality, including facilities for  
 37 specified uses; providing that certain fair  
 38 associations are noncommercial activity providers;  
 39 amending s. 616.101, F.S.; revising provisions related  
 40 to the review of association accounts and records;  
 41 amending s. 616.11, F.S.; clarifying the rights of the  
 42 association to use certain property for public  
 43 purposes; adding the Department of Transportation to  
 44 the list of governmental entities that may make  
 45 contributions to a fair association to assist it in  
 46 carrying out its purpose; authorizing state, county,  
 47 and municipal governments to fund certain projects at  
 48 or connected with public fairs and expositions;  
 49 amending s. 616.12, F.S.; revising provisions relating  
 50 to the exemption from certain local business taxes for  
 51 annual public fairs held by a fair association;  
 52 amending s. 616.121, F.S., relating to a penalty  
 53 imposed for making false application for a permit;  
 54 replacing the term "exhibitions" with the term "annual  
 55 public fair" to conform to changes made by the act;  
 56 amending s. 616.14, F.S.; prohibiting a fair

57 association from conducting more than one annual  
 58 public fair each calendar year; amending ss. 616.15  
 59 and 616.17, F.S., relating to procedures for obtaining  
 60 a permit from the Department of Agriculture and  
 61 Consumer Services to conduct a public fair; revising  
 62 provisions to conform to changes made by the act;  
 63 revising requirements for obtaining a departmental  
 64 waiver from minimum exhibit requirements; amending s.  
 65 616.185, F.S.; revising provisions prohibiting the  
 66 offense of trespass upon the grounds or facilities of  
 67 a public fair; amending s. 616.19, F.S.; revising  
 68 provisions relating to the designation of fairs;  
 69 amending s. 616.21, F.S.; revising provisions related  
 70 to the expenditure of appropriated funds; amending s.  
 71 616.23, F.S.; removing certain limitations on the use  
 72 of buildings by counties, municipalities, or fair  
 73 associations; amending s. 616.24, F.S.; revising  
 74 provisions related to enforcement; amending s.  
 75 288.1175, F.S.; conforming cross-references; providing  
 76 an effective date.

77  
 78 Be It Enacted by the Legislature of the State of Florida:

79  
 80 Section 1. Section 616.001, Florida Statutes, is amended  
 81 to read:

82 616.001 Definitions.—As used in this chapter, the term:

83 (1) "Annual public fair" means a community, county,  
 84 district, regional, or state fair that is held and conducted by

85 a fair association and permitted by the department pursuant to  
 86 s. 616.15.

87 (2)-(1) "Authority" means the Florida State Fair Authority.

88 (3)-(2) "Community fair" means an annual public a fair that  
 89 which serves an area of less than an entire county, has and the  
 90 exhibits that of which are in accordance with s. 616.17, and  
 91 gives in which premiums or awards are given to exhibitors of the  
 92 fair. Agricultural products shall be produced in the community  
 93 the exhibit represents. The majority of the board of directors  
 94 of the fair shall reside, be employed, or operate a business in  
 95 the community the fair represents.

96 (4) "Concession" means use by a fair association, or a  
 97 grant, lease, or license to a third party, of a portion of the  
 98 land under the ownership, custody, or control of a fair  
 99 association for specific uses, or the right to enter upon the  
 100 land for specific purposes, such as providing rides, games,  
 101 food, beverage, merchandise for sale, exhibits, projects,  
 102 activities, events, programs, or other uses authorized in this  
 103 chapter.

104 (5)-(3) "County fair" means an annual public a fair that  
 105 which serves an entire county and provides exhibitors with  
 106 premiums or awards for the exhibits that of which are in  
 107 accordance with s. 616.17 and in which premiums or awards are  
 108 given to exhibitors of the fair. Agricultural products must  
 109 shall be typical of those produced in the county the exhibit  
 110 represents in meeting minimum exhibit requirements. The majority  
 111 of the board of directors of the fair shall reside, be employed,  
 112 or operate a business in the county that the fair association

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113 represents.

114 ~~(6)(4)~~ "Department" means the Department of Agriculture  
 115 and Consumer Services.

116 ~~(7)(5)~~ "District fair" means an annual public a fair that  
 117 ~~which~~ serves at least five counties and has the exhibits that  
 118 meet the requirements of which are in accordance with s. 616.17.  
 119 A district, which fair shall pay at least not less than a  
 120 ~~minimum of~~ \$25,000 in cash premiums or awards to exhibitors ~~of~~  
 121 ~~the fair~~. Agricultural products must shall be typical of those  
 122 produced in the counties county the exhibit represents.

123 Livestock may originate from outside the district, but must be  
 124 registered in the exhibitor's name at least 30 days before the  
 125 opening day of the fair. Each county is shall be encouraged to  
 126 have proportionate exhibits, typical of its respective natural  
 127 resources. Each county shall have exhibits representing in some  
 128 ~~phase of~~ basic resources in agriculture and industry.

129 ~~(8)(6)~~ "Entry" means one item entered for competition or  
 130 show. An entry may ~~or may not~~ constitute an exhibit, depending  
 131 upon the regulations ~~as~~ stated in the premium book.

132 ~~(9)(7)~~ "Exhibit" means one or more entries entered for  
 133 exhibition and constituting a unit. An exhibit may consist of  
 134 one or more entries, depending upon the regulations ~~as~~ stated in  
 135 the premium book. The term includes parades and displays of  
 136 articles or a collection of articles, whether static,  
 137 interactive, or dynamic, by a fair association or a third party  
 138 contracting with a fair association, such as exhibits of  
 139 animals, art, housewares, or motor vehicles.

140 ~~(10)(8)~~ "Exhibitor" means an individual, group of



141 individuals, or business, including a fair association or third  
 142 party contracting with a fair association, which has an exhibit  
 143 ~~having an entry or entries in a show or fair.~~

144 ~~(11)(9)~~ "Fair association" or "association" means an  
 145 association not for profit incorporated under this chapter for  
 146 the purpose of conducting and operating public fairs or  
 147 expositions.

148 ~~(12)(10)~~ "Public fair or exposition" means a project,  
 149 activity, event, or program, and use by a fair association,  
 150 including, but not limited to, the annual public fair, which  
 151 serves the purposes specified in s. 616.08 and benefits and  
 152 ~~develops or exposition not for profit for the purpose of the~~  
 153 ~~benefit and development of the educational, agricultural,~~  
 154 horticultural, livestock, charitable, historical, civic,  
 155 cultural, scientific, and other resources of this the state, or  
 156 any county, or counties of the state, or any municipality, or  
 157 other community in this of any county of the state.

158 ~~(13)(11)~~ "Regional fair" or "interstate fair" means an  
 159 annual public a fair of this state and other several states,~~one~~  
 160 ~~of which is Florida,~~ in which fair exhibits meet the  
 161 requirements of are in accordance with s. 616.17. Agricultural  
 162 products must shall be typical of those produced in the area the  
 163 exhibit represents.

164 ~~(14)(12)~~ "Specialized show" means a show or exhibition  
 165 exhibiting and emphasizing a livestock or poultry ~~show,~~ or a  
 166 fruit or vegetable festival, and must shall meet the minimum  
 167 exhibit requirements specified as defined in s. 616.17. A  
 168 specialized show may qualify under one of the definitions in

169 subsections ~~(2)~~, (3), (5), (7), and (15) ~~(13)~~.

170 (15)~~(13)~~ "State fair" means an annual public a fair that  
 171 ~~which~~ serves the entire state. Exhibits must comply ~~shall be in~~  
 172 ~~accordance~~ with s. 616.17, and cash premiums or awards may be  
 173 given to exhibitors ~~of the fair~~.

174 Section 2. Section 616.01, Florida Statutes, is amended to  
 175 read:

176 616.01 Number of persons required; requisites of proposed  
 177 charter.—Twenty-five or more persons who are residents and  
 178 qualified electors of the county in which ~~wherein~~ the annual  
 179 public fair is to be located, who wish ~~wishing~~ to form an  
 180 association not for profit for the purpose of conducting and  
 181 operating public fairs or expositions, may become incorporated  
 182 in the following manner. The subscribers ~~They~~ shall submit the  
 183 proposed charter to the department for review and approval. If  
 184 the proposed charter is approved, the subscribers shall sign and  
 185 ~~then~~ present the proposed charter to the judge of the circuit  
 186 court for the county in which the principal office of the  
 187 association will ~~is to~~ be located. The a proposed charter must  
 188 specify ~~signed by the intended incorporators, which shall set~~  
 189 ~~forth~~:

190 (1) The name of the association and the place where the  
 191 principal office is to be located. The name of the association  
 192 shall include the word, "Inc."

193 (2) The general nature of the objectives ~~its objects~~ and  
 194 powers of the association, including a provision that the  
 195 association is incorporated for the sole purpose of conducting  
 196 and operating public fairs or expositions.

197 (3) The qualifications and terms of association members  
 198 and criteria for the manner of their admission and expulsion.  
 199 Provision may be made in the charter for ex officio membership,  
 200 ~~and memberships may be for terms of years.~~

201 (4) The time for which the association ~~it~~ is to exist.

202 (5) The name ~~names~~ and residence ~~residences~~ of each  
 203 subscriber ~~the subscribers.~~

204 (6) Procedures for the election of and governance by what  
 205 officers, who may its affairs are to be managed, and the time at  
 206 ~~which the officers will be elected or appointed.~~

207 (7) The designation ~~names~~ of ~~the~~ officers who will ~~are to~~  
 208 manage the its affairs of the association until the first  
 209 election or appointment under the charter.

210 (8) Procedures for the adoption, amendment, or rescission  
 211 of By whom its bylaws of the association are to be made,  
 212 ~~altered, or rescinded.~~

213 (9) The highest amount of indebtedness or liability that  
 214 may be accrued by the association to which it may at any time  
 215 ~~subject itself.~~

216 Section 3. Section 616.02, Florida Statutes, is amended to  
 217 read:

218 616.02 Acknowledgment of charter.—The proposed charter of  
 219 a fair association shall be acknowledged by at least three of  
 220 its subscribers, ~~each a person of good character and reputation,~~  
 221 before an officer authorized to make acknowledgment of deeds, ~~7~~  
 222 ~~which~~ Subscribers shall also make and take ~~subscribe to~~ an oath,  
 223 which must ~~to~~ be attached to the proposed charter, stating that  
 224 the primary objective ~~object~~ of the association is public

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225 service and holding, conducting, and promoting public fairs or  
 226 expositions; that money and other available assets in value  
 227 exceeding \$5,000 have there has been provided for the purposes  
 228 of the association ~~property, money, and other available assets~~  
 229 ~~in value exceeding \$5,000;~~ and that the association will operate  
 230 ~~intends~~ in good faith to carry out the purposes and objectives  
 231 ~~objects~~ set forth in its charter.

232 Section 4. Section 616.03, Florida Statutes, is amended to  
 233 read:

234 616.03 Notice of application; approval and record of  
 235 charter.—A notice of intention to apply to the circuit court  
 236 ~~judge~~ for the charter of a fair association must specify,  
 237 ~~stating the date that time when the~~ application will be made,  
 238 shall be sent to the department for approval, and then shall be  
 239 published in a newspaper in the county where the principal  
 240 office of the association will is to be located once each week  
 241 for 4 consecutive weeks. The notice must, ~~setting forth~~ briefly  
 242 summarize the charter and objectives ~~objects~~ of the proposed  
 243 association ~~to be formed~~. The proposed charter shall be  
 244 submitted to and approved by the board of county commissioners  
 245 of the county in which the principal office of the association  
 246 will is to be located. After ~~Upon~~ approval by ~~of~~ the department  
 247 and the board of county commissioners, the proposed charter and  
 248 ~~with~~ proof of ~~both~~ approval and publication shall be submitted  
 249 to the circuit judge on the date specified ~~at the time named in~~  
 250 the notice. ~~and,~~ If no cause is shown to the contrary and ~~if~~  
 251 the judge finds that the proposed charter is to be in proper  
 252 form and will serve ~~so sworn to and for~~ the primary objective

253 ~~object~~ of public service, the judge shall approve the charter  
 254 and issue an order ~~render a decree~~ incorporating the subscribers  
 255 under the charter for the objectives ~~objects~~ and purposes  
 256 specified in the charter and ~~with the powers therein specified~~.  
 257 The charter and order ~~decree~~ of incorporation shall ~~then~~ be  
 258 recorded in the office of the clerk of the circuit court in the  
 259 county where the principal office of the association will ~~is to~~  
 260 be located and provided to ~~in the office of~~ the department.  
 261 After the order is recorded, ~~Thenceforth~~ the subscribers and  
 262 their associates are ~~shall be~~ incorporated with the objectives  
 263 and powers established in the charter and under ~~by~~ the name  
 264 given in the charter and ~~with the objects and powers set forth~~  
 265 ~~therein~~. During the publication period, the proposed charter,  
 266 ~~during the time of publication,~~ shall be on file in the office  
 267 of the clerk of the circuit court. This section does not  
 268 preclude a fair association from also filing its duly approved  
 269 charter with the Department of State pursuant to chapter 617 for  
 270 notice purposes.

271 Section 5. Section 616.05, Florida Statutes, is amended to  
 272 read:

273 616.05 Amendment of charter.—A ~~Any~~ fair association may  
 274 ~~desiring to~~ propose an amendment to ~~of~~ its charter ~~may do so~~ by  
 275 resolution as provided in its charter or bylaws.

276 (1) The proposed amendment shall be submitted to the  
 277 department for approval.

278 (2) After the department approves the proposed amendment,  
 279 it will be incorporated into the original charter ~~When approved,~~  
 280 ~~the proposed amendment,~~ upon:

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281           (a) Publication of notice in the same manner as provided  
 282 in s. 616.03;~~;~~

283           (b) Filing the order of the circuit judge approving the  
 284 amendment with ~~Placement on file in~~ the office of the clerk of  
 285 the circuit court and ~~in the office of the department, the~~  
 286 ~~rendering of a decree of the circuit judge approving and~~  
 287 ~~allowing the amendment;~~ and

288           (c) Being recorded in the clerk's office, ~~shall be~~  
 289 ~~incorporated into the original charter.~~

290  
 291 If a fair association has filed its charter with the Department  
 292 of State pursuant to chapter 617, a copy of any amendment to the  
 293 charter must be filed with the Department of State for notice  
 294 purposes.

295           Section 6. Section 616.051, Florida Statutes, is amended  
 296 to read:

297           616.051 Dissolving a charter. ~~A~~ Any fair association may  
 298 ~~desiring to~~ dissolve its charter ~~may do so~~ by resolution as  
 299 provided in its charter or bylaws. The proposal for dissolving  
 300 the charter shall be submitted to the department for approval.  
 301 Upon approval and ~~upon~~ publication of notice and proof that all  
 302 indebtedness has been paid and no claims are outstanding against  
 303 the association, the circuit judge may, by decree, dissolve the  
 304 association and order its remaining public funds ~~remaining~~ to be  
 305 distributed as recommended by the board of directors.

306           Section 7. Section 616.07, Florida Statutes, is amended to  
 307 read:

308           616.07 Members not personally liable; property of

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309 association held in trust; exempt from taxation.-

310 (1) A ~~No~~ member, officer, director, or trustee of a fair  
 311 association is not ~~shall be~~ personally liable for any of the  
 312 debts of the association, ~~and~~ ~~no~~ money or property of a fair  
 313 association may not ~~shall~~ be distributed as profits or dividends  
 314 among its members, officers, directors, or trustees. ~~but~~

315 (2) All money and property of the association, except that  
 316 necessary shall, ~~except~~ for the payment of its just debts and  
 317 liabilities, are ~~be and remain~~ perpetually public property,  
 318 shall be administered by the association as trustee, and shall  
 319 ~~to~~ be used exclusively for the legitimate purpose of the  
 320 association. So long as they are used for that purpose, all  
 321 money and property of the association are, ~~and shall be, so long~~  
 322 ~~as so used,~~ exempt from all forms of taxation, including special  
 323 assessments, and any projects, activities, events, programs, and  
 324 uses authorized by this part serve an essential governmental  
 325 purpose and, therefore, are not taxable and are not subject to  
 326 assessments.

327 (3)~~(2)~~ Upon order of the circuit judge, any public funds  
 328 or property remaining in a fair association when the association  
 329 is dissolved shall be distributed by resolution of the board of  
 330 directors, ~~upon order of the circuit judge~~ to any county or any  
 331 municipality within the county. The board, ~~and~~ may designate  
 332 provide in the distribution resolution the public project that  
 333 will benefit from ~~on which~~ the funds ~~shall be used~~ or the manner  
 334 in which the property will be used. ~~If the use to which the~~  
 335 ~~property shall be put; however,~~ where property has been  
 336 contributed by a municipality or county, the property shall be

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337 reconveyed to the municipality or county that gave the property  
 338 to the association ~~making the contribution of said property.~~

339 Section 8. Section 616.08, Florida Statutes, is amended to  
 340 read:

341 616.08 Additional powers of association.—~~Each~~ Every fair  
 342 association shall ~~have the power to~~ hold, conduct, and operate  
 343 public fairs and expositions, including an annual public fair.  
 344 ~~annually and~~ For that such purpose, a fair association may ~~to~~  
 345 buy, lease, acquire, and occupy lands, and erect buildings and  
 346 improvements of any kind on all kinds ~~thereon, and develop~~ those  
 347 lands, ~~buildings, and improvements;~~ ~~to~~ sell, mortgage, lease,  
 348 license, or convey any such property or any part thereof, in its  
 349 discretion, from time to time for the purpose of public fairs or  
 350 expositions; ~~to~~ charge and receive compensation for admission to  
 351 those public fairs and expositions, and grant a lease or license  
 352 or rent for the sale or renting of space for exhibits,  
 353 concessions ~~exhibitions,~~ and ~~for~~ other purposes ~~privileges;~~ ~~to~~  
 354 conduct and hold public meetings; ~~to~~ supervise and conduct  
 355 lectures and ~~all kinds of~~ demonstration work in connection with  
 356 or for the improvement of agriculture, horticulture,  
 357 stockraising and poultry raising, and all kinds of farming and  
 358 related matters ~~connected therewith;~~ ~~to~~ hold exhibits of  
 359 agricultural and horticultural products and livestock, poultry,  
 360 equine ~~chickens,~~ and other domestic animals; ~~to~~ give  
 361 certificates or diplomas of excellence; ~~to~~ promote the progress  
 362 of the geographical area it represents and serves and stimulate  
 363 public interest in the advantages and development of that area  
 364 by providing facilities for the benefit and development of the



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365 educational, agricultural, horticultural, livestock, equestrian,  
 366 charitable, historical, civic, cultural, scientific, and other  
 367 resources of the state, any county of the state, or any  
 368 municipality or other community of any county of the state,  
 369 including facilities for exhibits, concessions, and industrial  
 370 exhibitions, public gatherings, cultural activities,  
 371 entertainment events, recreational vehicle parking, auctions,  
 372 trade shows, concerts, and other functions that ~~which~~ the  
 373 association determines will enhance the educational, physical,  
 374 economic, and cultural interests of the public; and generally ~~to~~  
 375 do, perform, and carry out all matters, acts, and business usual  
 376 or proper in connection with public fairs and expositions. ~~;~~ ~~but~~  
 377 This enumeration of particular powers does ~~shall~~ not diminish ~~be~~  
 378 ~~in derogation of~~ or limit any special provisions of the charter  
 379 of the association ~~inserted~~ for the regulation of its business,  
 380 and the conduct of its affairs of creating, defining, limiting,  
 381 and regulating the powers of the association or its officers or  
 382 members. ~~;~~ ~~provided,~~ The treasurer or similar officer of the  
 383 association shall ~~be required to~~ give a good and sufficient bond  
 384 with a surety company duly authorized under the laws of the  
 385 state, payable to the association and in an amount equal to the  
 386 value of the total amount of money and other property in that  
 387 officer's possession or custody, in addition to the value of any  
 388 money and property of the association which ~~that~~ may reasonably  
 389 be expected to come into that officer's possession or custody. A  
 390 fair association organized under this chapter is a noncommercial  
 391 activity provider.

392 Section 9. Section 616.101, Florida Statutes, is amended

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393 to read:

394           616.101 Annual review of accounts and records. ~~Once each~~  
 395 ~~year, a review of~~ The accounts and records of every fair  
 396 association whose annual public fair has an annual attendance of  
 397 more than 25,000, ~~based on sound accounting practices and~~  
 398 ~~procedures,~~ shall be reviewed annually ~~made~~ by a qualified  
 399 accountant licensed by the state. A fair association whose  
 400 annual public fair has an annual attendance of 25,000 or fewer  
 401 ~~less~~ must submit an annual financial statement that has been  
 402 signed by an officer of the county. The results of the ~~all such~~  
 403 reviews shall be kept in the official records of each  
 404 association, available to all directors of the association. A  
 405 certified copy of the review shall be filed with ~~in the office~~  
 406 ~~of~~ the department:

407           (1) On request by the department to certify expenditures  
 408 of the premiums awarded to exhibitors of a fair ~~state premium~~ or  
 409 of building funds when there is evidence of violation of state  
 410 laws; or

411           (2) When the association is applying for a fair permit.

412           Section 10. Section 616.11, Florida Statutes, is amended  
 413 to read:

414           616.11 Association authorized to contract with  
 415 municipality, county, or state for use of land; admission fees;  
 416 state, counties, and municipalities authorized to make  
 417 contributions. ~~Any fair association may enter into any contract,~~  
 418 lease, or agreement with any municipality or county in the state  
 419 or with the state or agency or subdivision of the state ~~thereof~~  
 420 for the donation to or the use and occupation by the association

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421 of any land owned, leased, or held by the county or municipality  
 422 or the state or agency or subdivision of the state ~~thereof~~  
 423 during ~~a such~~ time and on the ~~such~~ terms approved by ~~as~~ the  
 424 county or municipality or the state or agency or subdivision  
 425 ~~thereof may authorize~~, with the right ~~on the part~~ of the  
 426 association to use the property for public ~~charge~~ and ~~receive an~~  
 427 ~~admission fee to the fair or~~ exposition purposes ~~or any part~~  
 428 ~~thereof~~. The state, the Department of Transportation and ~~or~~ any  
 429 other agency or subdivision of the state ~~thereof~~, the board of  
 430 county commissioners of any county within which the fair or  
 431 exhibition is held, and the mayor and city council of any  
 432 municipality within the county may also make contributions of  
 433 money, property, or services to fair associations to assist in  
 434 carrying out the purposes of the associations under ~~as~~  
 435 ~~authorized by~~ this chapter. The state or any agency or  
 436 subdivision of the state, boards of county commissioners of the  
 437 various counties of the state, and the mayor and city council of  
 438 any municipality within the county may expend ~~in their~~  
 439 ~~discretion~~ such sums of money as they deem necessary for the  
 440 best interests of their counties and in aiding the development  
 441 of the educational, agricultural, horticultural, livestock,  
 442 charitable, historical, civic, cultural, scientific, and any  
 443 other resources of their counties at and in connection with  
 444 public fairs and expositions, including the offering and paying  
 445 of premiums for the exhibitions of resources of the state,  
 446 county, or municipality ~~their respective counties~~.

447 Section 11. Section 616.12, Florida Statutes, is amended  
 448 to read:

449 616.12 Licenses upon certain shows; distribution of fees;  
 450 exemptions.-

451 (1) Each ~~Every~~ person who operates ~~may operate under any~~  
 452 ~~terms whatsoever, including a lease arrangement,~~ any traveling  
 453 show, exhibition, amusement enterprise, carnival, vaudeville,  
 454 exhibit, minstrel, rodeo, theatrical, game or test of skill,  
 455 riding device, dramatic repertoire, ~~or~~ other show or amusement,  
 456 or concession, ~~(including a concession operating in a tent,~~  
 457 enclosure, or other temporary structure, ~~whether covered or~~  
 458 ~~uncovered)~~ within the grounds of, and in connection with, any  
 459 annual public fair ~~or exposition~~ held by a fair association  
 460 shall pay the license taxes ~~now or hereafter~~ provided by law. ~~†~~  
 461 However, if in the event the association satisfies the  
 462 requirements fully qualifies with all other provisions of this  
 463 chapter, including securing the required fair permit from the  
 464 department, the ~~traveling show, exhibition, amusement~~  
 465 ~~enterprise, carnival, vaudeville, minstrel, rodeo, theatrical,~~  
 466 ~~game or test of skill, riding device, dramatic repertoire, or~~  
 467 ~~other show or amusement (including a concession operating in a~~  
 468 ~~tent, enclosure, or other temporary structure, whether covered~~  
 469 ~~or uncovered)~~ within the grounds of, and in connection with, any  
 470 ~~such fair or exposition is not required to pay any such license~~  
 471 taxes and local business tax authorized in chapter 205 are  
 472 waived and the department shall issue tax, ~~but shall operate~~  
 473 ~~under a tax exemption certificate issued by the department.~~ The  
 474 department shall adopt ~~prescribe~~ the proper forms and rules to  
 475 administer ~~for carrying out the purpose and intent expressed in~~  
 476 this section, including the necessary tax exemption certificate,

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477 ~~to be signed by the tax collector,~~ showing that the fair  
 478 association has met all requirements and that the traveling  
 479 show, exhibition, amusement enterprise, carnival, vaudeville,  
 480 exhibit, minstrel, rodeo, theatrical, game or test of skill,  
 481 riding device, dramatic repertoire, ~~or~~ other show or amusement,  
 482 or concession ~~(including a concession operating in a tent,~~  
 483 ~~enclosure, or other temporary structure, whether covered or~~  
 484 ~~uncovered) has met in full all requirements of this chapter and~~  
 485 ~~accordingly is fully exempt.~~

486 (2) Any fair association securing the required annual fair  
 487 permit from the department is exempt from local business tax as  
 488 defined by chapter 205 ~~occupational license fees,~~ occupational  
 489 permit fees, or any occupational taxes assessed by any county,  
 490 municipality, political subdivision, department, ~~or~~ agency, or  
 491 instrumentality thereof.

492 Section 12. Section 616.121, Florida Statutes, is amended  
 493 to read:

494 616.121 Making false application.—Any person who, with  
 495 fraudulent intent, makes or causes to be made any false  
 496 statement in an application for a permit to hold an annual a  
 497 public fair ~~or exposition~~ or in an application for distribution  
 498 of the amount paid for license taxes under the provisions of  
 499 this chapter, ~~with fraudulent intent of obtaining that permit or~~  
 500 ~~amount,~~ and by that false statement obtains that permit or  
 501 distribution, ~~any part of that amount for himself or herself or~~  
 502 ~~for any firm or corporation in which that person has a financial~~  
 503 ~~interest, or for whom that person is acting,~~ commits a  
 504 misdemeanor of the first degree, punishable as provided in s.

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505 775.082 or s. 775.083.

506 Section 13. Section 616.14, Florida Statutes, is amended  
507 to read:

508 616.14 Number of fairs; penalty.—

509 (1) A fair association may not conduct more than one  
510 annual public fair each calendar year. Any fair association that  
511 conducts more than one public fair ~~or exposition~~ during any one  
512 calendar year is subject to revocation of its charter by the  
513 court granting the charter.

514 (2) Any fair association that does not conduct an annual a  
515 public fair ~~or exposition~~ for a period of 3 calendar years  
516 shall, upon the recommendation of the department, have its  
517 charter revoked by the court granting the charter.

518 Section 14. Section 616.15, Florida Statutes, is amended  
519 to read:

520 616.15 Permit from Department of Agriculture and Consumer  
521 Services required.—

522 (1) An annual ~~No~~ public fair ~~or exposition~~ may not be  
523 conducted by a fair association without a permit issued by the  
524 department. ~~The permit shall be issued in the following manner:~~  
525 The association shall present to the department an application  
526 for a ~~the~~ permit, signed by an officer of the association, at  
527 least 3 months before holding the annual public fair. ~~The or~~  
528 ~~exposition; this~~ application shall be accompanied by a fee in an  
529 amount to be determined by the department ~~not to exceed \$366 or~~  
530 ~~be less than \$183~~ for processing the application and making any  
531 required investigation. The application fee must be at least  
532 \$183 and may not exceed \$366. ~~The Fees collected under this~~

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533 subsection shall be deposited in the General Inspection Trust  
 534 Fund of the State Treasury in a special account to be known as  
 535 the "Agricultural and Livestock Fair Account." A copy of the  
 536 application must be sent to each fair association located within  
 537 50 miles of the site of the proposed annual public fair ~~or~~  
 538 ~~exposition~~ at the same time the application is sent to the  
 539 department. The department may issue a ~~the~~ permit if the  
 540 applicant provides ~~if the application sets forth:~~

541 (a) The opening and closing dates of the proposed annual  
 542 public fair ~~or exposition~~.

543 (b) The name and address of the owner of the central  
 544 amusement attraction that will ~~to~~ operate during the annual  
 545 public fair ~~or exposition~~.

546 (c) An affidavit properly executed by the president or  
 547 ~~other~~ chief executive officer of the applicant association  
 548 certifying the existence of a binding contract entered into by  
 549 the association ~~or exposition~~ and the owner of the central  
 550 amusement attraction covering the period for which the permit  
 551 from the department is applied. The contract ~~or contracts~~  
 552 between the parties shall be available for inspection by duly  
 553 authorized agents of the department in administering this  
 554 chapter.

555 (d) A written statement that the main purpose of the  
 556 association is to conduct and operate a public ~~the proposed~~ fair  
 557 and ~~or~~ exposition, including the annual fair, for the benefit  
 558 and development of the educational, agricultural, horticultural,  
 559 livestock, charitable, historical, civic, cultural, scientific,  
 560 and other resources of the geographical area the fair

561 association ~~or exposition~~ represents and serves. The statement  
 562 must shall be in writing, shall be subscribed, and ~~shall be~~  
 563 acknowledged by an officer of the association before an officer  
 564 authorized to take acknowledgments.

565 (e) A premium list of the current annual public fair ~~or~~  
 566 ~~exposition~~ to be conducted or a copy of the previous year's  
 567 premium list showing all premiums and awards to be offered to  
 568 exhibitors in various departments of the annual public fair,  
 569 which may include, but are not limited to, such as art  
 570 exhibition, beef cattle, county exhibits, dairy cattle,  
 571 horticulture, swine, women's department, 4-H Club activities,  
 572 Future Farmers of America activities, Future Homemakers of  
 573 America activities, poultry and egg exhibits, and community  
 574 exhibits, ~~the foregoing being a list of the usual exhibitors of~~  
 575 ~~a fair and not to be construed as limiting the premium list to~~  
 576 ~~these departments.~~ The premium list, which may be submitted  
 577 separately from the application, must be submitted at least at  
 578 any time not later than 60 days before the holding of the annual  
 579 public fair begins operation ~~or exposition,~~ and the department  
 580 ~~shall issue the permit as provided in this section within 10~~  
 581 ~~days thereafter if the applicant is properly qualified.~~

582 (f) Proof of liability insurance insuring the association  
 583 against liability for injury to persons, in an amount of not  
 584 less than \$300,000 per occurrence.

585 (g) A copy of the most recent review.

586 (h) A list of all current members of the board of  
 587 directors of the association and their contact information,  
 588 including home address ~~addresses.~~



589  
 590 The department shall issue the permit within 10 days after it  
 591 receives all the information and the applicant qualifies  
 592 pursuant to this section.

593 (2) The department shall administer and enforce the  
 594 provisions of this chapter except as to the regulation of games,  
 595 which shall be regulated by local law enforcement agencies. The  
 596 department shall adopt ~~is authorized to make and publish~~ rules  
 597 to administer, ~~not inconsistent with~~ this chapter, including  
 598 rules governing ~~as to~~ the form and contents of the application  
 599 for the permit and any reports that it may deem necessary in  
 600 enforcing the provisions of this chapter.

601 (3) Notwithstanding any fair association meeting the  
 602 requirements set forth in subsection (1), the department may  
 603 order a full investigation to determine if ~~whether or not~~ the  
 604 fair association meets ~~in full~~ the requirements of s. 616.01,  
 605 and ~~accordingly~~ may withhold a permit from, deny a permit to, or  
 606 withdraw a permit once issued to the association. The department  
 607 shall also consider whether any proposed annual public fair ~~or~~  
 608 ~~exposition~~, as set forth in an application for a permit, will  
 609 compete with another annual public fair ~~or exposition~~ within 50  
 610 miles of the proposed annual public fair ~~or exposition~~ with  
 611 respect to name, dates of operation, or market. The department  
 612 may deny, withhold, or withdraw a permit from a fair association  
 613 if the department determines that such fair association will  
 614 compete with another association. The department shall give  
 615 preference to existing fair associations with established dates,  
 616 locations, and names. The determination by the department is

617 ~~shall be~~ final.

618 Section 15. Subsections (1) and (3) of section 616.17,  
 619 Florida Statutes, are amended to read:

620 616.17 Minimum exhibits.—

621 (1) An annual ~~No~~ public fair ~~or exposition~~ conducted by a  
 622 fair association may not be approved by the department for a tax  
 623 exemption certificate unless the fair association ~~or exposition~~  
 624 displays at least the following ~~minimum~~ exhibits, ~~but this~~  
 625 ~~requirement may not be construed as a limitation on the number~~  
 626 ~~of exhibits which the fair or exposition may have:~~

627 (a) Three exhibits from 4-H Clubs or Future Farmers of  
 628 America chapters which are officially approved by those clubs or  
 629 chapters.

630 (b) Three exhibits of community, individual, or county  
 631 farm displays.

632 (c) Three exhibits of field crops in at least three  
 633 different crops.

634 (d) Three exhibits of horticultural products.

635 (e) Three culinary exhibits such as canned fruits, canned  
 636 vegetables, canned pickles or juices, jams, jellies, cakes,  
 637 bread, candies, or eggs.

638 (f) Three exhibits of household arts such as homemade  
 639 spreads, towels, luncheon sets, rugs, clothing, or baby apparel.

640 (g) Three exhibits of fruit or vegetable crops in at least  
 641 three different crops.

642 (h) Three exhibits of arts, crafts, photography, or  
 643 antiques or of scout handiwork.

644 (i) Three exhibits from home demonstration, home

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645 economics, educational, religious, or civic groups.

646 (j) Three exhibits of livestock such as dairy cows, beef.  
647 cattle, hogs, sheep, poultry, horses, or mules.

648 (3) The department may provide a waiver to the minimum  
649 exhibit requirements of this section to any fair association  
650 that submits an application for the waiver to the department, at  
651 least 30 ~~60~~ days before ~~prior to~~ the annual public fair ~~or~~  
652 ~~exposition~~ in need of the waiver, and shows good cause why the  
653 requirements of this section cannot be met.

654 Section 16. Section 616.185, Florida Statutes, is amended  
655 to read:

656 616.185 Trespass upon grounds or facilities of public fair  
657 ~~or exposition~~; penalty; arrests.-

658 (1) For the purposes of this chapter, "trespass" upon the  
659 grounds of the Florida State Fair Authority or any other ~~public~~  
660 fair association ~~or exposition~~ permitted under s. 616.15 means:

661 (a) Entering and remaining upon any grounds or facilities  
662 owned, operated, or controlled by the Florida State Fair  
663 Authority or any other association ~~public fair or exposition~~  
664 permitted under s. 616.15 and committing any act that ~~which~~  
665 disrupts the orderly conduct of any authorized activity of the  
666 fair association ~~organization~~ in charge, or its lessees,  
667 licensees, or the general public on those grounds or facilities;  
668 or

669 (b) Entering and remaining on those grounds or facilities  
670 after being directed not to enter or to leave them by the  
671 executive director of the authority, chief administrative  
672 officer of the fair association ~~or exposition~~, or any employee

673 or agent of the association ~~thereof~~ designated by the executive  
 674 director or administrator to maintain order on those grounds and  
 675 facilities, after a determination by the executive director,  
 676 administrator, employee, or agent that the entering or remaining  
 677 on those grounds or facilities is in violation of the rules and  
 678 regulations of the Florida State Fair Authority or permitted  
 679 ~~public fair~~ association ~~or exposition~~ or is disrupting the  
 680 orderly conduct of any authorized activity of the fair  
 681 association ~~organization~~ in charge, or its lessees, licensees,  
 682 or the general public on those grounds or facilities.

683 (2) Any person ~~found guilty of~~ committing the offense of  
 684 trespass upon the grounds of the Florida State Fair Authority or  
 685 any other ~~public fair~~ association ~~or exposition~~ permitted under  
 686 s. 616.15 commits ~~is guilty of~~ a misdemeanor of the second  
 687 degree, punishable as provided in s. 775.082 or s. 775.083.

688 (3) A law enforcement ~~peace~~ officer may arrest any person  
 689 on or off the premises, without a warrant, if the officer has  
 690 probable cause for believing such person has committed the  
 691 offense of trespass upon the grounds of the Florida State Fair  
 692 Authority or any ~~public fair~~ association ~~or exposition~~ permitted  
 693 under s. 616.15. Such an arrest does ~~shall~~ not render the law  
 694 enforcement ~~peace~~ officer criminally or civilly liable for false  
 695 arrest, false imprisonment, or unlawful detention.

696 Section 17. Section 616.19, Florida Statutes, is amended  
 697 to read:

698 616.19 Designation of fairs.—Any ~~public fair~~ association  
 699 ~~or exposition heretofore or hereafter~~ created pursuant to this  
 700 chapter shall be designated by the name stated in the permit

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701 required or stated by its fair association and is ~~shall be~~  
 702 recognized by the state as equal in dignity to the Florida State  
 703 Fair and as fully recognized as the Florida State Fair.

704 Section 18. Section 616.21, Florida Statutes, is amended  
 705 to read:

706 616.21 Agricultural and livestock exhibit buildings;  
 707 conditions for expenditures. ~~No part of~~ Appropriated funds may  
 708 not be expended except upon approval and with the recommendation  
 709 of the department. Further, the ~~no part of such an~~ appropriation  
 710 may not be expended for the construction of a building unless  
 711 ~~and until a good~~ fee simple title to the land on which the  
 712 building is to be constructed is vested in the county,  
 713 municipality, or fair association for which the building is to  
 714 be constructed.

715 Section 19. Section 616.23, Florida Statutes, is amended  
 716 to read:

717 616.23 Use of buildings.—The buildings authorized by ss.  
 718 616.21-616.23 may be used by the county, municipality, or fair  
 719 association for ~~which the buildings are built as agricultural or~~  
 720 ~~livestock exhibition buildings for~~ public fair or exposition  
 721 purposes ~~in the promotion of the agricultural and livestock~~  
 722 ~~industries~~. These buildings may be used as office space for  
 723 agricultural agents; however, no more than 20 percent of the  
 724 buildings may be so used.

725 Section 20. Subsection (2) of section 616.24, Florida  
 726 Statutes, is amended to read:

727 616.24 Enforcement.—

728 (2) It is the duty of each ~~every~~ state attorney, law

729 enforcement officer as defined by chapter 943, and other  
 730 appropriate county or municipal officer to enforce this chapter  
 731 and the rules adopted pursuant thereto and to assist the  
 732 department and its inspectors and agents in the enforcement of  
 733 this chapter and the rules adopted pursuant thereto.

734 Section 21. Paragraph (a) of subsection (4) and subsection  
 735 (6) of section 288.1175, Florida Statutes, are amended to read:

736 288.1175 Agriculture education and promotion facility.—

737 (4) The Department of Agriculture and Consumer Services  
 738 shall certify a facility as an agriculture education and  
 739 promotion facility if the Department of Agriculture and Consumer  
 740 Services determines that:

741 (a) The applicant is a unit of local government as defined  
 742 in s. 218.369, or a fair association as defined in s.  
 743 616.001(11) ~~616.001(9)~~, which is responsible for the planning,  
 744 design, permitting, construction, renovation, management, and  
 745 operation of the agriculture education and promotion facility or  
 746 holds title to the property on which such facility is to be  
 747 developed and located.

748 (6) Funds may not be expended to develop or subsidize  
 749 privately owned facilities, except for facilities owned by fair  
 750 associations as defined in s. 616.001(11) ~~616.001(9)~~.

751 Section 22. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 449 (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: Community & Military  
2 Affairs Subcommittee  
3 Representative Steube offered the following:

**Amendment**

4  
5  
6 Remove line 326 and insert:  
7 assessments. This section does not apply to chapter 212.  
8

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 449 (2012)

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: Community & Military  
2 Affairs Subcommittee  
3 Representative Steube offered the following:

4  
5 **Amendment**

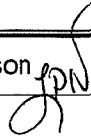
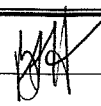
6 Remove line 490 and insert:  
7 municipality, political subdivision, ~~or~~ agency, or  
8





HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** HB 575 Hillsborough County Aviation Authority  
**SPONSOR(S):** Young  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Nelson 	Hoagland 
2) Economic Affairs Committee			

**SUMMARY ANALYSIS**

The Hillsborough County Aviation Authority is an independent special district that has exclusive jurisdiction and management over all airports in Hillsborough County, except those owned by private persons. The Authority's airports include Tampa International Airport and three general aviation airports: Peter O. Knight Airport in Davis Islands, Plant City Airport in Plant City, and Tampa Executive (formerly Vandenberg Airport) in Tampa.

HB 575 codifies and revises the existing special acts relating to the Authority. The bill provides a public purpose statement; clarifies language regarding the election of authority officers; removes a 40-year maturity date limitation on bonds and a requirement for semiannual payment; deletes a cap of four alcoholic beverage licenses; and updates and reorganizes various provisions.

According to the Economic Impact Statement, the bill will have no fiscal effect.

The bill has an effective date of upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### The Hillsborough County Aviation Authority

The Hillsborough County Aviation Authority was created in 1945 by ch. 23339, L.O.F. The numerous special acts relating to the authority were codified by ch. 2003-370, L.O.F., which subsequently was amended by ch. 2007-292, L.O.F. The Authority is an independent special district that has exclusive jurisdiction and management over all airports in Hillsborough County, except those owned by private persons. The Authority's airports include Tampa International Airport and three general aviation airports: Peter O. Knight Airport in Davis Islands, Plant City Airport in Plant City, and Tampa Executive (formerly Vandenberg Airport) in Tampa.

The Authority consists of five members: the Mayor of the City of Tampa, ex officio; a member of and selected by the Board of County Commissioners, ex officio; and three members who are appointed by the Governor for four-year terms. To be eligible for gubernatorial appointment, a person must be a resident and citizen of the county, and may not be employed by or be an elected official of the county or one of its municipalities. The Governor has the power to remove any member for good cause.

The Authority has the power and is required to:

- elect officers;
- pay any surety bond required of any member and employee of the Authority;
- exclusively control, supervise and manage all airports in the county, except any airport owned, controlled, or operated by a private person;
- advertise for sealed bids when required by law;
- adopt an annual budget;
- require in bond documents that moneys derived from such bonds be paid to or upon order of the Authority; and
- have the Authority's finances audited in the same manner as other independent special districts.

The Authority has the power to and may:

- rely on the provisions of its special act, without reference to other laws, in exercising its powers;
- establish and maintain airports on public waters and submerged land;
- construct and maintain terminal buildings, landing floats, causeways, roadways, bridges for approach to or connecting with an airport, and land floats and breakwaters for the protection of an airport;
- require officers or employees of the Authority to execute an adequate surety bond, conditioned upon the faithful performance of the duties of the office or employment and in a penal sum fixed by the Authority;
- establish positions, duties and a pay plan and employ, pay and provide benefits for, promote, discipline and terminate personnel, including law enforcement officers with full police powers and an Executive Director, who is responsible for the day-to-day administration, management and operation of the Authority in accordance with policy established by the members, and perform other duties as may be authorized by the members;
- by policy or resolution, authorize the Executive Director to perform any of the powers of the Authority;
- employ or contract with technical and professional experts;
- reimburse members and employees for all travel expenses incurred while on Authority business;
- create, appoint and prescribe the duties of any committee;

- sue and be sued;
- adopt, use and alter a corporate seal;
- publish advertisements;
- waive advertisement when an emergency exists and purchases must be made immediately;
- negotiate and enter into contracts, agreements, exclusive or limited agreements, and cooperation agreements;
- include contract specifications maximizing the employment of persons whose protected group has been underutilized in the past;
- enter into exclusive or limited agreements with a single operator or a limited number of operators;
- provide for the manual execution of any instrument on behalf of the Authority by the signature of the Chairperson or Vice Chairperson, and attested to by the Secretary or the Assistant Secretary or, if delegated by the members to do so, the Executive Director or any other Authority personnel to whom the Executive Director has delegated authority;
- purchase and sell equipment, supplies and services;
- sell, lease, transfer, dispose of, or grant a lesser interest in any of its properties;
- dispose of tangible personal property in accordance with ch. 274, F.S.;
- grant concessions;
- advertise, promote and encourage the use and expansion of facilities under its jurisdiction;
- enact airport zoning regulations in accordance with ch. 333, F.S.;
- issue a written permit, before the county or any municipality issues a building permit and upon request of the affected local government, that any construction proposed on land affected by airport zoning regulations conforms to airport zoning regulations;
- acquire, own, construct, install, maintain and operate Authority facilities by purchase, gift, devise, lease, or any other means, including eminent domain;
- reimburse the owner of any structure for which the Authority may require removal, relocation, or reconstruction located in, on, under, or across any private property, public street, highway, or other public or private places for the estimated or actual expense of the removal, relocation, or reconstruction;
- supplement and coordinate in design and operation air navigation facilities with those established and operated by the federal and state governments;
- request the county or any municipality to convey to the Authority the fee simple title to any airport or other property needed for airport purposes;
- relinquish jurisdiction, control, supervision and management over any airport or part of any airport which is under its jurisdiction but which is owned by a municipality, county, or other governmental agency, upon determining that any such airport or part of any such airport is no longer required for airport purposes;
- expend revenues for the cost of investigating, surveying, planning, acquiring, establishing, constructing, enlarging, improving, equipping and erecting Authority facilities by appropriation of revenues or wholly or partly from the proceeds of Authority bonds;
- incur expenses as provided in its annual budget and any amended budget;
- assess against and collect from the owner or operator of each airplane using any Authority facility a landing fee or service charge sufficient to cover the cost of the service furnished to airplanes using any such facility;
- accept federal, state and any other public or private moneys, grants, contributions, or loans for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of Authority facilities, or any other lawful purpose;
- fix, alter, charge, establish and collect rates, fees, rentals and other charges for the services of Authority facilities at reasonable and uniform rates;
- adopt a resolution as may be required to levy an ad valorem tax (not to exceed 1.5 mills) and submit it to the Board of County Commissioners;
- apply for, hold and periodically transfer alcoholic beverage licenses as provided by its special act;<sup>1</sup>

<sup>1</sup> The Authority or another governmental agency operating Tampa International Airport is authorized to acquire up to four alcoholic beverage licenses, as provided for in s. 561.17, F.S.

- adopt and amend rules, regulations and policies reasonably necessary for the implementation of its act;
- by resolution, fix and enforce penalties for the violation of its act or a rule, regulation, or policy adopted in accordance with its act;
- amend its budget after adoption;
- receive, deposit, secure and pay out moneys as provided by its act;
- designate one or more depositories which are qualified as public depositories pursuant to s. 280.04, F.S., and thereafter establish and open an account or accounts into which revenues collected are deposited and from which expenditures may be made;
- establish and deposit into and expend moneys from a surplus fund by using funds other than those derived from ad valorem taxation, that may remain unexpended at the end of the fiscal year and may be set aside in a separate fund to be known as the "Capital Improvement Fund" and accumulated and expended from year-to-year solely for the purpose of building and constructing permanent improvements, replacements, alterations, buildings and other structures;
- by resolution, borrow money and issue bonds;
- enter into deeds of trust, indentures, or other agreements with any bank or trust company as security for its bonds, and assign and pledge any or all of its revenues;
- secure the payment of bonds or any part thereof by pledging all or part of its revenues;
- pending the preparation of definitive bonds, issue certificates or temporary bonds to the purchaser of bonds;
- transact the business of the Authority and exercise all powers necessarily incidental to the exercise of the general and special powers granted by its act and under any other law;
- exercise all powers of a local agency granted pursuant to part II of ch. 159, F.S., and to a governmental unit granted pursuant to part VII of ch. 159, F.S.; and
- do all acts and things necessary or convenient for the promotion of its business and the general welfare of the Authority.

The Hillsborough County Legislative Delegation is required to review the special act(s) of the Authority prior to July 1, 2012 (and every 10 years thereafter) to determine whether there is a need for codification.<sup>2</sup> If it is determined that there is such a need, the delegation may require the Authority to prepare applicable legislation.

### **Effect of Proposed Changes**

HB 575 codifies, reenacts, amends and repeals the special acts relating to the Hillsborough County Aviation Authority, chs. 2003-370 and 2007-292, L.O.F. The bill provides a public purpose statement; corrects typographical errors; clarifies definitions; updates language; and reorganizes certain provisions of the Authority's special acts.

Additionally, the bill clarifies the procedure for the election of board officers. Currently, the Authority's charter provides that officers hold office for two years "with new elections held after any gubernatorial appointment has been commissioned." The Authority intends to hold elections for all officer positions

---

<sup>2</sup> Codification is the process of compiling, updating and systematically arranging the special acts that comprise a special district's charter. Original provisions may be amended by subsequent special acts after these charters are created by the Legislature. Because special act amendments are not automatically incorporated into one special act, it is necessary to locate all special acts amending an original charter in order to determine its current status. This can be a difficult and time-consuming process for persons interested in ascertaining the law governing a district. Codification of special district charters allows readers to refer to one special act to identify these charters.

Codification of special district charters initially was authorized by the 1997 Legislature in ss. 189.429 and 191.015, F.S. These laws currently provide for each district that has more than one special act to submit a draft codified charter, at its own expense, to the Legislature by December 1, 2004. Any codified act relating to a special district must provide for the repeal of all prior special acts relating to the district, and be filed with the Department of Economic Opportunity within 30 days after adoption pursuant to s. 189.418(2), F.S.

whenever a new member is appointed to the board by the Governor, and proposes to specify that practice. (See, III. COMMENTS, C. DRAFTING ISSUES OR OTHER COMMENTS.)

The bill also eliminates a current requirement that Authority bonds have a maturity date not exceeding 40 years and be payable semiannually. This change will allow the Authority to proceed with its bond financing activities pursuant to general and federal laws.<sup>3</sup> In certain cases, the 40-year maturity constraint could prove unnecessarily restrictive, and the requirement for semiannual payments prevents finance deals from being structured monthly, quarterly, or otherwise.

Lastly, the bill deletes a requirement that the Authority hold no more than four alcoholic beverage licenses. This change also allows the Authority to operate in accordance with general law with regard to these licenses.<sup>4</sup>

The bill has an effective date of upon becoming law.

**B. SECTION DIRECTORY:**

Section 1: Provides for Legislative intent.

Section 2: Provides for codifying, reenacting, amending and repealing chs. 2003-370 and 2007-292, L.O.F., relating to the Hillsborough County Aviation Authority.

Section 3: Provides for recreating and reenacting the charter for the Hillsborough County Aviation Authority.

Section 4: Repeals chs. 2003-370 and 2007-292, L.O.F.

Section 5: Provides an effective date.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 11, 2011.

WHERE? *The Times*, an edition of the *St. Petersburg Times*, a daily newspaper published in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the Economic Impact Statement, this bill will have no fiscal effect.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

<sup>3</sup> In particular, *see*, ch. 159, F.S.

<sup>4</sup> *See*, ch. 561, F.S.

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**Drafting Issues**

The language on lines 292-296 is confusing and should be redrafted to reflect the Authority's intended practice.

**Other Comments**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

# The Times

Published Daily

Tampa, Hillsborough County, Florida

STATE OF FLORIDA }  
COUNTY OF Hillsborough } S.S.

Before the undersigned authority personally appeared A. Robison who on oath says that he/she is Legal Clerk of the The Times, an edition of the *St. Petersburg Times* a daily newspaper published at Tampa, in Hillsborough County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter RE: HILLSBOROUGH AVIATION AUTH. RENOTICE OF LEGISLATION was published in said newspaper in the issues of Classified Tampa, 12/11/2011.

Affiant further says the said *The Times*, an edition of the *St. Petersburg Times* is a newspaper published at Tampa, in said Hillsborough County, Florida: and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida:, each day and has been entered as second class mail matter at the post office in Tampa, in said Hillsborough County, Florida:, for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he /she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

**HILLSBOROUGH COUNTY  
AVIATION AUTHORITY  
RENOTICE OF LEGISLATION**

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2012 Florida Legislature and any Special or Extended Sessions for the purposes of seeking legislation to codify and revise an existing act relating to the Hillsborough County Aviation Authority (HCAA), Chapter 2003-370, and Chapter 2007-292, Laws of Florida, relating to the creation and powers granted by the act that are declared to be public and governmental functions, exercised for public purposes, and are matters of public necessity to manage, own, operate, construct and finance basic capital infrastructure, facilities and services. Revisions include clarifying definitions; providing that the Authority as a special district operates to serve a public purpose; clarifying the election process of members; clarifying advertisement pertains to sealed bids and other competitive selection processes; clarifying employment responsibilities; clarifying procedures for manual execution of instruments on behalf of the Authority; providing that Authority can dispose of personal property, derelict or abandoned aircraft and vehicles in accordance with existing statute; incorporating specific references to existing practices; removing maturity date of bond terms and semiannual payment requirement; deleting the requirement that the Authority may not hold beverage licenses exceeding 4 in number; clarifying the requirements for award of contracts and clarifying when such requirements do not apply; and repealing chapters 2003-370 and 2007-292, Laws of Florida. The HCAA is a public body corporate and is an independent special district with exclusive jurisdiction, control, supervision and management over all airports in Hillsborough County and each municipality, except any airport owned, controlled and operated by a private person.  
(1003655233)

12/11/2011

*A. Robison*

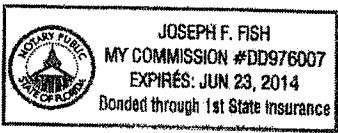
Signature of Affiant

Sworn to and subscribed before me  
this 13th day of December A.D.2011

*Joseph F. Fish*  
Signature of Notary Public

Personally known X or produced identification \_\_\_\_\_

Type of identification produced \_\_\_\_\_





HOUSE OF REPRESENTATIVES

2012 LOCAL BILL CERTIFICATION FORM

BILL #: HB 575

SPONSOR(S): REPRESENTATIVE DANA YOUNG

RELATING TO: HILLSBOROUGH COUNTY AVIATION AUTHORITY (HCAA)  
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: HILLSBOROUGH COUNTY LEGISLATIVE DELEGATION

CONTACT PERSON: DARCY FOSTER

PHONE NO.: (813) 927-8346 (c) E-Mail: DFOSTER@TAMPAAIRPORT.COM

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES [] NO []

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES [] NO []

Date hearing held: SEPTEMBER 27, 2011

Location: DUAL THEATER, MARSHALL STUDENT CENTER, USF

(3) Was this bill formally approved by a majority of the delegation members?

YES [] NO []

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES [] NO [] DATE 10/7/11

Where? ST. PETE TIMES County Hillsborough

Referendum in lieu of publication: YES [] NO []

Date of Referendum N/A

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO [] NOT APPLICABLE [ ]

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO [] NOT APPLICABLE [ ]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO []

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Community & Military Affairs Subcommittee.

  
Delegation Chair (Original Signature)

11-2-11  
Date

Ronda Storms  
Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES  
2012 ECONOMIC IMPACT STATEMENT FORM

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.*

BILL#: HB 575

SPONSORS: Representative Dana Young and Senator Jack Latvala

RELATING TO: Codification and Revision to the Enabling Act of the Hillsborough County Aviation Authority, an Independent Special District Chapter 2003-370, and Chapter 2007-292, Laws of Florida

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures: None anticipated due to revision to the HCAA Enabling Act.

<u>FY12-13</u>	<u>FY 13-14</u>
N/A	N/A

II. ANTICIPATED SOURCE(S) OF FUNDING: None anticipated due to revision to the Act.

<u>FY12-13</u>	<u>FY 13-14</u>
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Federal:	N/A	N/A
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State:	N/A	N/A
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Local:	N/A	N/A
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Local:	N/A	N/A
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III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues: None anticipated due to revision\* to the HCAA Enabling Act.

<u>FY12-13</u>	<u>FY 13-14</u>
N/A	N/A

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

None anticipated due to revision to the HCAA Enabling Act.

Advantages: N/A

Disadvantages: N/A

Economic Impact Statement

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None anticipated due to revision to the HCAA Enabling Act.

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

N/A

PREPARED BY: *Darcy D. Foster* *9/9/11* *Director of*  
[Must be signed by Preparer] Date/Title: *Government*  
*affairs*

REPRESENTING: Hillsborough County Aviation Authority

PHONE: 813-870-7845

E-Mail Address: dfoster@tampaairport.com

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A bill to be entitled

An act relating to the Hillsborough County Aviation Authority; codifying, reenacting, and amending the Authority's special acts; providing that the act is a reviser; deleting provisions which have expired, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies and redundancies; improving clarity and facilitating correct interpretation; clarifying definitions; providing that independent special districts operate to serve a public purpose; incorporating specific references to existing practices; clarifying procedure for election of members; clarifying that advertisement provisions pertain to sealed bids and other competitive selection processes when and as required; clarifying employment responsibilities; clarifying procedures for manual execution of instruments on behalf of the Authority; providing that the Authority can dispose of personal property, derelict or abandoned aircraft, and derelict or abandoned vehicles in accordance with existing statutory law; deleting the requirement that the Authority may not hold alcoholic beverage licenses exceeding a certain number; clarifying the requirements for award of contracts and clarifying when such requirements do not apply; providing for

29 recodification; repealing chapters 2003-370 and 2007-  
 30 292, Laws of Florida, relating to the Authority;  
 31 providing a savings clause; providing an effective  
 32 date.

33  
 34 Be It Enacted by the Legislature of the State of Florida:

35  
 36 Section 1. Pursuant to s. 189.429, Florida Statutes, this  
 37 act constitutes the codification of all special acts relating to  
 38 the Hillsborough County Aviation Authority. It is the intent of  
 39 the Legislature in enacting this law to provide a single,  
 40 comprehensive special act charter for the Authority, including  
 41 all current legislative authority granted to the Authority by  
 42 its several legislative enactments and any additional authority  
 43 granted by this act.

44 Section 2. Chapters 2003-370 and 2007-292, Laws of  
 45 Florida, relating to the Hillsborough County Aviation Authority,  
 46 are codified, reenacted, amended, and repealed as provided in  
 47 this act.

48 Section 3. The charter for the Hillsborough County  
 49 Aviation Authority is re-created and reenacted to read:

50 Section 1. Short title.—This act may be cited as the  
 51 "Hillsborough County Aviation Authority Act."

52 Section 2. General provisions.—

53 (1) It is the intent of the Legislature that this act  
 54 supersede chapters 2003-370 and 2007-292, Laws of Florida,  
 55 relating to the Hillsborough County Aviation Authority, and is a  
 56 codification, a compilation of previously existing legislation

57 relating to the Authority.

58 (2) The codification is also to act as a reviser's bill,  
 59 deleting provisions which have expired, have had their effect,  
 60 have served their purpose, or have been impliedly repealed or  
 61 superseded; replacing incorrect cross references and citations,  
 62 correcting grammatical, typographical, and like errors; removing  
 63 inconsistencies and redundancies; and improving clarity and  
 64 facilitating correct interpretation. It is the intent of the  
 65 Legislature to define frequently used terms and to reflect  
 66 standard business practices required for an independent special  
 67 district to conduct its business which have not been previously  
 68 enumerated.

69 (3) The Authority shall comply with federal law regarding  
 70 expenditure of federal moneys.

71 (4) This act shall not be construed as impairing or  
 72 infringing upon any rights, privileges, or benefits enjoyed by  
 73 any employee of the Authority who is so employed on the  
 74 effective date of this act.

75 (5) The members and employees of the Authority shall  
 76 comply with part III of chapter 112, Florida Statutes, as may be  
 77 amended from time to time.

78 (6) This act provides an additional, alternative, and  
 79 complete method for the exercise of the powers granted and  
 80 authorized by this act and shall be regarded as supplemental to  
 81 powers conferred by other laws and shall not be regarded as a  
 82 derogation of any powers now existing.

83 (7) The Legislature declares that independent special  
 84 districts operate to serve a public purpose and are a legitimate

85 method available for use by the public sector to manage, own,  
 86 operate, construct, and finance basic capital infrastructure,  
 87 facilities, and services.

88 (8) Regarding the airport facilities and concessions, the  
 89 Legislature finds and declares:

90 (a) The proper operation of the publicly owned or operated  
 91 airports in the County is essential to the welfare of the people  
 92 of the Tampa Bay area, the state, and its people.

93 (b) The publicly owned or operated airports in the County  
 94 establish a vital transportation link between the state and the  
 95 economic systems of the nation and the world and enable the  
 96 state to enjoy and provide the benefits of an international  
 97 tourist and commercial center.

98 (c) The economic validity and stability of the publicly  
 99 owned or operated airports in the County is a matter of  
 100 statewide importance.

101 (d) The policy of this state is to promote the development  
 102 of commerce and tourism to secure to the people of this state  
 103 the benefits of those activities conducted in the state.

104 (e) The proper operation of the publicly owned or operated  
 105 airports in the County is essential to the welfare of the state  
 106 and its people, and the Legislature recognizes and affirms such  
 107 operation as a governmental function to be discharged in  
 108 furtherance of the policy of securing the benefits of commerce  
 109 and tourism for the state and its people.

110 (9) The Authority shall manage airport facilities and  
 111 grant airport concessions to further the development of commerce  
 112 and tourism in or affecting the Tampa Bay area and the state. In



113 managing its facilities and granting concessions for services to  
 114 the public, the Authority shall promote the development of  
 115 commerce and tourism by:

- 116 (a) Securing a diversity of airport services.
- 117 (b) Avoiding wasteful duplication of such services.
- 118 (c) Securing to the users of airports safe, courteous, and  
 119 quality service.
- 120 (d) Limiting or prohibiting business competition which is  
 121 destructive to the ends of promoting commerce and tourism in the  
 122 state.
- 123 (e) Allocating limited airport resources to promote such  
 124 ends.
- 125 (f) Fostering Florida's image as a commercial and tourist  
 126 center.

127 Section 3. Definitions.—As used in this act, unless  
 128 otherwise specifically defined or unless another intention  
 129 clearly appears:

- 130 (1) "Advertisement" means a notice published at least once  
 131 a week for 2 consecutive weeks in at least two newspapers of  
 132 general circulation in the County, as defined in general law, as  
 133 may be amended from time to time.
- 134 (2) "Air navigation" means the operation or navigation of  
 135 aircraft in the air space over the County or upon any airport or  
 136 restricted landing area within the County.
- 137 (3) "Air navigation facility" means any facility used in,  
 138 available for use in, or designed for use in aid of air  
 139 navigation, including airports, restricted landing areas, and  
 140 any structures, mechanisms, lights, beacons, marks,

141 communicating systems, or other instrumentalities or devices  
 142 used or useful as an aid or constituting an advantage or  
 143 convenience to the safe taking off, navigation, and landing of  
 144 aircraft or the safe and efficient operation or maintenance of  
 145 an airport or restricted landing area, and any combination of  
 146 any or all of such facilities.

147 (4) "Airport" means any area of land or water which is  
 148 designed for the landing and taking off of aircraft, whether or  
 149 not facilities are provided for the shelter, servicing, or  
 150 repair of aircraft or for receiving, servicing, and discharging  
 151 passengers or cargo, all appurtenant areas used or suitable for  
 152 airport buildings or other airport facilities, and all  
 153 appurtenant rights-of-way.

154 (5) "Airports and other aviation facilities and facilities  
 155 related thereto and any portion thereof" means and includes  
 156 airports, buildings, structures, terminal buildings, parking  
 157 garages and lots, space, hangars, lands, warehouses, shops,  
 158 hotels, other aviation facilities of any kind or nature, or any  
 159 other facilities of any kind or nature related to or connected  
 160 with said airports and other aviation facilities which the  
 161 Authority is authorized by law to construct, acquire, own,  
 162 lease, or operate, together with all fixtures, equipment, and  
 163 property, real or personal, tangible or intangible, necessary,  
 164 appurtenant, or incidental thereto.

165 (6) "Airport purposes" means and includes airport,  
 166 restricted landing area, and other air navigation facility  
 167 purposes.

168 (7) "Authority" means the Hillsborough County Aviation

169 Authority.

170 (8) "Authority facility" means an airport, airports and  
 171 other aviation facilities and facilities related thereto and any  
 172 portion thereof, air navigation facilities, and special purpose  
 173 facilities and any portion thereof.

174 (9) "Board" means the Board of County Commissioners of  
 175 Hillsborough County.

176 (10) "Bond" means notes, bonds, certificates, refunding  
 177 bonds, and other obligations.

178 (11) "Clerk" means Clerk of the Court of Hillsborough  
 179 County.

180 (12) "County" means the County of Hillsborough.

181 (13) "Division" means the Florida Department of Business  
 182 and Professional Regulation, Division of Alcoholic Beverages and  
 183 Tobacco or any successor agency.

184 (14) "Federal" or "Federal Government" means the United  
 185 States government, the President of the United States, and any  
 186 department, corporation, commission, agency, or other  
 187 instrumentality thereof.

188 (15) "Governor" means the Governor of the State of  
 189 Florida.

190 (16) "Instrument" means a formal or legal document in  
 191 writing, such as a contract, deed, bond, lease, or mortgage.

192 (17) "Members" means the governing body of the Authority,  
 193 and the term "member" means one of the individuals constituting  
 194 such governing body.

195 (18) "Municipality" means a municipality created pursuant  
 196 to general or special law authorized or recognized pursuant to

197 s. 2 or s. 6, Art. VIII of the State Constitution and located in  
 198 the County.

199 (19) "Officer of the Authority" means a member who has  
 200 been elected by the other members to serve as the Chairperson,  
 201 Vice Chairperson, Secretary, Treasurer, or Assistant Secretary  
 202 and Treasurer.

203 (20) "Person" means any individual, firm, partnership,  
 204 corporation, company, association, joint stock association, or  
 205 body politic and includes any trustee, receiver, assignee, or  
 206 other similar representative thereof.

207 (21) "Policy" means a general principle adopted by the  
 208 members and by which the Authority conducts its internal  
 209 governance.

210 (22) "Regulation" means the same as "rule" as defined by  
 211 this act and may be used interchangeably with the word "rule."

212 (23) "Resolution" means a formal, written expression of an  
 213 action adopted by the members.

214 (24) "Revenues" means rates, fees, grants, receipts,  
 215 charges, and other moneys acquired through all sources by the  
 216 Authority and interest income thereon.

217 (25) "Rule" means each statement of general applicability  
 218 adopted by the members that implements, interprets, or  
 219 prescribes law or policy or describes the procedure or practice  
 220 requirements of the Authority and includes any form which  
 221 imposes any requirement or solicits any information not  
 222 specifically required by statute or by an existing rule and may  
 223 be used interchangeably with the word "regulation."

224 (26) "Special purpose facilities and any portion thereof"

225 means facilities related to or to be used in connection with the  
 226 airports and other aviation facilities of the Authority and  
 227 located on lands at or adjacent to the airports and other  
 228 aviation facilities under the control, management, and  
 229 jurisdiction of the Authority and includes all property,  
 230 structures, rights, easements, and franchises relating thereto  
 231 and deemed necessary or convenient therefor.

232 (27) "Standard procedure" means the method and manner  
 233 established or approved by the Chief Executive Officer or a  
 234 designee of the Chief Executive Officer that implements policy  
 235 for the day-to-day management of the Authority's operations.

236 (28) "State government" means the government of the State  
 237 of Florida, the Governor, and any department, commission,  
 238 corporation, agency, or other instrumentality thereof.

239 (29) "Surplus fund" means an unrestricted fund established  
 240 by the Authority into which certain revenues of the Authority  
 241 may be deposited on a monthly or more frequent basis after  
 242 payment, or provision for payment, of all current expenses  
 243 pursuant to its then-applicable budget and after all deposits  
 244 have been made as required under its indentures, trust  
 245 agreements, and other contracts.

246 (30) "TIA" means Tampa International Airport.

247 Section 4. Creation; purpose.-

248 (1) The Hillsborough County Aviation Authority is created,  
 249 and the powers granted by this act are declared to be public and  
 250 governmental functions, exercised for public purposes, and are  
 251 matters of public necessity. Lands and other real and personal  
 252 property, easements, and privileges acquired and used by the

253 Authority are declared to have been acquired for and used for  
 254 public and governmental purposes and as a matter of public  
 255 necessity. The Authority is a public body corporate and is an  
 256 independent special district.

257 (2) The Authority has exclusive jurisdiction, control,  
 258 supervision, and management over all airports in the County and  
 259 each municipality, except any airport owned, controlled, and  
 260 operated by a private person. Said jurisdiction, control,  
 261 supervision, and management are in the best interest of the  
 262 County and each municipality.

263 Section 5. Membership.—

264 (1) The Authority shall consist of five members: one  
 265 member who is the Mayor of the City of Tampa, ex officio; one  
 266 member who is a member of and selected by the Board, ex officio;  
 267 and three members who are appointed by the Governor. No member  
 268 shall receive any compensation for services as a member. Each  
 269 member appointed by the Governor shall be appointed for a term  
 270 of 4 years. The Board shall appoint one of its members annually  
 271 at the time of its organizational session who shall serve until  
 272 its next annual appointment, provided that he or she continues  
 273 to serve as a county commissioner during that time. Each member  
 274 shall qualify by taking an oath to faithfully perform the duties  
 275 of the office, and the oath shall be filed with the Clerk. To be  
 276 eligible for appointment as a member of the Authority by the  
 277 Governor, the person appointed must be a resident and citizen of  
 278 the County and may not be employed by or be an elected official  
 279 of the County or municipality. Each member may continue to serve  
 280 until a successor has been commissioned.

281       (2) A majority of the members constitutes a quorum.  
 282       (3) The Governor has the power to remove any member for  
 283 good cause. Within 15 days after any vacancy occurs a successor  
 284 shall be appointed in the same manner as that member for which a  
 285 vacancy has occurred and shall serve for the unexpired term of  
 286 his or her predecessor.  
 287       Section 6. Powers.—  
 288       (1) The Authority has the power to and shall:  
 289       (a) Elect officers as follows: one member as Chairperson,  
 290 one member as Vice Chairperson, one member as Secretary, one  
 291 member as Treasurer, and one member as Assistant Secretary and  
 292 Assistant Treasurer, each of whom shall hold office until new  
 293 elections are held after any gubernatorial appointee has been  
 294 commissioned. In the event of a vacancy prior to a gubernatorial  
 295 appointment, the Authority will hold an election for that  
 296 vacancy.  
 297       (b) Approve, file with the Clerk, and pay any surety bond  
 298 required of any member and any employee of the Authority.  
 299       (c) Exclusively control, supervise, and manage all  
 300 airports in the County and each municipality, except any airport  
 301 owned, controlled, or operated by a private person.  
 302       (d) Advertise for sealed bids and other competitive  
 303 selection processes when and as required by law; provided,  
 304 however, the Authority may reject all bids, proposals, or  
 305 responses and readvertise or select a single item from any bid,  
 306 proposal, or response as further provided in this act.  
 307       (e) Adopt before October 1 an annual budget which has been  
 308 prepared by the Chief Executive Officer and which must include

309 an estimate of all revenues and anticipated expenditures for the  
 310 following fiscal year.

311 (f) Require in all bond documents that moneys derived from  
 312 such bonds be paid to or upon order of the Authority.

313 (g) Have the Authority's finances audited in the same  
 314 manner as other independent special districts are audited.

315 (2) The Authority has the power to and may:

316 (a) Rely on the provisions of this act, without reference  
 317 to other laws, in exercising its powers.

318 (b) Establish and maintain such airports in, over, and  
 319 upon any public waters of this state within the limits of  
 320 jurisdiction of, or bordering on any municipality, any submerged  
 321 land under such public waters, and any artificial or reclaimed  
 322 land which, before the artificial making or reclamation thereof,  
 323 constituted a portion of the submerged land under such public  
 324 waters.

325 (c) Construct and maintain terminal buildings, landing  
 326 floats, causeways, roadways, bridges for approach to or  
 327 connecting with the airport, and land floats and breakwaters for  
 328 the protection of any such airport.

329 (d) Require the Treasurer and other officers or employees  
 330 of the Authority to execute an adequate surety bond, conditioned  
 331 upon the faithful performance of the duties of the office or  
 332 employment and in a penal sum fixed by the Authority.

333 (e) Employ, pay, and provide benefits, which may include a  
 334 bonus scheme, for personnel, including law enforcement officers  
 335 with full police powers and a Chief Executive Officer, formerly  
 336 known as the Executive Director, who shall establish positions,



337 duties, and a pay plan, which may include a bonus scheme, for  
 338 and promote, discipline, and terminate personnel; be responsible  
 339 for the day-to-day administration, management, and operation of  
 340 the Authority in accordance with policy established by the  
 341 members; and perform other duties as may be authorized by the  
 342 members.

343 (f) By policy or resolution, authorize the Chief Executive  
 344 Officer to perform any of the powers of the Authority in whole  
 345 or in part and with whatever other limitations it may find  
 346 appropriate, provided that said authorization does not result in  
 347 an invalid exercise of delegated legislative authority as  
 348 defined in general law.

349 (g) Employ or contract with technical and professional  
 350 experts necessary to assist the Authority in carrying out or  
 351 exercising any powers granted by this act.

352 (h) Reimburse for all travel expenses incurred while on  
 353 business for the Authority, upon requisition, any member, its  
 354 attorneys, the Chief Executive Officer, and any employee of the  
 355 Authority traveling under the direction of the Chief Executive  
 356 Officer or the Chief Executive Officer's designee in accordance  
 357 with the Authority's policies.

358 (i) Create, appoint, and prescribe the duties of any  
 359 committee.

360 (j) Sue and be sued.

361 (k) Adopt, use, and alter a corporate seal.

362 (l) Publish advertisements.

363 (m) Waive advertisement when the Chief Executive Officer  
 364 determines an emergency exists and purchases must be immediately

365 made by the Authority.

366 (n) Negotiate and enter into contracts, agreements,  
 367 exclusive or limited agreements, and cooperation agreements of  
 368 any kind necessary for the Authority to fulfill the purposes of  
 369 this act.

370 (o) Include contract specifications maximizing the  
 371 employment of persons whose protected group has been  
 372 underutilized in the past.

373 (p) Enter into exclusive or limited agreements with a  
 374 single operator or a limited number of operators. The Authority  
 375 shall grant exclusive or limited agreements to displace business  
 376 competition by rule or policy whenever the Authority determines,  
 377 in consideration of the factors set forth below, that any such  
 378 agreement is necessary to further the purposes of this act.  
 379 Before entering into any exclusive or limited agreement, the  
 380 Authority shall, under authority expressly delegated by the  
 381 state, determine the necessity for such an exclusive or limited  
 382 agreement to further the policies and objectives stated in this  
 383 act, which include public safety, public convenience, quality of  
 384 service, the need to conserve airport space, the need to avoid  
 385 duplication of services, the impact on the environment or  
 386 facilities of the airport as an essential commercial and tourist  
 387 service center, and the need to avoid destructive competition  
 388 which may impair the quality of airport services to the public,  
 389 lead to uncertainty, disruption, or instability in the rendering  
 390 of such services, or detract from the Tampa Bay area and the  
 391 state's attractiveness as a center of tourism and commerce. In  
 392 making its determination, the Authority shall take evidence or

393 | make findings of fact and establish such policies it deems  
 394 | necessary. Nothing in this paragraph shall excuse the Authority  
 395 | from complying with applicable state or local requirements for  
 396 | competitive bidding or public hearings which may be required  
 397 | prior to awarding or entering into any contract or other  
 398 | agreement.

399 |       (q) Provide for the manual execution of any instrument on  
 400 | behalf of the Authority by the signature of the Chairperson or  
 401 | Vice Chairperson, and attested to by the Secretary or the  
 402 | Assistant Secretary or, if delegated by the members to do so,  
 403 | the Chief Executive Officer or any other Authority personnel to  
 404 | whom the Chief Executive Officer has delegated authority, or by  
 405 | their facsimile signature in accordance with the Uniform  
 406 | Facsimile Signature of Public Officials Act.

407 |       (r) Purchase and sell equipment, supplies, and services  
 408 | required for its purposes.

409 |       (s) Sell, lease, transfer, dispose of, or grant a lesser  
 410 | interest in any of its properties.

411 |       (t) Dispose of tangible personal property in accordance  
 412 | with chapter 274, Florida Statutes, as may be amended from time  
 413 | to time.

414 |       (u) Dispose of personal property, derelict or abandoned  
 415 | aircraft, and derelict or abandoned motor vehicles found on  
 416 | airport premises in accordance with chapter 705, Florida  
 417 | Statutes, as may be amended from time to time.

418 |       (v) Grant concessions.

419 |       (w) Advertise, promote, and encourage the use and  
 420 | expansion of facilities under its jurisdiction.

421 (x) Enact airport zoning regulations in accordance with  
 422 chapter 333, Florida Statutes, as may be amended from time to  
 423 time, to ensure the safe operation of airports under its  
 424 jurisdiction; however, any such airport zoning regulations may  
 425 not affect the zoning use regulations imposed by the County or  
 426 any municipality.

427 (y) Issue a written permit, before the County or any  
 428 municipality issues a building permit and upon request of the  
 429 affected local government in accordance with the provisions of  
 430 this act, that any construction proposed on land affected by  
 431 airport zoning regulations conforms to airport zoning  
 432 regulations.

433 (z) Acquire, own, construct, install, maintain, and  
 434 operate lands and Authority facilities by purchase, gift,  
 435 devise, lease, or any other means, including by eminent domain  
 436 in accordance with chapters 73 and 74, Florida Statutes, as may  
 437 be amended from time to time. For the purposes of making surveys  
 438 and examinations relative to any condemnation proceedings, the  
 439 Authority may lawfully enter upon any land, doing no unnecessary  
 440 damage. The Authority may take possession of property to be  
 441 acquired by condemnation at any time after the filing of the  
 442 petition describing the same in condemnation proceedings as  
 443 provided in general law. The Authority is not precluded from  
 444 abandoning the condemnation of any such property in any case  
 445 where possession has not been taken.

446 (aa) Reimburse the owner of any structure for which the  
 447 Authority may require removal, relocation, or reconstruction  
 448 located in, on, under, or across any private property, public

449 street, highway, or other public or private places for the  
 450 estimated or actual expense of the removal, relocation, or  
 451 reconstruction.

452 (bb) Supplement and coordinate in design and operation air  
 453 navigation facilities with those established and operated by the  
 454 federal and state governments.

455 (cc) Request the County or any municipality to convey to  
 456 the Authority the fee simple title to any airport or other  
 457 property owned by the County or any municipality and needed for  
 458 airport purposes.

459 (dd) Relinquish jurisdiction, control, supervision, and  
 460 management over any airport or part of any airport which is  
 461 under its jurisdiction but which is owned by a municipality,  
 462 county, or other governmental agency, upon determining that any  
 463 such airport or part of any such airport is no longer required  
 464 for airport purposes; provided, however, that the consent and  
 465 approval of any revenue bondholders is first obtained and  
 466 necessary authorizations or approvals are received from federal  
 467 agencies regulating airports.

468 (ee) Expend revenues for the cost of investigating,  
 469 surveying, planning, acquiring, establishing, constructing,  
 470 enlarging, improving, equipping, and erecting Authority  
 471 facilities by appropriation of revenues or wholly or partly from  
 472 the proceeds of bonds of the Authority. The term "cost" includes  
 473 awards in condemnation proceedings, rentals where an acquisition  
 474 is by lease, and amounts paid to utility companies for  
 475 relocation of their wires, poles, and other facilities.

476 (ff) Incur expenses as provided in its annual budget and

477 any amended budget.

478 (gg) Assess against and collect from the owner or operator  
 479 of each airplane using any Authority facility a landing fee or  
 480 service charge sufficient to cover the cost of the service  
 481 furnished to airplanes using any such facility, which cost may  
 482 include the liquidation of bonds or other indebtedness for  
 483 construction and improvement.

484 (hh) Accept federal, state, and any other public or  
 485 private moneys, grants, contributions, or loans for the  
 486 acquisition, construction, enlargement, improvement,  
 487 maintenance, equipment, or operation of Authority facilities, or  
 488 any other lawful purpose.

489 (ii) Fix, alter, charge, establish, and collect rates,  
 490 fees, rentals, and other charges, such as, but not limited to,  
 491 customer facility charges, for the services of Authority  
 492 facilities at reasonable and uniform rates.

493 (jj) Adopt a resolution as may be required to levy an ad  
 494 valorem tax and submit it to the Board.

495 (kk) Apply for, hold, and periodically transfer alcoholic  
 496 beverage licenses as provided by this act.

497 (ll) Adopt and amend rules, regulations, and policies  
 498 reasonably necessary for the implementation of this act.

499 (mm) By resolution, fix and enforce penalties for the  
 500 violation of this act or a rule, regulation, or policy adopted  
 501 in accordance with this act.

502 (nn) Amend the budget after its adoption.

503 (oo) Receive, deposit, secure, and pay out moneys as  
 504 provided by this act.

505        (pp) Designate one or more depositories which are  
 506 qualified as public depositories pursuant to section 280.04,  
 507 Florida Statutes, as may be amended from time to time, and  
 508 thereafter establish and open an account or accounts into which  
 509 revenues collected are to be deposited and from which  
 510 expenditures may be made.

511        (qq) Establish and deposit into and expend moneys from a  
 512 surplus fund by using funds other than those derived from ad  
 513 valorem taxation, that may remain unexpended at the end of the  
 514 fiscal year and may be set aside in a separate fund to be known  
 515 as the Capital Improvement Fund and accumulated and expended  
 516 from year to year solely for the purpose of building and  
 517 constructing permanent improvements, replacements, alterations,  
 518 buildings, and other structures, including runways, taxi strips,  
 519 and aprons.

520        (rr) By resolution, borrow money and issue bonds in the  
 521 manner and within the limitation, except as otherwise provided  
 522 in this act, prescribed by general law for the issuance and  
 523 authorization of bonds; however, any bonds issued by the  
 524 Authority shall be self-liquidating or otherwise payable from  
 525 revenues of the Authority and shall not be a lien against the  
 526 general taxing powers of the County or any municipality.

527        (ss) Enter into any deeds of trust, indentures, or other  
 528 agreements with any bank or trust company as security for its  
 529 bonds, and assign and pledge any or all of its revenues. Such  
 530 deeds of trust, indentures, or other agreements may contain  
 531 provisions customary in such instruments or as authorized by the  
 532 Authority.

533        (tt) Secure the payment of bonds or any part thereof by  
 534 pledging all or any part of its revenues and provide for the  
 535 security of said bonds and the rights and remedies of the  
 536 bondholders.

537        (uu) Pending the preparation of definitive bonds, issue  
 538 certificates or temporary bonds to the purchaser of bonds.

539        (vv) Transact the business of the Authority and exercise  
 540 all powers necessarily incidental to the exercise of the general  
 541 and special powers granted in this act and under any other law.

542        (ww) Exercise all powers of a local agency granted  
 543 pursuant to part II of chapter 159, Florida Statutes, as may be  
 544 amended from time to time, and to a governmental unit granted  
 545 pursuant to part VII of chapter 159, Florida Statutes, as may be  
 546 amended from time to time.

547        (xx) Do all acts and things necessary or convenient for  
 548 the promotion of its business and the general welfare of the  
 549 Authority.

550        Section 7. Alcoholic beverage licenses.—

551        (1) Alcoholic beverage licenses, as provided for in  
 552 section 561.17, Florida Statutes, as may be amended from time to  
 553 time, shall be issued to the Authority or other governmental  
 554 agency operating TIA as provided in this section.

555        (a) Each such beverage license shall be issued upon the  
 556 written or printed application for licenses to conduct such  
 557 business, made to the Division stating the character of the  
 558 business to be engaged in, the address of the building wherein  
 559 the establishment sought to be licensed is or will be located,  
 560 and the kind of license as defined in chapter 561, Florida



561 Statutes, as may be amended from time to time, which the  
 562 applicant desires. The application shall be in the name of the  
 563 Authority or other governmental agency operating TIA and when  
 564 issued shall be issued in the name of such applicant. The  
 565 applicant shall pay to the Division the license fees for the  
 566 kind of license that the applicant desires.

567 (b) Each license is renewable as provided by general law.  
 568 Each beverage license shall be for the term and subject to the  
 569 same privileges or renewal as provided in sections 561.26 and  
 570 561.27, Florida Statutes, as may be amended from time to time.

571 (c) Any business operated under any beverage license shall  
 572 be operated only by a lessee of the restaurants and cocktail  
 573 lounge or cocktail lounges or bars in the airlines terminal,  
 574 administration building, or hotel at the airport to whom the  
 575 license may be transferred. The Authority or governmental agency  
 576 operating TIA and each authorized lessee shall make application  
 577 to the Division for the transfer of the license to the lessee,  
 578 and the application shall be approved by the Division if it  
 579 meets the requirements of law to do so. Upon termination of a  
 580 lease for any reason, the lessee shall immediately notify the  
 581 Division to retransfer the beverage licenses to the Authority or  
 582 the governmental agency operating TIA. Upon failure of a lessee  
 583 to notify the Division, the Authority or the governmental agency  
 584 operating TIA shall immediately notify the Division in writing  
 585 to transfer the license back to the Authority or other  
 586 governmental agency operating TIA which may then transfer it to  
 587 another authorized lessee. Thereafter, the beverage license may  
 588 be transferred to any new lessee or the restaurants and cocktail

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589 lounge, cocktail lounges, or bars upon the same terms and  
 590 conditions. Any alcoholic beverage license issued in accordance  
 591 with this section is the property of the Authority or the  
 592 governmental agency operating TIA, subject to transfer as  
 593 provided by this act.

594 (2) This section does not preclude persons operating on  
 595 property of the Authority from acquiring an alcoholic beverage  
 596 license for use on its premises pursuant to general law and the  
 597 rules of the Division.

598 Section 8. County and municipal powers and  
 599 responsibilities; private ownership transfers.-

600 (1) Each municipality is empowered to appropriate moneys  
 601 for acquiring, establishing, constructing, enlarging, improving,  
 602 maintaining, equipping, or operating airports and other air  
 603 navigation facilities under the provisions of this act, and each  
 604 municipality is authorized to appropriate and to raise by  
 605 taxation or otherwise moneys to assist in carrying out the  
 606 provisions of this act as to airports partly or wholly within  
 607 the limits of each municipality.

608 (2) It is lawful for any municipality, and full power and  
 609 authority is hereby conferred upon each municipality, to  
 610 cooperate and share in the exercise of the powers and  
 611 authorities conferred upon the Authority under the provisions of  
 612 this act, when mutually agreed upon between any such  
 613 municipality and the Authority.

614 (3) (a) The County and each municipality are authorized to  
 615 aid and cooperate with the Authority in carrying out any  
 616 authorized purpose of the Authority by:

617 1. Entering into cooperation agreements with the Authority  
 618 and providing in any such cooperation agreement for the making  
 619 of a loan, gift, grant, or contribution to the Authority.

620 2. Granting and conveying to the Authority real or  
 621 personal property, of any kind or nature, or any interest  
 622 therein.

623 3. Covenanting in any such cooperation agreement made  
 624 pursuant to this section to pay all or any part of:

625 a. The costs of operation and maintenance of Authority  
 626 facilities from moneys derived from ad valorem taxation or from  
 627 any other available funds of the County or a municipality.

628 b. The principal of and interest on any revenue bonds of  
 629 the Authority.

630 c. The deposits required to be made into any reserve, the  
 631 Capital Improvement Fund, or other funds established by the  
 632 Authority, any indenture, deed of trust, or other instrument  
 633 securing said revenue bonds from any available funds of the  
 634 County or a municipality other than moneys derived from ad  
 635 valorem taxes.

636 (b) Any cooperation agreement may be made and entered into  
 637 for such time or times not to exceed 40 years or for such longer  
 638 time as any revenue bonds of the Authority, including refunding  
 639 thereof, remain outstanding and unpaid, and may contain such  
 640 other details, terms, provisions, and conditions as may be  
 641 agreed upon.

642 (c) Any cooperation agreement may be made and entered into  
 643 for the benefit of the holders of any revenue bonds of the  
 644 Authority as well as the parties thereto and is enforceable in

645 any court of competent jurisdiction by the holders of any such  
 646 revenue bonds or of the coupons appertaining thereto.

647 (4) The County and each municipality are authorized and  
 648 empowered to convey the fee simple title to any real property  
 649 needed for airport purposes and owned by either the County or a  
 650 municipality to the Authority.

651 (5) Before the County or any municipality issues a  
 652 building permit authorizing building on land affected by airport  
 653 zoning regulations, it must obtain a written permit from the  
 654 Authority to certify that the construction conforms to the  
 655 regulations required by the airport zoning regulations.

656 (6) (a) Any municipality, the County, or any private owner  
 657 may, and each is authorized to, sell, lease, lend, grant, or  
 658 convey to the Authority any interest in real or personal  
 659 property which may be used by the Authority in the construction,  
 660 improvement, maintenance, leasing, or operation of Authority  
 661 facilities. Any municipality, the County, or any other owner is  
 662 additionally authorized to transfer, assign, and set over to the  
 663 Authority any contract or contracts which may have been awarded  
 664 by said municipality, the County, or said owner for the  
 665 construction of Authority facilities not begun or, if begun, not  
 666 completed.

667 (b) Any such action by the County or any municipality must  
 668 be approved by the governing body of the County or the  
 669 municipality expressed by resolution or ordinance.

670 (c) Notwithstanding any other provision of law, this  
 671 section is complete authority for the acquisition by agreement  
 672 of airports and other aviation facilities and facilities related

673 thereto and any portion thereof and no other action is required.

674 Section 9. Bonds.—

675 (1) Bonds may be issued to finance one or more or a  
 676 combination of Authority facilities. Subject to any prior rights  
 677 of bondholders, proceeds of such bonds may be pledged and used  
 678 to pay the cost of the acquisition, construction, or improvement  
 679 of one or more or a combination of Authority facilities or to  
 680 refund bonds previously issued for such purpose. Revenues of the  
 681 Authority, regardless of the airport project or other source  
 682 from which they are derived, may be pledged to pay bonds issued  
 683 to finance the cost of Authority facilities and to pay refunding  
 684 bonds and ancillary costs associated with such financings.

685 (2) Except as otherwise provided by this act, security,  
 686 payment provisions, contracts, terms, and other attributes of  
 687 bonds issued by the Authority shall be specified by the  
 688 Authority by initial or amendatory resolution, trust agreement,  
 689 or other bond documentation.

690 (3) The bonds shall be executed by manual or facsimile  
 691 signature by the officers the Authority has designated, provided  
 692 that such bonds bear at least one signature which is manually  
 693 executed to the extent required by general law. Any coupons  
 694 attached to the bonds shall bear the facsimile signature or  
 695 signatures of the officer or officers designated by the  
 696 Authority. If any member or officer whose manual or facsimile  
 697 signature appears on any bond or coupon ceases to be a member or  
 698 an officer before the delivery of the bonds, such signature  
 699 shall be valid and sufficient for all purposes as if that member  
 700 or officer had remained in office until delivery. The bonds

701 shall bear the seal of the Authority affixed as provided by  
702 resolution.

703 (4) Bonds may be sold either at public or private sale at  
704 such price or prices determined by the Authority.

705 (5) Any bonds issued pursuant to this act are negotiable  
706 instruments and investment securities under chapter 678, Florida  
707 Statutes, as may be amended from time to time.

708 (6) The pledge by the Authority of its revenues to the  
709 payment of its bonds by the terms of a resolution or through any  
710 deed of trust, indenture, or other agreement creates a valid and  
711 binding lien thereon and a prior perfected security interest  
712 therein from the time the pledge is made. Any revenues so  
713 pledged are immediately subject to a lien of such pledge without  
714 any physical delivery thereof or further act, and the lien of  
715 any such pledge shall be valid and binding against all parties  
716 having claims of any kind against the Authority, irrespective of  
717 whether such parties have notice thereof. No resolution, deed of  
718 trust, indenture, or other agreement by which a pledge is  
719 created need be filed or recorded, except in the records of the  
720 Authority, and notice is not required to be given to any obligor  
721 of such revenues. No filings under the Florida Uniform  
722 Commercial Code are required in order to perfect any pledge  
723 granted.

724 (7) No approval of the qualified electors or qualified  
725 freeholders of the state or of the County may be required for  
726 the issuance of any bonds by the Authority unless such approval  
727 is required by the provisions of the Constitution of the State  
728 of Florida.

729 (8) Notwithstanding any other provision of law, bonds  
 730 issued by the Authority are legal investments for banks, savings  
 731 banks, trustees, executors, all other fiduciaries, and all  
 732 state, municipal, and other public funds. Any such bonds are  
 733 securities eligible for deposit for the securing of all state,  
 734 municipal, and other public funds.

735 Section 10. Bondholder rights and remedies.-

736 (1) The Authority may not do anything that will impair the  
 737 security of the bondholders of the Authority or violate any  
 738 agreement with them for their benefit.

739 (2) (a) In addition to any other rights and remedies  
 740 lawfully granted to bondholders in law, unless otherwise  
 741 provided by the resolution or resolutions providing for the  
 742 issuance of bonds, or by any deed of trust, indenture, or other  
 743 agreement under which the bonds have been issued, holders of 25  
 744 percent or such other percentage as may be specified in any deed  
 745 of trust, indenture, or other agreement under which the bonds  
 746 were issued in the aggregate principal amount of the bonds then  
 747 outstanding are entitled to appoint a trustee, upon notice as  
 748 provided in this act and for the purpose provided in this act,  
 749 if the Authority defaults in the payment of principal or  
 750 interest for a period of 30 days after either becomes due,  
 751 whether at maturity or upon call for redemption, or if the  
 752 Authority fails to comply with the provisions of this act, its  
 753 resolution or resolutions, or the requirements of any deed of  
 754 trust, indenture, or other agreement under which the bonds were  
 755 issued. Any such bondholders must first give written notice of  
 756 their intention to appoint a trustee to the Authority by

757 certified United States mail addressed to the chairperson of the  
 758 Authority at the principal office of the Authority and to the  
 759 holders of all other bonds then outstanding at their addresses  
 760 shown on the registration books maintained by the Authority or  
 761 the bond registrar. For purposes of this paragraph, any trustee  
 762 appointed to serve in that capacity pursuant to a deed of trust,  
 763 trust agreement, indenture, or other document by which bonds of  
 764 the Authority have been issued is deemed to have been selected  
 765 by the holders of bonds issued under that instrument. If more  
 766 than one trustee is designated, either by two or more written  
 767 instruments or pursuant to the provisions of this paragraph, the  
 768 group of bondholders owning the highest percentage of bonds  
 769 outstanding has the right to designate the single trustee to  
 770 serve in that capacity for purposes of this act.

771 (b) Unless otherwise provided in any instrument pursuant  
 772 to which such bonds were issued, any trustee, whether appointed  
 773 by bondholders in accordance with the provisions of this act or  
 774 in accordance with the terms of any deed of trust, indenture, or  
 775 other agreement, may, upon written request of the holders of 25  
 776 percent or such other percentage as may be specified in any deed  
 777 of trust, indenture, or other agreement under which the bonds  
 778 were issued in the aggregate principal amount of the bonds then  
 779 outstanding may, in any court of competent jurisdiction, in his,  
 780 her, or its own name:

781 1. By mandamus or other suit, action, or proceeding at law  
 782 or in equity, enforce all rights of the bondholders, including  
 783 the right to require the Authority to fix, establish, maintain,  
 784 collect, and charge rates, fees, rentals, and other charges



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785 adequate to carry out any agreement as to, or pledge of, the  
 786 revenues of the Authority, and to require the Authority to carry  
 787 out any other agreements with or for the benefit of the  
 788 bondholders, and to perform its and their duties under this act.

789 2. Bring suit upon the bonds.

790 3. By action or suit in equity, require the Authority to  
 791 account as if it were the trustee of an express trust for the  
 792 bondholders.

793 4. By action or suit in equity, enjoin any acts or things  
 794 which may be unlawful or in violation of the rights of the  
 795 bondholders.

796 5. By written notice given in the same manner as provided  
 797 by this act to the Authority declare all bonds due and payable  
 798 and, if all defaults are made good and with the consent of the  
 799 holders of 25 percent or such other percentage as may be  
 800 specified in any deed of trust, indenture, or other agreement  
 801 under which the bonds were issued in the aggregate principal  
 802 amount of the bonds then outstanding, annul such declaration and  
 803 its consequences.

804 (3) Unless otherwise provided in any bond resolution, deed  
 805 of trust, indenture, or other agreement pursuant to which bonds  
 806 were issued, if a default continues for more than 60 days after  
 807 written notice to the Authority, any trustee when appointed as  
 808 aforesaid, or acting under a deed of trust, indenture, or other  
 809 agreement, and whether or not all bonds have been declared due  
 810 and payable, upon the happening of any of the events of default  
 811 specified in this section, shall be entitled as of right to  
 812 appoint a receiver. The receiver may enter and take possession

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813 of any of the Authority facilities for which the Authority is in  
 814 default as provided herein, or any part or parts thereof and the  
 815 revenues which are or may be applicable to the payment of the  
 816 bonds in default and operate and maintain the same, for and on  
 817 behalf of and in the name of the Authority and the bondholders.  
 818 The receiver shall collect revenues in the same manner as the  
 819 Authority might, and shall use and apply such funds in  
 820 accordance with the applicable bond documents or, if not so  
 821 specified into a separate account, as directed by the court.

822 (4) Nothing in this section or any other section of this  
 823 act authorizes any receiver appointed to sell, assign, mortgage,  
 824 or otherwise dispose of any assets of the Authority. The powers  
 825 of such receiver are limited to the operation and maintenance of  
 826 the Authority facilities as the court may direct, in the name of  
 827 and for and on behalf of the Authority and the bondholders. No  
 828 holder of bonds or any court or any trustee is empowered by this  
 829 act to sell, assign, mortgage, or otherwise dispose of any  
 830 assets of whatever kind or character belonging to the Authority.

831 Section 11. Award of contracts.-

832 (1)(a) All Authority purchases of construction,  
 833 improvements, repairs, equipment, supplies, materials, services,  
 834 or work of any nature, where the entire cost or value exceeds  
 835 \$30,000, shall be done only under contract or contracts approved  
 836 and awarded by the Authority with the lowest responsive and  
 837 qualified responsible bidder, respondent, or proposer, upon  
 838 proper terms, after advertisement has been given asking for  
 839 competitive bids, responses, or proposals, provided that the  
 840 Authority may reject any and all bids, responses, or proposals.

- 841 (b) These requirements do not apply to:
- 842 1. Purchases made pursuant to the Consultants' Competitive
- 843 Negotiation Act;
- 844 2. Purchases of required equipment, supplies, materials,
- 845 or services that are highly specialized or proprietary, or when
- 846 no other authorized vendor can supply the required equipment,
- 847 supplies, materials, or services;
- 848 3. Purchases of equipment, supplies, materials, or
- 849 services through a contract issued by a federal, state, or local
- 850 government if such contract was procured using a full and open
- 851 competitive process;
- 852 4. Emergency purchases necessary to mitigate a situation
- 853 which threatens the safety of employees or passengers, the
- 854 operation of the airport, or loss of airport property;
- 855 5. Certain recurring, mandatory, day-to-day expenditures
- 856 such as utilities, government fees, and taxes;
- 857 6. Work performed by employees of the Authority;
- 858 7. Labor supplied by the federal, state, or local
- 859 government;
- 860 8. Contracts or establishment and compliance with rules
- 861 concerning labor and materials and other related matters in
- 862 connection with any project, or portion thereof, as the
- 863 Authority may deem desirable or as may be requested by the
- 864 federal or state government assisting in the financing of
- 865 Authority facilities;
- 866 9. Any situation in which the Authority has taken over by
- 867 transfer or assignment any contract authorized to be assigned to
- 868 it under the provisions relating to the transfer of existing

869 facilities to the Authority as provided by this act;

870 10. Any contract in connection with the construction of  
 871 Authority facilities which the Authority has had transferred to  
 872 it; and

873 11. Any contract or agreement between the Authority and  
 874 any engineers, architects, attorneys, agents, or other  
 875 professional services.

876 (c) Any contract subject to section 255.05, Florida  
 877 Statutes, as may be amended from time to time, in excess of  
 878 \$15,000 shall not be entered into for construction, improvement,  
 879 or repair of Authority facilities unless the contractor has  
 880 sufficient surety or sureties, approved by the Authority, and in  
 881 an amount fixed by the Authority, for the faithful performance  
 882 of the contract. Any such contract shall include provisions that  
 883 the person entering into the contract with the Authority will  
 884 pay for all materials furnished and services rendered for the  
 885 performance of the contract and may maintain an action to  
 886 recover for the same against the obligor in the undertaking, as  
 887 though such person was named therein, provided the action is  
 888 brought within 1 year after the time the cause of action  
 889 accrued. Nothing in this section shall be construed to limit the  
 890 power of the Authority to construct, repair, or improve  
 891 Authority facilities or any addition, betterment, or extension  
 892 thereto, directly by the officers, agents, and employees of the  
 893 Authority, or otherwise than by contract.

894 (2) The Authority may use, as an alternative, the  
 895 provisions of section 255.20, Florida Statutes, as may be  
 896 amended from time to time, to satisfy the competitive

897 procurement requirements of this section.

898 Section 12. Legal effects.—Any acquisition of property or  
 899 rights therein for Authority facilities, or for airport  
 900 protection privileges, including the conveyance and acceptance  
 901 thereof, and any bonds issued and sold up to and including the  
 902 effective date of this act are validated.

903 Section 13. Ad valorem tax.—When the Authority prepares  
 904 its annual budget and finds it necessary to levy an ad valorem  
 905 tax, it shall adopt a resolution determining the estimated  
 906 amounts to be expended by the Authority in the ensuing fiscal  
 907 year, exclusive of the proceeds of any bonds or other  
 908 obligations of the Authority, for acquiring, establishing,  
 909 constructing, enlarging, operating, and maintaining Authority  
 910 facilities or for any other corporate purpose of the Authority,  
 911 and request the Board to levy the tax, not to exceed 1.5 mills  
 912 per annum, on all the taxable real and personal property in the  
 913 County for the exclusive use of the Authority and for the  
 914 purposes provided in this section. The Authority shall submit a  
 915 certified copy of any such resolution to the Board at the same  
 916 time it submits its annual budget to the Clerk. The Board has no  
 917 right or authority to alter either the amount of the levy  
 918 request or the use of its proceeds or to in any way alter the  
 919 budget of the Authority. The Board shall authorize the levy  
 920 requested. The tax collector of the County shall collect and  
 921 promptly pay over to the Authority the proceeds of such tax.

922 Section 14. Prohibition on the use of the taxing power of  
 923 the state.—The Authority has no power to pledge the taxing power  
 924 of the state, or any political subdivision or agency thereof,

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925 nor shall any of the obligations issued by the Authority be  
 926 deemed to be obligations of the state, or any political  
 927 subdivision or agency thereof, secured by and payable from the  
 928 ad valorem taxes thereof. The state, or any political  
 929 subdivision or agency thereof, is not liable for the payment of  
 930 principal of or interest on such obligations, except from the  
 931 special funds provided for in this act.

932 Section 15. Covenant of the state.--The state pledges and  
 933 agrees with the Federal Government and any person acquiring any  
 934 bonds issued by the Authority for the construction, extension,  
 935 improvement, or enlargement of Authority facilities that the  
 936 state will not limit or alter the rights vested in the Authority  
 937 until all bonds at any time issued, together with the interest  
 938 thereon, are fully paid and discharged. The state further  
 939 pledges and agrees with the Federal Government that if the  
 940 Federal Government contributes any funds for the construction,  
 941 extension, improvement, or enlargement of Authority facilities  
 942 the state will not alter or limit the rights and powers of the  
 943 Authority in any manner which would be inconsistent with the  
 944 continued maintenance, operation, or the improvement of  
 945 Authority facilities or which would be inconsistent with the due  
 946 performance of any agreements between the Authority and the  
 947 Federal Government. The Authority shall continue to have and may  
 948 exercise all powers granted in this act, so long as the same are  
 949 necessary or desirable for the carrying out of the purposes of  
 950 this act and the purposes of the Federal Government in the  
 951 construction, improvement, maintenance, or enlargement of  
 952 Authority facilities.

953        Section 16. Exemption from taxation.—Any property owned or  
 954 otherwise acquired by the Authority is exempt from taxation to  
 955 the same extent as other property used for public purposes. The  
 956 effectuation of the authorized purposes of the Authority shall  
 957 and will be, in all respects, for the benefit of the people of  
 958 the state and the County for the increase of their commerce and  
 959 prosperity, and for the improvement of their welfare, health,  
 960 and living conditions and, since the Authority will be  
 961 performing essential governmental functions in effectuating such  
 962 purposes, the Authority is not required to pay any taxes or  
 963 assessments of any kind or nature whatsoever upon any property  
 964 required or used by it for such purposes, or any rates, fees,  
 965 rentals, receipts, or incomes at any time received by it, and  
 966 the bonds issued by the Authority, their transfer and the income  
 967 therefrom, including any profits made in the sale thereof, and  
 968 any security instruments or agreements securing the repayment  
 969 thereof, are free from taxation of any kind by the state or any  
 970 political subdivision or taxing agency or instrumentality  
 971 thereof.

972        Section 17. Discrimination prohibited.—

973        (1) (a) The Authority and its lessees, including successors  
 974 in interest, shall not because of race, color, sex, religion,  
 975 national origin, age, handicap, or marital status of any  
 976 individual refuse to hire, employ, bar, or discharge from  
 977 employment such individual or otherwise discriminate against  
 978 such individual with respect to compensation, hire, tenure,  
 979 terms, conditions, or privileges of employment.

980        (b) No person on the grounds of race, color, sex,

981 religion, national origin, age, handicap, or marital status  
 982 shall be excluded from the participation in, denied the benefits  
 983 of, or otherwise subjected to discrimination in the use of  
 984 leased premises of the Authority.

985 (c) In furnishing services or materials, or in the  
 986 construction of any improvements, no person shall be excluded  
 987 from participation in, denied the benefits of, or otherwise  
 988 subjected to discrimination with respect thereto.

989 (2) There is no right to apply to the court for relief on  
 990 account of any order, requirement, decision, determination, or  
 991 action of the Authority pursuant to this section unless there  
 992 has been an appeal to the Authority.

993 Section 18. Recodification.—Prior to July 1, 2022, and  
 994 every 10 years thereafter, The Hillsborough County Legislative  
 995 Delegation shall review this chapter, and all acts which amend  
 996 or otherwise modify this chapter, for the purpose of determining  
 997 whether there is a need for recodification of same. If it is  
 998 determined that there is such a need, the legislative delegation  
 999 may require the Authority to accomplish same, and to prepare or  
 1000 cause to be prepared such legislation as may be necessary for  
 1001 such purpose by preparing such legislation.

1002 Section 19. Grammatical usage.—The singular includes the  
 1003 plural and vice versa, and gender-specific language includes the  
 1004 other gender and neuter.

1005 Section 20. Severability.—The provisions of this act are  
 1006 severable, and if any of the provisions hereof shall be held to  
 1007 be unconstitutional or invalid, such determination shall not  
 1008 affect the constitutionality or validity of any of the remaining



HB 575

2012

1009 provisions of this act.

1010 Section 4. Chapters 2003-370 and 2007-292, Laws of  
 1011 Florida, are repealed. Such repeal does not affect the  
 1012 prosecution of any cause of action that accrued before the  
 1013 effective date of the repeal and does not affect rules,  
 1014 regulations, policies, actions, and decisions, contracts,  
 1015 agreements, obligations, and properties of the Authority  
 1016 existing prior to the effective date of this act. Nothing in  
 1017 this act is intended, nor shall any provision hereof be  
 1018 construed so as to repeal, abrogate, impair, or adversely affect  
 1019 the rights and remedies of the holders of any obligations of the  
 1020 Authority issued pursuant to the existing acts or any other  
 1021 applicable provision of law.

1022 Section 5. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 575 (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	_____	

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1 Committee/Subcommittee hearing bill: Community & Military  
2 Affairs Subcommittee

3 Representative Young offered the following:

4  
5 **Amendment**

6 Remove lines 293-296 and insert:

7 elections are held. Elections will be held for all officer  
8 positions whenever a new member is appointed to the board by the  
9 Governor.


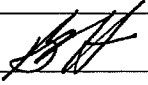


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 609 Wage Protection for Employees

**SPONSOR(S):** Goodson

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 862

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	10 Y, 4 N	Caridad	Bond
2) Community & Military Affairs Subcommittee		Gibson 	Hoagland 
3) Judiciary Committee			

### SUMMARY ANALYSIS

Wage theft is a term used to describe the failure of an employer to pay any portion of wages due to an employee. Federal and state laws provide extensive protection from wage theft through various acts including the Federal Fair Labor Standards Act and Florida's minimum wage laws.

Counties and municipalities have broad home rule powers that allow local governments to enact ordinances as long as the subject matter is not preempted to the state. Preemption may either be express or implied.

The bill provides that the regulation of wage theft is expressly preempted to the state. Therefore, local governments may not regulate over and above the existing state and federal laws. The bill also defines "wage theft" as an illegal or improper underpayment or nonpayment of an individual worker's wages, salaries, commissions, or other similar form of compensation.

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

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Wage Theft

"Wage theft" is a general term sometimes used to describe the failure of an employer to pay any portion of wages due to an employee. Wage theft encompasses a variety of employer violations of federal and state law resulting in lost income to an employee. Some examples of wage theft include:

- employee is paid below the state or federal minimum wage;
- employee is paid partial wages or not paid at all;
- non-exempt employee is not paid time and half for overtime hours;
- employee is required to work off the clock;
- employee has their time card altered;
- employee is misclassified as an independent contractor;
- employee does not receive final paycheck after employment is terminated.

There are a variety of federal and state laws that protect employees from wage theft including, but not limited to, the Fair Labor Standards Act (FLSA) and Florida's minimum wage laws. An aggrieved employee may also file a common law breach of contract claim in circuit court.

#### Employee Protection: Federal and State

Both federal<sup>1</sup> and state laws provide protection to employees who are employed by private and governmental entities. These protections include workplace safety, anti-discrimination, anti-child labor, workers' compensation, and wage protection laws.

#### *Federal Protection of Employees*

Examples of federal laws, which the U.S. Department of Labor administers and enforces, include:

- **The Davis-Bacon and Related Acts<sup>2</sup>** - Applies to federal or District of Columbia construction contracts or federally assisted contracts in excess of \$2,000; requires all contractors and subcontractors performing work on covered contracts to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area.
- **The McNamara-O'Hara Service Contract Act<sup>3</sup>** - Applies to federal or District of Columbia contracts in excess of \$2,500; requires contractors and subcontractors performing work on these contracts to pay service employees in various classes no less than the monetary wage rates and to furnish fringe benefits found prevailing in the locality, or the rates (including prospective increases) contained in a predecessor contractor's collective bargaining agreement.
- **The Migrant and Seasonal Agricultural Workers Protection Act<sup>4</sup>** - Covers migrant and seasonal agricultural workers who are not independent contractors; requires, among other things, disclosure of employment terms and payment of wages owed when due.
- **The Contract Work Hours and Safety Standards Act<sup>5</sup>** - Applies to federal service contracts and federal and federally assisted construction contracts over \$100,000; requires contractors

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<sup>1</sup> A list of examples of federal laws that protect employees is located at: <http://www.dol.gov/compliance/laws/main.htm> (last visited January 4, 2012).

<sup>2</sup> Pub. L. No. 107-217, 120 Stat. 1213 (codified as amended at 40 U.S.C. §§ 3141-48; the Davis-Bacon Act has also been extended to approximately 60 other acts).

<sup>3</sup> Pub. L. No. 89-286, 79 Stat. 1034 (codified as amended at 41 U.S.C. §§ 351-58).

<sup>4</sup> Pub. L. No. 97-470, 96 Stat. 2583 (codified as amended at 29 U.S.C. §§ 1801-72).

<sup>5</sup> Pub. L. No. 87-581, 76 Stat. 357 (codified as amended at 40 U.S.C. §§ 3701-08).

and subcontractors performing work on covered contracts to pay laborers and mechanics employed in the performance of the contracts one and one-half times their basic rate of pay for all hours worked over 40 in a workweek.

- **The Copeland "Anti-Kickback" Act<sup>6</sup>** - Applies to federally funded or assisted contracts for construction or repair of public buildings; prohibits contractors or subcontractors performing work on covered contracts from inducing an employee to give up any part of the compensation to which he or she is entitled under his or her employment contract.

#### *Fair Labor Standards Act of 1938*

The FLSA<sup>7</sup> establishes a federal minimum wage and requires employers to pay time and half to its employees for overtime time hours worked. The FLSA establishes standards for minimum wages,<sup>8</sup> overtime pay,<sup>9</sup> recordkeeping,<sup>10</sup> and child labor.<sup>11</sup> The FLSA applies to most classes of workers.<sup>12</sup>

The FLSA provides that:

Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.<sup>13</sup>

Thus, if a nonexempt employee works more than forty hours in a week, then the employer must pay at least time and half for those hours over forty. A failure to pay a nonexempt employee is a violation of the FLSA.<sup>14</sup>

The FLSA also establishes a federal minimum wage in the United States.<sup>15</sup> The federal minimum wage is the lowest hourly wage that can be paid in the United States. A state may set the rate higher than the federal minimum but not lower.<sup>16</sup>

The FLSA provides for enforcement in three separate ways:

- civil actions or lawsuits by the federal government;<sup>17</sup>
- criminal prosecutions by the United States Department of Justice;<sup>18</sup> or
- private lawsuits by employees, or workers, which includes individual lawsuits and collective actions.<sup>19</sup>

The FLSA provides that an employer who violates section 206 (minimum wage) or section 207 (maximum hours) is liable to the employee in the amount of the unpaid wages and liquidated damages

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<sup>6</sup> 40 U.S.C. §276c 18 U.S.C. §874.

<sup>7</sup> 29 U.S.C. ch. 8.

<sup>8</sup> 29 U.S.C. §206.

<sup>9</sup> 29 U.S.C. §207.

<sup>10</sup> 29 U.S.C. §211.

<sup>11</sup> 29 U.S.C. §212.

<sup>12</sup> The U.S. Department of Labor provides an extensive list of types of employees covered under the FLSA at <http://www.dol.gov/compliance/guide/minwage.htm> (last visited January 4, 2012).

<sup>13</sup> 29 U.S.C. §207(a)(1).

<sup>14</sup> There are several classes of exempt employees from the overtime requirement of the FLSA. For examples of exempt employees see <http://www.dol.gov/compliance/guide/minwage.htm> (last visited January 4, 2012).

<sup>15</sup> 29 U.S.C. §206.

<sup>16</sup> 29 U.S.C. §218(a).

<sup>17</sup> 29 U.S.C. §216(c).

<sup>18</sup> 29 U.S.C. §216(a).

<sup>19</sup> 29 U.S.C. §216(b).

equal to the amount of the unpaid wages.<sup>20</sup> An employer who fails to pay according to law is also responsible for the employee's attorney's fees and costs.<sup>21</sup>

### *State Protection of Employees*

State law provides for protection of employees, including anti-discrimination,<sup>22</sup> work safety,<sup>23</sup> and a state minimum wage. Since 2004, the state minimum wage has been established by the Florida Constitution.<sup>24</sup> Article X, s. 24(c) of the state constitution provides that, "Employers shall pay Employees Wages no less than the Minimum Wage for all hours worked in Florida."

If an employer does not pay the state minimum wage, the constitution provides that an employee may bring a civil action in a court of competent jurisdiction for the amount of the wages withheld.<sup>25</sup> If the employee prevails, in addition to the unpaid wages, a court may also award the employee liquidated damages in the amount of the wages withheld and reasonable attorney's fees and costs.<sup>26</sup> Further, any employer that willfully violates the minimum wage law is fined \$1,000 for each violation.<sup>27</sup> The Attorney General is also empowered to bring a civil action to enforce the state's minimum wage laws.<sup>28</sup>

The current state minimum wage is \$7.67 per hour, which is the federal rate.<sup>29</sup> Federal law requires the payment of the higher of the federal or state minimum wage.<sup>30</sup>

Chapter 448, F.S., includes the State Minimum Wage Act, which implements the constitutional provision in Article X, s. 24. It also prohibits an employer from retaliation against the employee for enforcing their rights, and it preserves the rights that an employee has under any collective bargaining agreement or employee contract.<sup>31</sup>

An employee may bring a common law breach of contract claim for unpaid wages too, and s. 448.08, F.S., allows the court to award attorney's fees and costs if the employee prevails.

### Home Rule and Preemption

Article VIII ss. 1 and 2, of the state constitution, establishes two types of local governments- counties<sup>32</sup> and municipalities. Local governments have wide authority to enact various ordinances to accomplish their local needs.<sup>33</sup> Under home rule powers, a municipality or county may legislate concurrently with the Legislature on any subject that has not been preempted to the state.

Preemption essentially takes a topic or field in which local government might otherwise establish appropriate local laws and reserves that topic for regulation exclusively by the state.<sup>34</sup> Florida law recognizes two types of preemption: express and implied.<sup>35</sup> Express preemption requires a specific

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<sup>20</sup> 29 U.S.C. §216(b).

<sup>21</sup> *Id.*

<sup>22</sup> S. 760.10, F.S.

<sup>23</sup> Ss. 448.20-26 and 487.2011-2071, F.S.

<sup>24</sup> Art. X, s. 24, Fla. Const.

<sup>25</sup> Art. X, s. 24(e), Fla. Const.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> See Agency for Workforce Innovation Website for information regarding the current minimum wage in the State of Florida. <http://www.floridajobs.org/business-growth-and-partnerships/for-employers/display-posters-and-required-notice> (last visited January 4, 2012).

<sup>30</sup> 29 U.S.C. §218(a).

<sup>31</sup> S. 448.105, F.S.

<sup>32</sup> Florida has both charter and non-charter counties.

<sup>33</sup> Article VIII of the state constitution establishes the powers of charter counties, non-charter counties, and municipalities. Chapters 125 and 166, F.S., provide the additional powers and constraints of counties and municipalities.

<sup>34</sup> *City of Hollywood v. Mulligan*, 934 So. 2d 1238, 1243 (Fla. 2006).

<sup>35</sup> *Id.*

legislative statement and cannot be implied or inferred.<sup>36</sup> Express preemption requires that a statute contain specific language of preemption directed to the particular subject at issue.

The absence of express preemption does not bar a court from a finding of preemption by implication, though courts are careful when imputing intent on behalf of the legislature to preclude a local government from using its home rule powers.<sup>37</sup> Before finding that implied preemption exists, a court will first consider whether the legislative scheme is so pervasive as to evidence intent to preempt the particular area.<sup>38</sup> Factors that point to a pervasive legislative scheme include the nature of the subject matter, the need for state uniformity, and the scope and purpose of the state legislation.<sup>39</sup> Second, a court will consider whether there are strong public policy reasons for finding an area to be preempted by the Legislature.<sup>40</sup> An example of an area where the courts have found implied preemption is the regulation of public records.<sup>41</sup>

There is no apparent express preemption of wage laws to the federal and state governments. It is unclear whether a court would find that the existing laws regarding employee wages are an implied preemption of the subject.

### Miami-Dade County Wage Theft Ordinance

In February of 2010, Miami-Dade County enacted an ordinance regulating wage theft.<sup>42</sup> The ordinance is enforced by the county's Department of Small Business Development (SBD)<sup>43</sup> and provides a local process for employees to file claims for unpaid wages outside of the processes available under state and federal law.

Section 22-3 of the Miami Dade County Code states:

For any employer to fail to pay any portion of wages due to an employee, according to the wage rate applicable to that employee, within a reasonable time from the date on which that employee performed the work for which those wages were compensation, shall be wage theft; and such a violation shall entitle an employee, upon a finding by a hearing examiner appointed by Miami-Dade County or by a court of competent jurisdiction that an employer is found to have unlawfully failed to pay wages, to receive back wages in addition to liquidated damages from that employer.

Upon the filing of a complaint, the County determines if the complaint 1) alleges wage theft, 2) names at least one respondent, and 3) meets the threshold requirement of at least \$60 in unpaid wages.<sup>44</sup> If the complaint meets the initial criteria, the County serves the complaint and a written notice on the accused employer in an attempt to recover the funds.<sup>45</sup> The County tries to work with the parties to resolve the case either through the payment of the wages or a conciliation agreement, however, if the dispute cannot be settled, the case is referred to a Hearing Examiner.<sup>46</sup> The Hearing Examiner has the

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<sup>36</sup> *Id.*

<sup>37</sup> *Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).

<sup>38</sup> *See Tribune Co. v. Cannella*, 458 So. 2d 1075 (Fla. 1984).

<sup>39</sup> *See Sarasota Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880, 886 (Fla. 2010).

<sup>40</sup> *Tallahassee Mem'l Reg'l Med. Ctr, Inc. v. Tallahassee Med. Ctr, Inc.*, 681 So. 2d 826, 831 (Fla. 1st DCA 1996).

<sup>41</sup> *See Tribune Co. v. Cannella*, 458 So. 2d 1075 (Fla. 1984).

<sup>42</sup> Miami Dade County, Fla., Code ch. 22.

<sup>43</sup> CYNTHIA S. HERNANDEZ, RESEARCH INSTITUTE ON SOCIAL AND ECONOMIC POLICY, WAGE THEFT IN FLORIDA: A REAL PROBLEM WITH REAL SOLUTIONS 3 (2010).

<sup>44</sup> Miami-Dade County, Fla., Code s. 22-4(2)(a).

<sup>45</sup> Miami-Dade County, Fla., Code s. 22-4(2)(b). The county might also first make a phone call to the employer in an attempt to resolve the issue before serving a complaint.

<sup>46</sup> Miami-Dade County, Fla., Code s. 22-4(6)(a). The wage theft ordinance and implementing order (IO) do not expressly provide qualifications for hearing examiners, however, House staff learned that Miami-Dade's SBD has relied on the hearing examiner qualifications from another implementing order (IO 3-24, relating to responsible wages and benefits for county construction contracts) in selecting hearing examiners for the wage theft ordinance. IO 3-24 can be found at



authority to administer oaths, issue subpoenas, compel the production of and receive evidence.<sup>47</sup> At the hearing, parties may proceed with discovery, submit evidence, cross-examine witnesses, and obtain the issuance of subpoenas.<sup>48</sup> The Hearing Examiners final order is appealable to a court of competent jurisdiction.<sup>49</sup> In January of 2012, Miami-Dade County reported to House staff that there have been a total of 901 cases and \$393,213.98 awarded to claimants.

Proponents of the Miami-Dade County wage theft ordinance argue that the ordinance:

- allows employees to avoid circuit court, a process which is often lengthy and expensive for employees;<sup>50</sup>
- provides a simpler process for employees who are often unaware of the federal and state remedies available, including undocumented workers, who often fear deportation, and thus are reluctant to file a complaint with the U.S. Department of Labor;<sup>51</sup>
- covers all employees in Miami-Dade County, including the many employees not covered by the Fair Labor Standards Act.<sup>52</sup>

Opponents of the Miami-Dade County wage theft ordinance argue that the ordinance:

- is unnecessary given the extensive amount of remedies for employees already in state and federal law, and simply creates a patchwork of various additional regulations that businesses are forced to learn and comply with;<sup>53</sup>
- is unconstitutional, void of many of the due process protections present in state and federal laws, and provides no finality by doing nothing to prevent an employee who prevails or does not prevail under the ordinance from filing the same claim in state or federal court.<sup>54</sup>
- does not discourage frivolous or unfounded claims.<sup>55</sup>

### Legal Challenge

In August of 2010, the Florida Retail Federation filed suit to challenge the constitutionality of the Miami-Dade County ordinance.<sup>56</sup> The Florida Retail Federation alleged in its complaint that the ordinance violates due process, separation of powers, right to jury trial, prohibition on local governments creating courts, and that the ordinance is preempted by federal and state law.<sup>57</sup> The litigation is still ongoing with a ruling on a motion to dismiss and motion for summary judgment expected soon.

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<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-24.pdf> (last accessed January 5, 2012). The hearing examiner qualifications are found on p. 14.

<sup>47</sup> Miami-Dade County Code of Ordinances, s. 22-4(7).

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> See JON BOOHER, M.S., AND JOHN DMELLO, PH.D., A COMPARATIVE STUDY OF THE WAGE THEFT PROJECT OF THE LEGAL AID SOCIETY OF PALM BEACH COUNTY WITH THE WAGE THEFT PROGRAM OF THE DEP'T OF SMALL BUSINESS DEV. OF MIAMI-DADE COUNTY AS ESTABLISHED BY THE WAGE THEFT ORDINANCE (2011).

<sup>51</sup> See Dave Jamieson, "Wage Theft: Business Interests Try To Scuttle New Worker Laws," The Huffington Post, Sep. 5, 2011, [http://www.huffingtonpost.com/2011/07/06/wage-theft-business-workers-laws\\_n\\_891578.html](http://www.huffingtonpost.com/2011/07/06/wage-theft-business-workers-laws_n_891578.html) (last visited January 4, 2012).

<sup>52</sup> CYNTHIA S. HERNANDEZ, RESEARCH INSTITUTE ON SOCIAL AND ECONOMIC POLICY, WAGE THEFT IN FLORIDA: A REAL PROBLEM WITH REAL SOLUTIONS 3 (2010) provides ". . . a large percentage of the region's [South Florida] workers are not covered under the Fair Labor Standards Act because they work for an employer who employs less than five employees or whose business does not generate more than \$500,000 annually, leaving the U.S. Department of Labor Wage and Hour Division with no jurisdiction to protect these workers."

<sup>53</sup> SNIFFEN & SPELLMAN P.A., WAGE THEFT ORDINANCES: AN UNNECESSARY AND REDUNDANT REMEDY FOR FLORIDA EMPLOYEES (2011).

<sup>54</sup> Florida Retail Federation, *Q&A on Wage Theft Ordinances*.

<sup>55</sup> *Id.* Under the ordinance, if an employer is found liable, it is forced to pay attorney's fees and the cost of administering the complaint. However, if an employer is not found liable, the same standard does not apply to the employee who is not held responsible for attorney's fees or costs.

<sup>56</sup> *Fla. Retail Federation, Inc. v. Miami-Dade County, Fla.*, Case No. 10-42326CA30 (11th Jud. Cir.).

<sup>57</sup> See Complaint for Declaratory and Injunctive Relief, *Fla. Retail Federation, Inc. v. Miami-Dade County, Fla.*, Case No. 10-42326CA30 (11th Jud. Cir. Aug. 4, 2010).

## Palm Beach County

Palm Beach County has also addressed the issue of wage theft locally through a pilot program of sorts involving the Palm Beach County Legal Aid Society.<sup>58</sup> The process established by Palm Beach County Legal Aid is similar to the process established by the Miami-Dade County ordinance, but instead of a hearing examiner reviewing the claims, Legal Aid refers cases to attorneys who represent employees pro bono in filing a claim in civil court or with the U.S. Department of Labor.<sup>59</sup> A study comparing Palm Beach's Legal Aid process with Miami-Dade's Ordinance process found that the ordinance proved much more effective in resolving wage theft.<sup>60</sup> However, it should be noted that Palm Beach County's process relies on volunteers and does not require county resources.<sup>61</sup>

The Palm Beach County Commission has considered enacting a similar ordinance to Miami-Dade, but has reportedly postponed a final vote until March of 2012.<sup>62</sup>

### Effect of the Bill

The bill provides that the regulation of wage theft is expressly preempted to the state. Therefore, local governments may not regulate over and above the existing state and federal laws. The bill defines "wage theft" as an illegal or improper underpayment or nonpayment of a worker's wages, salaries, commissions, or other similar form of compensation.

#### B. SECTION DIRECTORY:

Section 1 creates an unnumbered section of law, providing for preemption of wage theft to the state.

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:

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<sup>58</sup> See JON BOOHER, M.S., AND JOHN DMELLO, PH.D., A COMPARATIVE STUDY OF THE WAGE THEFT PROJECT OF THE LEGAL AID SOCIETY OF PALM BEACH COUNTY WITH THE WAGE THEFT PROGRAM OF THE DEP'T OF SMALL BUSINESS DEV. OF MIAMI-DADE COUNTY AS ESTABLISHED BY THE WAGE THEFT ORDINANCE (2011).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* One possible reason for the increased effectiveness the study stated is that Miami-Dade County has the weight of an ordinance behind it, whereas Palm Beach County Legal Aid can only threaten a civil court action.

<sup>61</sup> SNIFFEN & SPELLMAN P.A., WAGE THEFT ORDINANCES: AN UNNECESSARY AND REDUNDANT REMEDY FOR FLORIDA EMPLOYEES (2011).

<sup>62</sup> *Supra* FN 58.

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill may prevent additional burdens on businesses by eliminating the possibility of a patchwork of wage theft regulations throughout Florida's 67 counties and over 400 municipalities.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

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

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The Miami-Dade County Commission passed two resolutions in November of 2011:

- 1) a resolution opposing state legislation that would preempt Miami-Dade County's wage theft ordinance; and
- 2) a resolution urging the Florida Legislature to pass a statewide wage theft law modeled after the Miami-Dade County wage theft ordinance.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
 2           An act relating to wage protection for employees;  
 3           prohibiting a county, municipality, or political  
 4           subdivision from adopting or maintaining in effect a  
 5           law, ordinance, or rule that creates requirements,  
 6           regulations, or processes for the purpose of  
 7           addressing wage theft; preempting such activities to  
 8           the state; defining the term "wage theft"; providing  
 9           an effective date.

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

12  
 13           Section 1. (1) A county, municipality, or political  
 14           subdivision of the state may not adopt or maintain in effect any  
 15           law, ordinance, or rule that creates requirements, regulations,  
 16           or processes for the purpose of addressing wage theft. The  
 17           regulation of wage theft by counties, municipalities, or  
 18           political subdivisions is expressly preempted to the state.

19           (2) As used in this section, the term "wage theft" means  
 20           an illegal or improper underpayment or nonpayment of an  
 21           individual worker's wages, salaries, commissions, or other  
 22           similar form of compensation.

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



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 637 Citrus County  
**SPONSOR(S):** Smith  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1034

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Tait <i>me</i>	Hoagland <i>BAA</i>
2) Economic Affairs Committee			

**SUMMARY ANALYSIS**

Florida law limits the number of alcoholic beverage licenses that may be issued to one license for every 7,500 residents in a county<sup>1</sup>. Special Restaurant Beverage (SRX) licenses may be issued in excess of the quota limitations, and are regulated under Rule 61A-3.0141, F.A.C.

The specific requirements regarding the issuance of SRX licenses in Citrus County are found in Special Acts, ch. 84-409, L.O.F., as amended by ch. 86-391, L.O.F. (Special Act). The Special Act specifies that SRX licenses may be issued to any restaurant occupying more than 2,500 square feet of service area, with equipment to serve 150 or more patrons full-course meals at tables at one time, and with at least 51% of its gross revenue derived from the sale of food and nonalcoholic beverages. It also prohibits cocktail lounges and open bars on the premises of licensees, with the exception of any restaurant that maintains a service area of at least 4,000 square feet, and in such a restaurant, alcoholic beverage consumption is not limited to table service with meals.

The bill amends the Special Act to remove the prohibition against cocktail lounges and open bars on the premises of restaurants. It permits a restaurant with a service area of at least 4,000 square feet that operates a cocktail lounge or an open bar to have no limits on service. It also permits a restaurant with a service area of at least 2,500 square feet, but less than 4,000 square feet, to provide a cocktail lounge or an open bar that serves up to ten percent of the restaurant's capacity, with alcoholic beverage consumption not limited to table service with meals. It also removes the requirement that the restaurant have the equipment to serve 150 or more patrons at tables "at one time."

As qualifying restaurants may already obtain a special restaurant license if they choose to, the number of restaurants impacted by the bill is unknown, so the projected revenues from the license fees are indeterminate. The Division of Alcoholic Beverages and Tobacco with the Florida Department of Business and Professional Regulation has indicated that current staff and resources can be used to process any additional license requests allowed by this bill.

The bill provides an effective date of upon becoming law.

**House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.20, F.S**

<sup>1</sup> S. 561.20(1), F.S.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Florida law limits the number of alcoholic beverage licenses that may be issued to one license for every 7,500 residents in a county<sup>2</sup>. Special Restaurant Beverage (SRX) licenses may be issued in excess of the quota limitations in s. 561.20(1), F.S., and are regulated under Rule 61A-3.0141, F.A.C. With the exception of specified counties or cities, SRX licenses may be issued to bona fide restaurants with a service area occupying 2,500 or more square feet of floor space and with accommodations for the service and seating of 150 or more patrons at tables at one time.<sup>3</sup> All SRX licenses issued after January 1, 1958, have the suffix "SRX" as a part of the license number.

The specific requirements regarding the issuance of SRX licenses in Citrus County are found in Special Acts, ch. 84-409, L.O.F., as amended by ch. 86-391, L.O.F. (Special Act). The Special Act specifies that SRX licenses may be issued to any restaurant occupying more than 2,500 square feet of service area, with equipment to serve 150 or more patrons full-course meals at tables at one time, and with at least 51% of its gross revenue derived from the sale of food and nonalcoholic beverages. It also prohibits cocktail lounges and open bars on the premises of licensees, with the exception of restaurants that maintain a service area of at least 4,000 square feet, and in such restaurants, alcoholic beverage consumption is not limited to table service with meals.

#### Proposed Changes

The bill amends the Special Act to remove the prohibition against cocktail lounges and open bars on the premises of restaurants. It permits a restaurant with a service area of at least 4,000 square feet that operates a cocktail lounge or an open bar to have no limits on service. It also permits a restaurant with a service area of at least 2,500 square feet, but less than 4,000 square feet, to provide a cocktail lounge or an open bar that serves up to ten percent of the restaurant's capacity, with alcoholic beverage consumption not limited to table service with meals. It also removes the requirement that the restaurant have the equipment to serve 150 or more patrons at tables "at one time."

The changes to the provisions relating to cocktail lounges and open bars may aid small business owners and operators, possibly resulting in increased jobs and restaurant revenues.

The State of Florida currently levies an annual fee of \$1,820 for a SRX license. As qualifying restaurants may already obtain a special restaurant license if they choose to, the number of restaurants impacted by the bill is unknown, so the projected revenues from the license fees are indeterminate.

The Division of Alcoholic Beverages and Tobacco with the Florida Department of Business and Professional Regulation has indicated that current staff and resources can be used to process any additional license requests allowed by this bill.

The bill provides an effective date of upon becoming law.

### B. SECTION DIRECTORY:

**Section 1:** Amends ch. 84-409, L.O.F., as amended by ch. 86-391, L.O.F, relating to Special Restaurant License (SRX) requirements for Citrus County.

<sup>2</sup> S. 561.20(1), F.S.

<sup>3</sup> The exceptions for the square footage rule are: the counties of Alachua, Brevard, Broward, Citrus (for premises with a cocktail lounge or open bar), Dade, Hendry, Highlands, Hillsborough, Martin, Nassau, Okeechobee, Orange County (with respect to Orlando, Winter Park, and Maitland), Osceola, St. Lucie, and Walton. The exception for the service and seating rule are: the counties of Alachua, Brevard, Broward, Dade, Hendry, Highlands, Hillsborough, Martin, Nassau, Orange County (with respect to Orlando, Winter Park, and Maitland), Osceola, St. Lucie, and Walton.

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

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? October 18, 2011.

WHERE? *Citrus County Chronicle*, a daily paper of general circulation published in Crystal River, Citrus County, Florida and distributed in Citrus County, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

The Economic Impact Statement says that the changes to the provisions relating to cocktail lounges and open bars may aid small business owners and operators, possibly resulting in increased jobs and restaurant revenues.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Business & Professional Regulation has expressed concern that some of the bill's language could be interpreted as allowing package sales under SRX licenses in Citrus County. Under general law, special license establishments are not allowed to operate as package stores.

House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.20, F.S.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES



HB 637

**Proof of Publication**  
from the  
**CITRUS COUNTY CHRONICLE**  
Crystal River, Citrus County, Florida  
**PUBLISHED DAILY**

STATE OF FLORIDA  
COUNTY OF CITRUS  
Before the undersigned authority personally appeared

Mary Ann Naczi

Of the Citrus County Chronicle, a newspaper published daily at Crystal River, in Citrus County, Florida, that the attached copy of advertisement being a public notice in the matter of the

579-1018 TUCRN PUBLIC NOTICE NOTICE OF INTENT TO SEEK LEGISLATION TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2012 Legislature for passage of an act relating to Citrus County, amending chapter 84-409, Laws of Florida, relating to special alcoholic beverage licenses for restaurants within the county; to revise criteria for the issuance of a special alcoholic beverage license for restaurants within the county removing the requirement for 150 people to be served at one time and allowing a cocktail lounge or open bar that serves up to 10 percent of the capacity of the restaurant for restaurants with service area of 2,500 square feet or more but less than 4,000 square feet, a cocktail lounge or open bar issued pursuant to this section would not result in alcoholic beverage consumption being limited to meals; providing an effective date.

579-1018 TUCRN  
PUBLIC NOTICE  
NOTICE OF INTENT TO SEEK LEGISLATION  
TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2012 Legislature for passage of an act relating to Citrus County, amending chapter 84-409, Laws of Florida, relating to special alcoholic beverage licenses for restaurants within the county; to revise criteria for the issuance of a special alcoholic beverage license for restaurants within the county removing the requirement for 150 people to be served at one time and allowing a cocktail lounge or open bar that serves up to 10 percent of the capacity of the restaurant for restaurants with service area of 2,500 square feet or more but less than 4,000 square feet, a cocktail lounge or open bar issued pursuant to this section would not result in alcoholic beverage consumption being limited to meals; providing an effective date.  
October 18, 2011

Court, was published in said newspaper in the issues of  
October 18th, 2011,

Affiant further says that the Citrus County Chronicle is a Newspaper published at Crystal River in said Citrus County, Florida, and that the said newspaper has heretofore been continuously published in Citrus County, Marion County and Levy County, Florida, each week and has been entered as second class mail matter at the post office in Inverness in said Citrus County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*Mary Ann Naczi*

The forgoing instrument was acknowledged before me

This 18th day of October, 2011

By: Mary Ann Naczi

who is personally known to me and who did take an oath.

Notary Public *Sharon L. Conrad*

SHARON L. CONRAD  
NOTARY PUBLIC  
STATE OF FLORIDA  
COMMISSION #EE069033  
EXPIRES: MAR. 01, 2015  
WWW.AARONNOTARY.COM

**HOUSE OF REPRESENTATIVES  
2012 LOCAL BILL CERTIFICATION FORM**

**BILL #:** 637  
**SPONSOR(S):** Smith  
**RELATING TO:** Citrus County Alcohol Licensing  
[Indicate Area Affected (City, County, or Special District) and Subject]

**NAME OF DELEGATION:** Citrus County

**CONTACT PERSON:** Chase Daniels

**PHONE NO.:** (352) 816-3303      **E-Mail:** chase.daniels@myfloridahouse.gov

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES  NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES  NO

Date hearing held: October 13, 2011

Location: Citrus County Courthouse

(3) Was this bill formally approved by a majority of the delegation members?

YES  NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE 10/18/2011

Where? Citrus County Chronicle County Citrus

Referendum in lieu of publication: YES  NO

Date of Referendum N/A

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO  NOT APPLICABLE [ ]

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO  NOT APPLICABLE [ ]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO [ ]

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Community & Military Affairs Subcommittee.

  
\_\_\_\_\_  
Delegation Chair (Original Signature)

11/30/11  
\_\_\_\_\_  
Date

Jimmie T. Smith  
\_\_\_\_\_  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2012 ECONOMIC IMPACT STATEMENT FORM**

**House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.**

**BILL #:** 637  
**SPONSOR(S):** Smith  
**RELATING TO:** Citrus County Alcohol Licensing  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:**

Expenditures: 0 FY12-13    FY 13-14

**II. ANTICIPATED SOURCE(S) OF FUNDING:**

FY 12-13    FY 13-14  
Federal: \_\_\_\_\_  
State: 0  
Local: \_\_\_\_\_

**III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:**

Revenues: FY 12-13    FY 13-14

**IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:**

Advantages: Increased Patrons, Increased Revenue, New LIQUOR revenue produces more state sales tax. Increased local jobs. Able to compete with Large chain RESTAURANT  
Disadvantages: None

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

Adding Liquor enables small family RESTAURANTS to compete with larger chains. This will add BARTENDING jobs, waitstaff + kitchen help. This would add 10-15% in local jobs. In many cases liquor could increase business by 40%

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

PREPARED BY: *Art Pendergast* 10/3/11  
[Must be signed by Preparer] Date

TITLE: *Burner Margo Hull*

REPRESENTING: \_\_\_\_\_

PHONE: 352 560 0012

E-Mail Address: *r.pendergast32@yahoo.com*

**HOUSE OF REPRESENTATIVES  
2012 LOCAL BILL AMENDMENT FORM**

*Prior to consideration of a substantive amendment to a local bill, the chair of the legislative delegation must certify, by signing this Amendment Form, that the amendment is approved by a majority of the legislative delegation. House local bill policy does not require a delegation meeting to formally approve an amendment. All substantive committee, subcommittee, and floor amendments must be accompanied by a completed original Amendment Form which has been provided to and reviewed by Community & Military Affairs Subcommittee staff prior to consideration. An Amendment Form is not required for technical amendments.*

**BILL NUMBER:** 637

**SPONSOR(S):** Smith

**RELATING TO:** Citrus County Alcohol Permits  
[Indicate Area Affected (City, County or Special District) and Subject]

**SPONSOR OF AMENDMENT:** Smith

**CONTACT PERSON:** Chase Daniels

**PHONE NO:** 352-816-3303 **E-MAIL:** Chase.Daniels@myfloridahouse.gov

**REVIEWED BY STAFF OF THE COMMUNITY & MILITARY AFFAIRS SUBCOMMITTEE [ ]**

*\*Must Be Checked\**

**I. BRIEF DESCRIPTION OF AMENDMENT:**

*(Attach additional page(s) if necessary)*

Clarifies bill does not authorize package sales

**II. REASON/NEED FOR AMENDMENT:**

*(Attach additional page(s) if necessary)*

To provide clarification that bill does not authorize package sales

**III. NOTICE REQUIREMENTS**

A. Is the amendment consistent with the published notice of intent to seek enactment of the local bill?

YES  NO [ ] NOT APPLICABLE [ ]

B. If the amendment is not consistent with the published notice, does the amendment require voter approval in order for the bill to become effective?

YES [ ] NO [ ] NOT APPLICABLE

**IV. DOES THE AMENDMENT ALTER THE ECONOMIC IMPACT OF THE BILL?**

YES [ ] NO [X]

**NOTE:** If the amendment alters the economic impact of the bill, a revised Economic Impact Statement describing the impact of the amendment must be submitted to the Community & Military Affairs Subcommittee prior to consideration of the amendment.

**V. HAS THE AMENDMENT AS DESCRIBED ABOVE BEEN APPROVED BY A MAJORITY OF THE DELEGATION?**

YES [ ] NO [ ] UNANIMOUSLY APPROVED [X]

Jimmie T. Smith  
Delegation Chair (Original Signature)

1/9/12  
Date

Jimmie T. Smith  
Print Name of Delegation Chair

HB 637

2012

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A bill to be entitled  
An act relating to Citrus County; amending chapter 84-409, Laws of Florida, as amended; revising criteria for special alcoholic beverage licenses for restaurants within the county; providing an effective date.

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

Section 1. Section 1 of chapter 84-409, Laws of Florida, as amended by chapter 86-391, Laws of Florida, is amended to read:

Section 1. Notwithstanding any Citrus County ordinance or special law prescribing standards for special restaurant alcoholic beverage licenses, or any general law limiting the number of alcoholic beverage licenses in a county, the Division of Alcoholic Beverages and Tobacco shall issue a special alcoholic beverage license to any restaurant in Citrus County which meets all of the following criteria:

- (a) Two thousand five hundred ~~2,500~~ square feet of service area.
- (b) Equipment to serve 150 persons full-course meals at tables. ~~at one time~~
- (c) Fifty-one ~~51~~ percent of its gross revenue is from the sale of food and nonalcoholic beverages.
- (d) Alcoholic beverage consumption is limited to table service with meals.
- ~~(e) no cocktail lounge or open bar on the premises.~~



HB 637

2012

29  
 30 ~~However,~~ Any restaurant licensed under this section that  
 31 maintains a service area of 4,000 square feet or more ~~of service~~  
 32 ~~area~~ may provide a cocktail lounge or open bar on the premises  
 33 with no limit on service, and alcoholic beverage consumption is  
 34 not limited to table service with meals. A restaurant licensed  
 35 under this section that maintains a service area of 2,500 square  
 36 feet or more, but less than 4,000 square feet, may provide a  
 37 cocktail lounge or open bar on the premises that serves up to 10  
 38 percent of the capacity of the restaurant, and alcoholic  
 39 beverage consumption is not limited to table service with meals.

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

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: Community & Military  
2 Affairs Subcommittee  
3 Representative Smith offered the following:

**Amendment**

6 Remove everything after the enacting clause and insert:  
7 Section 1. Section 1 of chapter 84-409, Laws of Florida, as  
8 amended by chapter 86-391, Laws of Florida, is amended to read:

9 Section 1. Notwithstanding any Citrus County ordinance or  
10 special law prescribing standards for special restaurant  
11 alcoholic beverage licenses, or any general law limiting the  
12 number of alcoholic beverage licenses in a county, the Division  
13 of Alcoholic Beverages and Tobacco shall issue a special  
14 alcoholic beverage license to any restaurant in Citrus County  
15 which meets all of the following minimum criteria:

- 16 (a) Two thousand five hundred 2,500 square feet of service  
17 area.
- 18 (b) equipment to serve 150 persons full-course meals at  
19 tables. at one time

## Amendment No. 1

20 (c) fifty-one ~~51~~ percent of its gross revenue is from the  
21 sale of food and nonalcoholic beverages.

22 (d) alcoholic beverage consumption is limited to table  
23 service with meals.

24 ~~(e) no cocktail lounge or open bar on the premises.~~


25  
26 However, any restaurant licensed under this section that  
27 maintains a service area of 4,000 square feet or more ~~of service~~  
28 ~~area~~ may provide a cocktail lounge or open bar on the premises,  
29 and within the cocktail lounge or open bar, alcoholic beverage  
30 consumption is not limited to table service with meals. Any  
31 restaurant licensed under this section that maintains a service  
32 area of 2,500 square feet or more, but less than 4,000 square  
33 feet, may provide a cocktail lounge or open bar on the premises  
34 that serves up to 10 percent of the capacity of the restaurant,  
35 and within the cocktail lounge or open bar, alcoholic beverage  
36 consumption is not limited to table service with meals. Nothing  
37 in this act shall be construed as to permit sales of alcoholic  
38 beverages for off premise consumption.

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



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 867 City of Clearwater, Pinellas County  
**SPONSOR(S):** Hooper  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Tait <i>met</i>	Hoagland 
2) Rulemaking & Regulation Subcommittee			
3) Economic Affairs Committee			

**SUMMARY ANALYSIS**

The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation is responsible for the enforcement of Florida's beverage law. Section 561.422, F.S., authorizes nonprofit civic organizations to apply for up to three temporary alcoholic beverage permits for a period not to exceed three days, subject to any other state, municipal, or county ordinance regulating the time for selling alcoholic beverages. The permit requires that the alcoholic beverages may only be consumed on the premises.

The bill authorizes the division to issue temporary alcoholic beverages permits to nonprofit organizations holding outdoor events in the downtown area of the City of Clearwater in Pinellas County.

An organization may be issued up to 15 temporary permits per calendar year, valid for up to three days, in addition to the three temporary permits currently authorized by law. Upon the act becoming law, the division is required to adopt rules to administer the act.

While the number of additional permits that may be issued as a result of this bill is indeterminate, the state will receive \$25 for each permit issued. In addition, the division has indicated that it can handle the provisions of this bill with existing resources.

The bill takes effect upon becoming law.

**House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.422, F.S.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Chapters 561-565 and 567-568, F.S., comprise Florida's beverage law. The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation is responsible for the enforcement of these statutes.<sup>1</sup> Section 561.422, F.S., authorizes "nonprofit civic organizations" to apply for up to three temporary alcoholic beverage permits for a period not to exceed three days, subject to any other state, municipal, or county ordinance regulating the time for selling alcoholic beverages. The permit requires that the alcoholic beverages may only be consumed on the premises.

Upon the filing of an application, the nonprofit civic organization must present a local building or zoning permit, and pay a fee of \$25 per permit. All net profits from sales of alcoholic beverages collected during the permit period must be retained by the nonprofit civic organization. Individual nonprofit civic organizations are limited to three permits per calendar year.

Over the past five years, the Legislature has passed legislation that authorizes the division to issue up to 15 additional temporary permits to nonprofit organizations in designated sections of the following cities: St. Petersburg,<sup>2</sup> Tallahassee,<sup>3</sup> Leesburg,<sup>4</sup> Eustis,<sup>5</sup> Tavares,<sup>6</sup> and Mount Dora.<sup>7</sup> The chart below contains data from the division on the actual number of additional temporary permits issued.

City	Effective Date	2007	2008	2009	2010	2011*	Total Permits
St. Petersburg	6/12/07	1	14	9	9	14	47
Tallahassee	6/17/08	N/A	5	1	4	4	14
Leesburg	6/02/09	N/A	N/A	0	7	16	23
Eustis	6/11/10	N/A	N/A	N/A	3	10	13
Tavares	6/11/10	N/A	N/A	N/A	0	4	4
Mount Dora	6/29/11	N/A	N/A	N/A	N/A	0	0
<b>Total</b>		<b>1</b>	<b>19</b>	<b>10</b>	<b>23</b>	<b>48</b>	<b>101</b>

\*As of 12/6/11

According to Guidestar.org, there are currently 1,256 nonprofit civic organizations in the City of Clearwater.<sup>8</sup>

#### Effect of the Proposed Changes

This bill authorizes the division to issue temporary permits authorizing nonprofit organizations to sell alcoholic beverages for consumption on the premises at outdoor events on public right-of-way and public park property in the downtown area, as specifically described in the bill, of the City of Clearwater in Pinellas County.

<sup>1</sup> Section 561.02, F.S.

<sup>2</sup> Chapter 2007-302, L.O.F.

<sup>3</sup> Chapter 2008-294, L.O.F.

<sup>4</sup> Chapter 2009-262, L.O.F.

<sup>5</sup> Chapter 2010-251, L.O.F.

<sup>6</sup> Chapter 2010-252, L.O.F.

<sup>7</sup> Chapter 2011-260, L.O.F.

<sup>8</sup> The division has used Guidestar.org (an Internet provider that connects people with nonprofit information) in the past as a source for the number of nonprofit civic organizations in a city. The results for Clearwater are from a search on December 19, 2011.

A nonprofit civic organization may be issued up to 15 temporary permits per calendar year, valid for up to three days, in addition to the three temporary permits authorized by s. 561.422, F.S. The organization must provide a valid special event permit issued by the City of Clearwater, and must comply with all other requirements of s. 561.422, F.S., in obtaining the temporary permits authorized by the bill.

Upon the act becoming law, the bill requires the division to adopt rules to administer the act.

The bill takes effect upon becoming law.

**B. SECTION DIRECTORY:**

**Section 1:** Provides for the issuance of temporary alcoholic beverage permits to nonprofit civic organizations for event activities conducted in the City of Clearwater in Pinellas County.

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

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 4, 2011.

WHERE? *The Gulf Coast Business Review*, a weekly newspaper of general circulation published in Pinellas County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the division to adopt rules to administer this act. The division has indicated that it is already set up to issue these permits and that additional rules may not be necessary.

C. DRAFTING ISSUES OR OTHER COMMENTS:

**Other Comments**

While the number of additional permits that may be issued as a result of this bill is indeterminate, the state will receive \$25 for each permit issued. In addition, the division has indicated that it can handle the provisions of this bill within existing resources.

House Rule 5.5(b), states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 561.422, F.S.

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



HB 867

Invoice/Serial Number  
11-07673

# GULF COAST BUSINESS REVIEW

Published Weekly  
COUNTY OF PINELLAS Clearwater, Pinellas County, Florida

S.S.

STATE OF FLORIDA

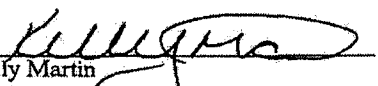
Before the undersigned authority personally appeared Kelly Martin  
who on oath says that he/she is Publisher's Representative of the Gulf Coast Business  
Review, a weekly newspaper published at Clearwater in Pinellas County, Florida;  
that the attached copy of advertisement,


being a Notice of Legislation  
in the matter of Temporary Alcohol Permit

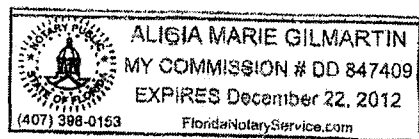
in the \_\_\_\_\_ Court, was published in said newspaper in the  
issues of November 4, 2011

**NOTICE OF LEGISLATION**  
TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the  
2012 Legislature for passage of an act relating to City of Clearwater, Pinellas County,  
by Temporary Alcohol Permit: Authorizing the Division of Alcoholic Beverages and  
Tobacco of the Department of Business and Professional Regulation to issue up to  
a specified number of temporary permits to a nonprofit civic organization to sell  
alcoholic beverages for consumption on the premises at outdoor events in down  
town area of Clearwater, providing that such events require a special event permit  
from the City of Clearwater.  
November 4, 2011 11-07673

Affiant further says that the said Gulf Coast Business Review is a newspaper  
published at Clearwater, Pinellas County, Florida, and that said newspaper has  
heretofore been continuously published and has been entered as periodicals matter  
at the Post Office in Clearwater in said Pinellas County, Florida, for a period of  
one year next preceding the first publication of the attached copy of advertisement;  
and affiant further says that he/she has neither paid nor promised any person, firm or  
corporation any discount, rebate, commission or refund for the purpose of securing  
this advertisement for publication in said newspaper.

Sworn to and subscribed before me this   
Kelly Martin  
4th day of November A.D. 2011,  
by Kelly Martin, who is personally known to me.

  
Notary Public, State of Florida  
(SEAL)



HOUSE OF REPRESENTATIVES

2012 LOCAL BILL CERTIFICATION FORM

BILL #:

LB-04 (HB 867)

SPONSOR(S):

Representative Ed Hooper / Senator Jack Latvala

RELATING TO:

Temporary Alcohol Permit Clearwater Pinellas County

[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION:

Pinellas County Legislative Delegation

CONTACT PERSON:

Jenna Simnett

PHONE NO.:

(727) 724-3000

E-Mail:

Jenna.Simnett@myfloridahouse.gov

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES [X] NO [ ]

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES [X] NO [ ]

Date hearing held: October 27, 2011

Location: St. Petersburg, FL

(3) Was this bill formally approved by a majority of the delegation members?

YES [X] NO [ ]

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES [X] NO [ ] DATE \_\_\_\_\_

Where? \_\_\_\_\_ County Pinellas

Referendum in lieu of publication: YES [ ] NO [X]

Date of Referendum \_\_\_\_\_

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO [X] NOT APPLICABLE [ ]

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO [X] NOT APPLICABLE [ ]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO [X]

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Community & Military Affairs Subcommittee.



Delegation Chair (Original Signature)

10-27-11  
Date

Jim Frishe

Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES

2012 ECONOMIC IMPACT STATEMENT FORM

House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.

BILL #: HB 867
SPONSOR(S): REP. ED HOOPER
RELATING TO: CITY OF CLEARWATER TEMPORARY ALCOHOL PERMITS

I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:

Expenditures: NONE FY12-13 FY 13-14

II. ANTICIPATED SOURCE(S) OF FUNDING:

Federal:
State:
Local: NONE FY 12-13 FY 13-14

III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:

Revenues: NONE FY 12-13 FY 13-14

IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:

Advantages: POTENTIAL SMALL REVENUE SOURCE FOR NON-PROFITS WHO OBTAIN PERMITS

Disadvantages: NONE

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

NONE

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

CLEARWATER REGIONAL CHAMBER OF COMMERCE  
CITY OF CLEARWATER - SPECIAL EVENTS DIVISION

PREPARED BY:  1-4-2012  
[Must be signed by Preparer] Date

TITLE: Pres./CEO

REPRESENTING: CLEARWATER REGIONAL CHAMBER OF COMMERCE

PHONE: 727-461-0011

E-Mail Address: BCLIFFORD@CLEARWATERFLORIDA.ORG

HOUSE OF REPRESENTATIVES  
2012 LOCAL BILL AMENDMENT FORM

*Prior to consideration of a substantive amendment to a local bill, the chair of the legislative delegation must certify, by signing this Amendment Form, that the amendment is approved by a majority of the legislative delegation. House local bill policy does not require a delegation meeting to formally approve an amendment. All substantive committee, subcommittee, and floor amendments must be accompanied by a completed original Amendment Form which has been provided to and reviewed by Community & Military Affairs Subcommittee staff prior to consideration. An Amendment Form is not required for technical amendments.*

BILL NUMBER: 867

SPONSOR(S): Hooper Temporary

RELATING TO: City of Clearwater, Pinellas Cnty, Alcohol Permits  
(Indicate Area Affected (City, County or Special District) and Subject)

SPONSOR OF AMENDMENT: Hooper

CONTACT PERSON: Jenna Simonetti

PHONE NO: 850-488-1540 E-MAIL: Jenna.Simonetti@myfloridahouse.gov

REVIEWED BY STAFF OF THE COMMUNITY & MILITARY AFFAIRS SUBCOMMITTEE []

\*Must Be Checked\*

**I. BRIEF DESCRIPTION OF AMENDMENT:**

*(Attach additional page(s) if necessary)*

remove lines 43-47  
remove line 17 and insert: the act;

**II. REASON/NEED FOR AMENDMENT:**

*(Attach additional page(s) if necessary)*

DBPR has procedures in place

**III. NOTICE REQUIREMENTS**

A. Is the amendment consistent with the published notice of intent to seek enactment of the local bill?

YES  NO  NOT APPLICABLE

B. If the amendment is not consistent with the published notice, does the amendment require voter approval in order for the bill to become effective?

YES  NO  NOT APPLICABLE

**IV. DOES THE AMENDMENT ALTER THE ECONOMIC IMPACT OF THE BILL?**

YES [ ] NO [X]

NOTE: If the amendment alters the economic impact of the bill, a revised Economic Impact Statement describing the impact of the amendment must be submitted to the Community & Military Affairs Subcommittee prior to consideration of the amendment.

**V. HAS THE AMENDMENT AS DESCRIBED ABOVE BEEN APPROVED BY A MAJORITY OF THE DELEGATION?**

YES [ ] NO [ ] UNANIMOUSLY APPROVED [X]

X Jack Latvala  
Delegation Chair (Original Signature)

1-9-12  
Date

Jack Latvala  
Print Name of Delegation Chair

HB 867

2012

1                                    A bill to be entitled  
 2            An act relating to the City of Clearwater, Pinellas  
 3            County; authorizing the Division of Alcoholic  
 4            Beverages and Tobacco of the Department of Business  
 5            and Professional Regulation to issue up to a specified  
 6            number of temporary permits to a nonprofit civic  
 7            organization to sell alcoholic beverages for  
 8            consumption on the premises at outdoor events on  
 9            public right-of-way and public park property in the  
 10           downtown area of Clearwater; providing that such  
 11           events require a special event permit from the City of  
 12           Clearwater; providing that the permits authorized by  
 13           the act are in addition to certain other authorized  
 14           temporary permits; requiring the nonprofit civic  
 15           organization to comply with certain statutory  
 16           requirements in obtaining the permits authorized by  
 17           the act; requiring the division to adopt rules;  
 18           providing an effective date.

19  
 20    Be It Enacted by the Legislature of the State of Florida:

21  
 22            Section 1.    (1) Notwithstanding any other provision of  
 23            law, the Division of Alcoholic Beverages and Tobacco of the  
 24            Department of Business and Professional Regulation may issue to  
 25            a bona fide nonprofit civic organization, upon application and  
 26            presentation of a valid special event permit issued by the City  
 27            of Clearwater, a temporary permit authorizing the sale of  
 28            alcoholic beverages for consumption on the premises at outdoor



29 events on public right-of-way and public park property in the  
 30 downtown area of Clearwater. Any such nonprofit civic  
 31 organization may be issued up to 15 temporary permits per  
 32 calendar year and each temporary permit is valid for up to 3  
 33 days. For purposes of this act, the downtown area of Clearwater  
 34 is that area between Drew Street and Pierce Street North and  
 35 South and between Myrtle Street and the waterfront.

36 (2) The temporary permits authorized by this act are in  
 37 addition to the three temporary permits authorized per year for  
 38 a nonprofit civic organization pursuant to section 561.422,  
 39 Florida Statutes.

40 (3) The nonprofit civic organization shall comply with all  
 41 other requirements of section 561.422, Florida Statutes, in  
 42 obtaining the temporary permits authorized by this act.

43 (4) Upon this act becoming a law, the Division of  
 44 Alcoholic Beverages and Tobacco of the Department of Business  
 45 and Professional Regulation shall adopt rules pursuant to  
 46 chapter 120, Florida Statutes, to administer this act. Such  
 47 rules shall include permitting procedures and application forms.

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 867 (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: Community & Military  
2 Affairs Subcommittee  
3 Representative Hooper offered the following:

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

6 Remove lines 43-47  
7  
8  
9

10 -----  
11 **T I T L E A M E N D M E N T**

12 Remove line 17 and insert:  
13 the act;  
14



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** HB 869 Pinellas Planning Council, Pinellas County  
**SPONSOR(S):** Frishe and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Read <i>HR</i>	Hoagland <i>GH</i>
2) Rulemaking & Regulation Subcommittee			
3) Economic Affairs Committee			

**SUMMARY ANALYSIS**

The Pinellas Planning Council (PPC) is a dependent special district that performs the countywide land use planning functions for Pinellas County. The PPC’s mission is to oversee the land use planning process of the 24 municipalities and unincorporated Pinellas County to ensure local governments’ land use decisions are consistent with the PPC’s Countywide Plan. The PPC responsibilities also include other planning issues such as transportation, economic development, and schools.

The Pinellas County Metropolitan Planning Organization (PCMPO) is the transportation planning organization for Pinellas County. The PCMPO is required by federal law; its responsibilities include the development of: (1) a 20-year Long Range Transportation Plan (LRTP); (2) a five-year Transportation Improvement Program (TIP); (3) a two-year Unified Planning Work Program; and (4) related transportation planning studies and projects.

This bill would combine the leadership of the PPC with the leadership of the PCMPO so that a single policymaking body oversees both the land use planning and transportation planning in Pinellas County. The bill amends the charter of the PPC to provide the same council membership requirements as the PCMPO, allowing both entities to function under identical leadership. The bill provides legislative intent to more fully integrate the functions of land use and transportation planning.

Furthermore, this bill codifies all prior special acts of the PPC and consolidates into one special act to be adopted by the Legislature. The codification will result in the repeal of Chs. 73-594, 74-584, 74-586, 76-473, 88-464, and 90-396, L.O.F.

In addition to codifying the PPC’s charter and changing the council’s membership requirements to merge the PPC and the PCMPO, the bill makes the following substantive changes to the PPC’s charter:

- Requires the repeal of the current Countywide Plan and adoption of new Countywide Plan by the Countywide Planning Agency. The new plan must be a broadly defined and policy-based plan with fewer land use categories. The new plan must be adopted by a majority of all council members.
- Requires an annual independent audit to be performed at the PPC’s expense (the prior acts only required an independent audit if the auditor general failed to do so).
- Requires that the local governments’ comprehensive plans be made consistent with the new Countywide Plan. Consistency is met if the maximum densities and intensities are equal or less than the maximum densities allowed by the Countywide Plan, the permitted uses in local plans are allowed in the Countywide Plan, and the local plans meet any other standards contained in the countywide rules.

The bill takes effect either upon becoming a law or upon final approval of the PCMPO’s reapportionment plan (expanding its board from 11 members to 13 members), whichever occurs later. The reapportionment plan is the final step in creating identical boards for both the PPC and the PCMPO, giving each board 13 members.

The bill is expected to have no fiscal impact for the first two years but will save an estimated \$250,000 to \$400,000 a year thereafter as a result of consolidating many of the operational expenses.

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

**STORAGE NAME:** h0869.CMAS.DOCX  
**DATE:** 1/9/2012

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### CURRENT SITUATION

##### **Pinellas Planning Council**

The Pinellas Planning Council (PPC) is a dependent special district created by special act<sup>1</sup> in order to increase planning consistency throughout incorporated and unincorporated Pinellas County.<sup>2</sup> Pinellas County has 24 municipalities, in addition to unincorporated parts of the county, and issues often arise when local governments make planning decisions that affect neighboring units of local government. The PPC was created to allow local governments to discuss and coordinate countywide land use issues. The PPC has thirteen members (some representing groups of communities) who advise the Pinellas Board of County Commissioners by providing policy recommendations. These recommendations are meant to guide the County Commissioners as they act as the Countywide Planning Authority (CPA).

The PPC's goal is to coordinate land use planning in Pinellas County. This includes other planning functions such as transportation, economic development, and schools.<sup>3</sup> These objectives are all placed into the Countywide Plan, which is a limitation on the planning discretion of the local governments.<sup>4</sup>

Currently, the PPC has 13 members, each of whom is a designated representative of the local governments throughout Pinellas County. The PPC's membership requirements are designed to ensure that each local government is represented. However, in order to accommodate all 25 units of local government, the PPC Charter requires that smaller municipalities be jointly represented by one councilmember.<sup>5</sup>

##### **Metropolitan Planning Organizations**

Metropolitan Planning Organizations (MPOs) are federally-mandated organizations that were created to "encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes . . ."<sup>6</sup>

Federal law specifies the duties of an MPO, mandating the development of "long-range transportation plans and transportation improvement plans for metropolitan planning areas . . ."<sup>7</sup> These plans:

[S]hall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.<sup>8</sup>

<sup>1</sup> See Chapters 73-594, 74-584, 32 74-586, 76-473, 88-464, and 90-396, L.O.F.

<sup>2</sup> See Ch. 88-464, § 1, L.O.F. (PPC Charter § 2).

<sup>3</sup> Ch. 88-464, § 1, L.O.F. (PPC Charter § 2(2)).

<sup>4</sup> Any local government decision that is inconsistent with the Countywide Plan requires a change or exception and must be approved by the PPC and CPA.

<sup>5</sup> Ch. 88-464, § 1, L.O.F. (PPC Charter § 3(1)(g) gives one board position to a joint representative of St. Pete Beach, Treasure Island, and Madiera Beach; § 3(1)(h) gives one board position to a joint representative of Indian Rocks Beach, Redington Shores, Redington Beach, Belleair Beach, Indian Shores, North Redington Beach, and Belleair Shore; § 3(1)(i) gives one board position to a joint representative of Gulfport, Kenneth City, Belleair, South Pasadena, Belleair Bluffs and Seminole).

<sup>6</sup> 23 U.S.C. § 134(a)(1).

<sup>7</sup> 23 U.S.C. § 134(c)

<sup>8</sup> 23 U.S.C. § 134(c)(2).

In addition, federal law requires that MPOs develop “metropolitan area transportation plans and programs to be developed through a continuing, cooperative, and comprehensive (3-C) planning process.”<sup>9</sup> MPOs also serve as a conduit for federal transportation funds to be used for local transportation projects.<sup>10</sup>

## MPO Voting Membership Requirements

Federal law sets the minimum requirements for the voting membership of an MPO.

Each [MPO] that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—(A) local elected officials; (B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and (C) appropriate State officials.<sup>11</sup>

These minimum federal requirements are modified by s. 339.175(3), F.S., which sets out the state requirements for the membership of an MPO in Florida. Section 339.175(3)(a), F.S., requires that: (1) an MPO has between 5 and 19 voting members (the exact number is “determined on an equitable geographic population ratio basis by the Governor”); (2) that county commissioners compose no less than a one-third of the MPO’s membership unless: (i) all the county commissioners are members of the MPO; or (ii) there is “an official of an agency that operates or administers a major mode of transportation has been appointed to an MPO,” in which case county commissioners must comprise at least 20 percent of the MPO membership. All other members of an MPO must be:

[E]lected officials of general-purpose local governments, except that an MPO may include, as part of its apportioned voting members, a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, or an official of Space Florida.<sup>12</sup>

There are currently 11 voting members on the Pinellas County Metropolitan Planning Organization: three Pinellas County Commissioners; seven representatives from local municipalities; and one representative from the Pinellas Suncoast Transit Authority. There is also a non-voting member representing the Florida Department of Transportation, District 7.

## Designation and Redesignation

An MPO must be designated for all urbanized areas (UZAs) in a state, i.e., areas with populations of more than 50,000 individuals,<sup>13</sup> and must also contain, at a minimum, any area expected to become urbanized in the next 20 years.<sup>14</sup> Federal law permits the boundary of an MPO—called the Metropolitan Planning Area Boundaries—to include not only the required UZA areas, but also “may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.”<sup>15</sup> Federal law also states that the governor shall determine the boundaries of a metropolitan planning area by agreement with the MPO.<sup>16</sup>

The PCMPO’s boundaries are identical to the boundaries of Pinellas County.<sup>17</sup> In addition, the PCMPO is surrounded on all sides by neighboring MPOs.<sup>18</sup> Following the decennial census, the governor is authorized to seek an MPO redesignation, which allows, among other things, the consolidation of multiple MPOs into a

<sup>9</sup><http://www.fhwa.dot.gov/planning/metro/index.htm>; see also 12 C.F.R. § 450.306(a).

<sup>10</sup> 23 U.S.C. § 104(f)(3)(A) (requiring that States distribute federal funds to each MPO on a pro rata basis).

<sup>11</sup> 23 U.S.C. § 134(d)(2).

<sup>12</sup> Section 339.175(3)(a), F.S.

<sup>13</sup> 23 U.S.C. § 134(d)(1).

<sup>14</sup> 23 U.S.C. § 134(e)(2)(A).

<sup>15</sup> 23 U.S.C. § 134(e)(2).

<sup>16</sup> 23 U.S.C. § 134(e)(1).

<sup>17</sup> [http://www.mpoac.org/pdf/maps/pinellas\\_county\\_mpo.pdf](http://www.mpoac.org/pdf/maps/pinellas_county_mpo.pdf).

<sup>18</sup> The Pinellas County MPO is bordered to the North by the Pasco County MPO and bordered to the East by the Hillsborough County MPO.

larger, regional MPO.<sup>19</sup> The redesignation process requires an “agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) . . .”<sup>20</sup> Regional consolidation is the current policy suggestion contained in the 2060 Florida Transportation Plan. It states:

Transition Florida’s MPO structure to focus on regional and metropolitan scale transportation issues. This transition may require restructuring of existing MPOs to become independent organizations not housed by a single local government; stronger coordination among MPOs within common urbanized areas or reflecting broader economic relationships, such as building on existing MPO alliances; and *long term consolidation of MPOs* within urbanized areas or broader regions.<sup>21</sup>

## Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district’s charter provisions. To ascertain the current status of a special district’s charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S., and s. 191.015, F.S., The 1998 Legislature subsequently amended both sections of statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended s. 189.429, F.S., to provide that reenactment of existing law pursuant to s. 189.429, F.S.:

- shall not be construed to grant additional authority nor to supersede the authority of an entity;
- shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section;
- shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and
- shall not be construed to affect a district’s ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district’s bonded indebtedness.

## PROPOSED CHANGES

HB 869 codifies, reenacts, and amends all of the PPC’s prior special acts in accordance with s. 189.429, F.S.

The bill also amends the PPC’s charter to require that the council has common membership and function as a single, unified board with the PCMPO. This requires that the PPC’s membership be consistent with the PCMPO’s requirements as specified in s. 339.175(3), F.S.

The primary effect of HB 869 will be to place the land use planning functions of the PPC and the transportation planning functions of the PCMPO under common leadership. Joining the PPC’s and PCMPO’s leadership would be advantageous because transportation and land use planning do not exist independently but have a relationship in which each influences the other, and land use patterns are a critical factor in determining whether multimodal transportation, particularly transit, is functional and effective. This is especially true in

---

<sup>19</sup> After the 2000 census, The Palm Beach, Broward, and Miami-Dade MPOs considered consolidating into one regional MPO. However, these MPOs were not in favor of this because of a loss of municipal representation which currently emphasizes local concerns over regional concerns.

<sup>20</sup> 23 U.S.C. § 134(d)(5).

<sup>21</sup> 2060 Florida Transportation Plan, p. 22 (emphasis added), available at:

<http://www.2060ftp.org/images/uploads/home/2060FTPPlanbook7%2004152011.pdf>, last visited January 9, 2012.

Pinellas County because existing plans<sup>22</sup> already call for increased coordination of the land use and transportation planning activities.

The bill also mandates that the Countywide Planning Agency adopt a new countywide plan that is to be a broadly defined and policy-based plan with fewer land use categories than the current plan. Until the new countywide plan is adopted, the current plan remains in effect. The new plan must be adopted by a majority of all council members. This standard is more stringent than general law, but nevertheless consistent, as s. 163.3184(11)(a), F.S., requires that adoption of comprehensive plans "shall be by affirmative vote of not less than a majority of the members of the governing board present at the hearing." The bill also requires that municipalities and unincorporated Pinellas County must review their comprehensive plans for consistency with the new countywide plan within a specific timetable.

Lastly, the bill requires that PPC must have an independent audit performed every year. The current charter only requires an independent audit to be performed if the auditor general fails to complete one.

This bill does not take effect until either the act becomes law or the board of the PCMPO is expanded to 13 members, whichever is later. Since the reapportionment of the PCMPO membership has not yet been completed (the current PCMPO board was concerned about expansion without knowing if this bill will pass), the governor will have to approve of this plan before the bill can take effect.

## B. SECTION DIRECTORY:

Section 1: Provides that the reenactment of the Pinellas Planning Council's charter is not a grant of additional authority and that all obligations undertaken by the council are unaffected by the charter's reenactment.

Section 2: Amends, codifies, reenacts, and repeals the provisions of the PPC's special acts.

Section 3: Amends and codifies the following sections of the PPC's charter:

- Creates the PPC and amends the charter to require that the PPC council have common membership and function as a single unified board with the PCMPO.
- Provides the purpose of the PPC and provides new language stating the value of considering land use and transportation planning issues concurrently and in an integrated manner.
- Codifies the PPC's definition section and creates new definitions for "countywide plan," "countywide plan map," "countywide plan strategies," "countywide planning authority," "countywide rules," and "existing countywide plan."
- Amends the membership requirements of the PPC.
- Codifies and amends the provision relating to the requirements for officers, meetings, records, quorum and expenses.
- Codifies and amends the provision relating to the powers and duties of the PPC.
- Codifies provision relating to the staff and committee requirements of the PPC.
- Specifies the PPC's responsibilities to create a budget and have annual audits and reports compiled. It also requires that the PPC have an annual independent audit performed, to be paid for by the PPC.
- Codifies reference to section 2.04 of the Pinellas County Charter, that the Board of County Commissioners is vested with countywide planning authority.
- Requires the repeal of the countywide plan and the adoption of a new, broadly defined, and policy-based countywide plan. Until the adoption of the revised countywide plan, the current countywide plan remains in effect.
- Codifies the public hearing and notice requirements for the PPC.
- Codifies the severability clause.
- Codifies provision that all comprehensive plans must comply with part II of Chapter 163.

Section 4: Repeals all past special acts relating to the PPC.

Section 5: Provides an effective date of either upon becoming law or upon final approval of the PCMPO's reapportionment plan (increasing the PCMPO's membership from 11 to 13).

---

<sup>22</sup> There are two plans calling for the increased coordination between land use planning and transportation planning: (1) The Updated Countywide Plan for Pinellas County; and (2) Pinellas by Design: An Economic Development and Redevelopment for the Pinellas Community.



## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 4, 2011

WHERE? Gulf Coast Business Review

B. REFERENDUM(S) REQUIRED? Yes  No

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

### Drafting Issues

There are several references to the Department of Community Affairs in this bill. The Department of Community Affairs functions were merged into the Department of Economic Opportunity. The references to the Department of Community Affairs should be changed to the Department of Economic Opportunity. There are also references to the Evaluation and Appraisal Report (EAR) and rule 9J-42, F.A.C., in this bill. Both of these references are outdated and should be removed.

### Comments

The Florida Department of Transportation had two concerns:

First, after the US Census releases the revised urbanized areas this spring, the designation, planning boundaries, and voting membership of MPOs will be reviewed and may need to be adjusted (e.g., if the MPO agrees to merge with an adjacent MPO or include representatives from adjacent MPOs as nonvoting members to increase coordination). FDOT finds it premature to make changes to the Pinellas County MPO voting membership at this time, as the voting membership will have to be reviewed again based on the urbanized area data.

Second, pursuant to s. 339.175(3), F.S., the Governor must approve changes to the voting membership of MPOs and thus the reapportionment plan will need to be approved by the Governor to take effect. Deferring action on approval of the reapportionment plan until after the US Bureau of Census releases the urbanized area data would provide the Governor with adequate time and information to make a reasoned and sound decision on the voting membership change to the Pinellas County MPO.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 869

Invoice/Serial Number

11-07635

# GULF COAST BUSINESS REVIEW

Published Weekly

COUNTY OF PINELLAS Clearwater, Pinellas County, Florida

S.S.

STATE OF FLORIDA

Before the undersigned authority personally appeared Kelly Martin who on oath says that he/she is Publisher's Representative of the Gulf Coast Business Review, a weekly newspaper published at Clearwater in Pinellas County, Florida; that the attached copy of advertisement,

being a Notice of Legislation

in the matter of Pinellas Planning Council

in the \_\_\_\_\_ Court, was published in said newspaper in the issues of November 4, 2011

Affiant further says that the said Gulf Coast Business Review is a newspaper published at Clearwater, Pinellas County, Florida, and that said newspaper has heretofore been continuously published and has been entered as periodicals matter at the Post Office in Clearwater in said Pinellas County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

**NOTICE OF LEGISLATION**

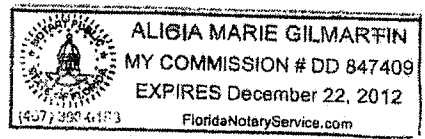
**TO WHOM IT MAY CONCERN:** Notice is being given of intent to apply to the 2012 Legislature and any Special or Extended Sessions for passage of an act codifying, amending, reenacting, and repealing special acts relating to the Pinellas Planning Council (PPC); a dependent special district; providing legislative intent; providing for the membership of the council; providing that the council perform the functions of both the council and the Metropolitan Planning Organization (MPO); providing for election of officers, council meetings, quorum requirements, and member expenses; providing for council powers and duties; providing for countywide staff and committees; providing for a council budget and annual independent audit; providing for repeal of the existing countywide plan; adoption of a new countywide plan; and future amendment of the plan; providing a timetable for consistency review; providing public hearing and notice requirements; providing for the act to be effective upon becoming law or upon final approval of the MPO's reapportionment plan.

November 4, 2011 11-07635

Sworn to and subscribed before me this *Kelly Martin*  
Kelly Martin  
4th day of November A.D. 2011,

by Kelly Martin, who is personally known to me.

*Aligia Marie Gil Martin*  
Notary Public, State of Florida  
(SEAL)



**HOUSE OF REPRESENTATIVES**  
**2012 LOCAL BILL CERTIFICATION FORM**

BILL #: 869  
 SPONSOR(S): Representative Jim Frishe Senator Jack Latvala  
 RELATING TO: Pinellas Planning Council  
[Indicate Area Affected (City, County, or Special District) and Subject]  
 NAME OF DELEGATION: Pinellas County Legislative Delegation  
 CONTACT PERSON: Representative Jim Frishe  
 PHONE NO.: (877) 518-3902 E-Mail: Jim.Frishe@myfloridahouse.gov

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES  NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES  NO

Date hearing held: 10/27/11

Location: Palladium Theatre 253 5th Ave N, St Petersburg FL

(3) Was this bill formally approved by a majority of the delegation members?

YES  NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

**Has this constitutional notice requirement been met?**

Notice published: YES  NO  DATE 11/4/2011

Where? Gulf Coast Business Review County Pinellas

Referendum in lieu of publication: YES  NO

Date of Referendum

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO [] NOT APPLICABLE [ ]

(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO [] NOT APPLICABLE [ ]

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO []

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Community & Military Affairs Subcommittee.

James C. Frishe  
Delegation Chair (Original Signature)

10-27-11  
Date

James O. Frishe  
Printed Name of Delegation Chair

**HOUSE OF REPRESENTATIVES**  
**2012 ECONOMIC IMPACT STATEMENT FORM**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.*

**BILL #:** HB 869  
**SPONSOR(S):** Rep. Ed Hooper, District 50; Rep. Jim Frische, District 54  
**RELATING TO:** Pinellas Planning Council/Pinellas County Metropolitan Planning Organization Unification  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:**

	<u>FY12-13</u>	<u>FY 13-14</u>
Expenditures:	\$0	\$0

**II. ANTICIPATED SOURCE(S) OF FUNDING:**

	<u>FY 12-13</u>	<u>FY 13-14</u>
Federal: None beyond existing sources	\$0	\$0
State:		
Local:		

**III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:**

	<u>FY 12-13</u>	<u>FY 13-14</u>
Revenues:		
None during first two years. Anticipate 10-15% decrease in operational expenses beginning in FY 14-15, with estimated savings of \$250,000 to \$400,000.	\$0	\$0

**IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:**

**Advantages:**

In addition to decreased expenses: Better integration of countywide land use and transportation planning. Increased operational efficiencies created by merger of two planning agencies. Increased participation in transportation planning for sixteen local governments that do not currently have seats on the MPO board.

**Disadvantages:**

None.

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None.

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

Pinellas Planning Council, FY 13 Budget (draft) and Five-Year Work Program: FY12 thru FY16.

Pinellas County Metropolitan Planning Organization, unpublished draft budget data for FY 13 and 14.

PREPARED BY: Michael C. Crawford 11/7/11  
[Must be signed by Preparer] /Date

TITLE: Interim Executive Director

REPRESENTING: Pinellas Planning Council

PHONE: 727-464-8250

E-Mail Address: mcrawford@pinellascounty.org

**HOUSE OF REPRESENTATIVES  
2012 LOCAL BILL AMENDMENT FORM**

**Prior to consideration of a substantive amendment to a local bill, the chair of the legislative delegation must certify, by signing this Amendment Form, that the amendment is approved by a majority of the legislative delegation. House local bill policy does not require a delegation meeting to formally approve an amendment. All substantive committee, subcommittee, and floor amendments must be accompanied by a completed original Amendment Form which has been provided to and reviewed by Community & Military Affairs Subcommittee staff prior to consideration. An Amendment Form is not required for technical amendments.**

**BILL NUMBER:** HB 869  
**SPONSOR(S):** Rep. Jim Frishe  
**RELATING TO:** Pinellas County, Florida  
[Indicate Area Affected (City, County or Special District) and Subject]  
**SPONSOR OF AMENDMENT:** Rep. Jim Frishe  
**CONTACT PERSON:** Rep. Jim Frishe  
**PHONE NO:** (850) 488-9960 **E-MAIL:** Jim.Frishe@myFloridaHouse.gov  
**REVIEWED BY STAFF OF THE COMMUNITY & MILITARY AFFAIRS SUBCOMMITTEE [ ]**

\*Must Be Checked\*

**I. BRIEF DESCRIPTION OF AMENDMENT:**  
(Attach additional page(s) if necessary)

*Increases time frame for compliance by an additional year (2 to 3 years) in an effort to allow sufficient time for the plan to be implemented.*

**II. REASON/NEED FOR AMENDMENT:**  
(Attach additional page(s) if necessary)

*Allows sufficient implementation time*

**III. NOTICE REQUIREMENTS**

- A. Is the amendment consistent with the published notice of intent to seek enactment of the local bill?  
YES  NO  NOT APPLICABLE
  
- B. If the amendment is not consistent with the published notice, does the amendment require voter approval in order for the bill to become effective?  
YES  NO  NOT APPLICABLE

**IV. DOES THE AMENDMENT ALTER THE ECONOMIC IMPACT OF THE BILL?**

YES [ ] NO []

**NOTE:** If the amendment alters the economic impact of the bill, a revised Economic Impact Statement describing the impact of the amendment must be submitted to the Community & Military Affairs Subcommittee prior to consideration of the amendment.

**V. HAS THE AMENDMENT AS DESCRIBED ABOVE BEEN APPROVED BY A MAJORITY OF THE DELEGATION?**

YES [ ] NO [ ] UNANIMOUSLY APPROVED []

X Jack Latvala  
Delegation Chair (Original Signature)

1/10/12  
Date

Senator Jack Latvala  
Print Name of Delegation Chair



1                                   A bill to be entitled  
2       An act relating to the Pinellas Planning Council,  
3       Pinellas County; codifying, amending, reenacting, and  
4       repealing special acts relating to the district;  
5       reorganizing the council; setting forth the purpose of  
6       the council; providing legislative intent that the  
7       countywide plan be broadly defined and policy-based;  
8       providing that the primary focus of the council will  
9       be land use and transportation planning; providing  
10      definitions; providing that the membership of the  
11      council shall be the same as that of the Pinellas  
12      County Metropolitan Planning Organization; providing  
13      for the election of officers, meetings of the council,  
14      requirements of a quorum, and member expenses;  
15      providing for the powers and duties of the council,  
16      including revising the required components of the  
17      countywide plan, consistent with the stated  
18      legislative intent; providing for countywide staff and  
19      committees; providing for a budget and annual  
20      independent audit; recognizing the countywide planning  
21      authority of the Pinellas County Board of County  
22      Commissioners as provided by the Pinellas County  
23      Charter; providing for the repeal of the existing  
24      countywide plan, adoption of a new countywide plan,  
25      future amendment of the plan, and standards and  
26      procedures for such actions; providing a timetable for  
27      consistency review after adoption of a new countywide  
28      plan; providing for public hearing and notice

29 requirements; requiring the authority to adopt  
 30 specific notice standards in the countywide rules;  
 31 providing for compliance with part II of chapter 163,  
 32 Florida Statutes; repealing chapters 73-594, 74-584,  
 33 74-586, 76-473, 88-464, and 90-396, Laws of Florida;  
 34 providing an effective date.

35  
 36 WHEREAS, Pinellas County is approaching a built-out  
 37 condition, and planned redevelopment of the built environment is  
 38 critical to maintaining and improving the countywide economy and  
 39 quality of life, and

40 WHEREAS, given the land constraints within the county, it  
 41 is recognized that countywide traffic issues cannot be solved by  
 42 road building alone but must be addressed through a multimodal  
 43 transportation system, and

44 WHEREAS, with the Legislature's creation of the Tampa Bay  
 45 Area Regional Transportation Authority ("TBARTA") in 2007, the  
 46 provision of enhanced public transit within the county has  
 47 become a high transportation planning priority, and

48 WHEREAS, land use patterns are a critical factor in  
 49 determining whether multimodal transportation, particularly  
 50 transit, is functional and effective, and

51 WHEREAS, transportation and land use planning do not exist  
 52 independently but have a relationship in which each influences  
 53 the other, and

54 WHEREAS, both the Updated Countywide Plan for Pinellas  
 55 County and Pinellas by Design: An Economic Development and  
 56 Redevelopment Plan for the Pinellas Community contain planning

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57 strategies that call for increased coordination of the land use  
58 and transportation planning activities of the Pinellas Planning  
59 Council ("PPC") and the Metropolitan Planning Organization  
60 ("MPO"), and

61 WHEREAS, a Joint Land Use and Transportation Committee  
62 ("committee"), consisting of three representatives from the PPC,  
63 three representatives from the Board of County Commissioners  
64 (BCC), and three representatives from the MPO, was convened in  
65 April 2010 to study the potential of integrating transportation  
66 and future land use planning at the countywide level, and

67 WHEREAS, the committee has recommended that the MPO and PPC  
68 functions be more closely aligned on transportation and land use  
69 issues to create a more streamlined and integrated process,  
70 which should identify and eliminate any redundancies,  
71 disconnects, or inefficiencies in the current system, and

72 WHEREAS, the committee recommended that this integrated  
73 process include a new Countywide Future Land Use Plan, which  
74 establishes a broad, forward-looking land use planning  
75 framework, incorporates and guides multimodal transportation  
76 planning, and allows sufficient flexibility to accommodate the  
77 redevelopment needs of local communities, and

78 WHEREAS, the committee determined that the most effective  
79 way to accomplish these goals would be to unify the membership  
80 of the boards of the MPO and the PPC into a single board that  
81 would be empowered to carry out the functions of both the MPO  
82 and the PPC, and

83 WHEREAS, it is the recommendation of the committee that the  
84 new unified board should continue to consist of elected

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85 officials and ensure adequate representation for all local  
 86 governments within Pinellas County, recognizing that the  
 87 Pinellas Suncoast Transportation Authority ("PSTA") will also  
 88 have a seat on the new board, and

89 WHEREAS, it was the consensus of the committee that the new  
 90 unified board be supported by an independent executive director  
 91 who serves in that capacity exclusively, with staff chosen by  
 92 that independent director, but with priority given to current  
 93 employees of the PPC and MPO, and

94 WHEREAS, the establishment of the new unified board will  
 95 require reapportionment of the MPO membership, which must be  
 96 done in conformance with section 339.175, Florida Statutes, and

97 WHEREAS, the establishment of the new unified board will  
 98 require an amendment to and reenactment of the PPC's charter,  
 99 NOW, THEREFORE,

100

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

102

103 Section 1. (1) The reenactment of existing law in this  
 104 act shall not be construed as a grant of additional authority to  
 105 or supersede the authority of any entity pursuant to law.  
 106 Exceptions to law contained in any special act that are  
 107 reenacted pursuant to this act shall continue to apply.

108 (2) The reenactment of existing law in this act shall not  
 109 be construed to modify, amend, or alter any covenants,  
 110 contracts, or other obligations of the district with respect to  
 111 bonded indebtedness. Nothing pertaining to the reenactment of  
 112 existing law in this act shall be construed to affect the

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113 ability of the district to levy and collect taxes, assessments,  
 114 fees, or charges for the purpose of redeeming or servicing  
 115 bonded indebtedness of the district.

116 Section 2. Chapters 73-594, 74-584, 74-586, 76-473, 88-  
 117 464, and 90-396, Laws of Florida, are amended, codified,  
 118 reenacted, and repealed as provided in this act.

119 Section 3. The charter for the Pinellas Planning Council,  
 120 Pinellas County, a dependent special district, is re-created and  
 121 reenacted to read:

122 Section 1. County planning council created.—There  
 123 is created a countywide planning and coordinating  
 124 council to be known as the "Pinellas Planning Council,"  
 125 hereinafter referred to as the "council." The council  
 126 shall have common membership and function as a single,  
 127 unified board with the Pinellas County Metropolitan  
 128 Planning Organization ("MPO").

129 Section 2. Purpose of council; legislative intent.—

130 (1) The Legislature recognizes the social and economic  
 131 interdependence of the people residing within Pinellas County  
 132 and the common interest they share in its future development.  
 133 The Legislature recognizes the value of considering land use and  
 134 transportation planning issues concurrently and of coordinating  
 135 and implementing land use and transportation planning functions  
 136 in an integrated manner. The Legislature also recognizes that  
 137 individual plans and decisions heretofore made by local  
 138 governments within the county have affected the welfare of the  
 139 entire county as well as neighboring jurisdictions, and,  
 140 therefore, the Legislature intends that the purpose of this act

141 is to provide for:

142 (a) The formulation and execution by the council of the  
 143 strategies necessary for the orderly growth, development, and  
 144 environmental protection of Pinellas County as a whole, with the  
 145 focus on those issues deemed to have an impact countywide.

146 (b) The coordination by the council of planning and  
 147 development in Pinellas County with regional planning objectives  
 148 in the Tampa Bay area as developed by such entities as the MPO,  
 149 the Tampa Bay Regional Planning Council, the Tampa Bay Area  
 150 Regional Transportation Authority ("TBARTA"), the Pinellas  
 151 Suncoast Transit Authority ("PSTA"), the Department of  
 152 Transportation ("DOT"), and the Department of Community Affairs  
 153 ("DCA").

154 (2) The Legislature further recognizes that the future of  
 155 Pinellas County, its permanent residents, and the millions of  
 156 tourists who annually visit the county is dependent upon the way  
 157 the natural resources of land, air, and water are protected and  
 158 impacted by the built environment and through the use and reuse  
 159 of land to accommodate the urban development and redevelopment  
 160 pattern, the transportation system that serves it, and other  
 161 development activities that are guided by the countywide  
 162 planning function.

163 (3) The Legislature intends for the development of a  
 164 broadly defined, policy-based countywide plan that will focus on  
 165 countywide issues related to future land use, transportation,  
 166 and intergovernmental coordination.

167 (4) The Legislature further intends that this act provide  
 168 for the coordination by the council of the transportation

169 planning functions undertaken by the MPO with the council's land  
 170 use planning functions, as expressed in this act, in a manner  
 171 that more fully integrates these two functions in a  
 172 complementary manner, as well as a means for the integration of  
 173 the membership of the boards of the council and MPO, such that a  
 174 single, unified board shall perform the functions of both the  
 175 council and the MPO.

176 Section 3. Definitions.—As used in this act, the term:

177 (1) "Countywide plan" means materials in such descriptive  
 178 form, written or graphic, as may be appropriate to the  
 179 prescription of strategies for the orderly and balanced future  
 180 development of Pinellas County. The countywide plan is comprised  
 181 of the countywide plan strategies, the countywide plan map, and  
 182 the countywide rules in section 6(7).

183 (2) "Countywide plan map" means the future land use map  
 184 that designates general categories of land use by type and  
 185 location to guide the future development pattern and use of land  
 186 throughout the county.

187 (3) "Countywide plan strategies" means an overarching set  
 188 of policies that identify and set forth a plan of action to  
 189 address those components set forth in section 6(7) and that are  
 190 collectively used to administer and guide interpretation of the  
 191 countywide plan map and countywide rules.

192 (4) "Countywide planning authority" means the board of  
 193 county commissioners, acting in its capacity as the countywide  
 194 planning authority, through the exercise of its power under  
 195 section 2.04(s) of the Pinellas County Charter.

196 (5) "Countywide rules" and the "rules" mean those rules,

197 standards, and procedures that will implement the countywide  
 198 plan as provided in section 6(7).

199 (6) "Existing countywide plan" means that countywide plan,  
 200 inclusive of the countywide plan strategies, countywide plan  
 201 map, and countywide rules as adopted by Pinellas County  
 202 Ordinance 89-4, as amended.

203 (7) "Land development regulation" means an ordinance  
 204 enacted by a local government for the regulation of any aspect  
 205 of development and includes any local government zoning,  
 206 rezoning, subdivision, or building construction regulation or  
 207 any other regulation controlling the development of land.

208 (8) "Local government" means Pinellas County or any  
 209 municipality within the county.

210 Section 4. Membership of council.—The council shall be  
 211 composed of the voting membership of the Pinellas County  
 212 Metropolitan Planning Organization. The terms of office and  
 213 appointments to fill vacancies shall be consistent with Florida  
 214 law governing the MPO.

215 Section 5. Officers; meetings; records; quorum; expenses.—

216 (1) The council shall elect one of its members as  
 217 chairperson, one of its members as vice chairperson, one of its  
 218 members as treasurer, and one of its members as secretary, each  
 219 of whom shall serve for the year or until a successor is  
 220 elected. No person elected chairperson shall serve more than 2  
 221 consecutive years in that capacity. Election of officers shall  
 222 be conducted in concert with the MPO, as provided by Florida law  
 223 governing the MPO.

224 (2) The council may meet at least once each month, at such



225 place and at such other times in special session as the council,  
 226 by a majority vote, shall determine, and at any other time at  
 227 the call of the chairperson. The council shall adopt, by an  
 228 affirmative vote of a majority of the voting members of the  
 229 council, operating procedures for the transaction of business  
 230 and keep a record of its transactions, resolutions, findings,  
 231 determinations, recommendations, and orders, which record shall  
 232 be a public record. Subsequent amendment of the operating  
 233 procedures shall be by an affirmative vote of a majority of the  
 234 members present and constituting a quorum.

235 (3) At all meetings of the council, a quorum shall consist  
 236 of a simple majority of the full voting membership. No official  
 237 business of the council may be transacted unless a quorum is  
 238 present. No vacancy in the council shall impair the right of a  
 239 quorum of the council to exercise all the rights and perform all  
 240 the duties of the council. Except as otherwise provided in this  
 241 act, all actions of the council shall be by a majority vote of  
 242 those members present.

243 (4) Members of the council shall be entitled to receive  
 244 from the council their traveling and other necessary expenses  
 245 incurred in connection with the business of the council, as  
 246 provided by law, but they shall draw no salaries or other  
 247 compensation.

248 Section 6. Powers and duties.—In the performance of its  
 249 duties and in the execution of its functions under this act, the  
 250 council has and shall exercise the following powers and duties:

251 (1) To maintain a permanent office at the place or places  
 252 within Pinellas County as it may designate. Additional

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253 suboffices may be maintained at such place or places within  
 254 Pinellas County as it may designate.

255 (2) To employ and to compensate such personnel,  
 256 consultants, and technical and professional assistance as it may  
 257 deem necessary.

258 (3) To make and enter into contracts and agreements.

259 (4) To hold public hearings and sponsor public forums.

260 (5) To sue and to be sued in its own name.

261 (6) To contract with, accept and expend funds and grants  
 262 from, and accept and use services from:

263 (a) The Federal Government or any agency thereof.

264 (b) The state government or any agency thereof.

265 (c) The county government or any agency thereof, including  
 266 the district school board.

267 (d) The several municipalities in Pinellas County or any  
 268 agencies thereof.

269 (e) The Tampa Bay Regional Planning Council and other  
 270 governmental agencies.

271 (f) Civic groups and nonprofit agencies.

272 (7) To develop for countywide planning authority approval  
 273 a countywide plan that shall be broadly defined, policy-based,  
 274 and focused on countywide issues and that shall include:

275 (a) The countywide plan map.

276 (b) The countywide rules, which shall establish parameters  
 277 that will be used to determine whether local governments' future  
 278 land use plans and land development regulations are consistent  
 279 with the countywide plan map and rules. Each land use category  
 280 shall, at a minimum, be defined in terms of the types of uses

281 included and specific standards for the density or intensity of  
 282 use.

283 (c) The countywide plan strategies, which shall provide  
 284 policy guidance for the countywide plan map and rules and which  
 285 shall include:

286 1. A countywide future land use component that supports a  
 287 countywide managed growth perspective.

288 2. A countywide transportation component that supports  
 289 mass transit and other transportation facilities and that  
 290 recognizes the responsibilities of the MPO as defined by law and  
 291 joint agreement.

292 3. A countywide intergovernmental coordination component  
 293 that supports enhanced integration of local government land use  
 294 and transportation planning.

295 4. Any other component determined by the council and the  
 296 countywide planning authority to be necessary to establish  
 297 effective countywide planning in furtherance of the intent of  
 298 this act.

299 (8) To coordinate countywide growth management issues and  
 300 procedures consistent with this act.

301 (9) To review the countywide plan with the local  
 302 governments in order to ensure coordination with local goals and  
 303 policies, identify specific countywide growth management problem  
 304 areas, and work collaboratively with local governments towards  
 305 solutions to those identified problems.

306 (10) When processing amendments to the countywide plan  
 307 map, to consider the countywide plan strategies and the  
 308 countywide rules.

309           (11) To conduct a strategic planning session with the  
 310 countywide planning authority on an annual basis or at such  
 311 other intervals as the council and countywide planning authority  
 312 shall agree upon.

313           Section 7. Countywide staff and committees.-

314           (1) Pursuant to section 6(2), the council shall appoint an  
 315 independent executive director, who shall serve at the pleasure  
 316 of the council. The employment qualifications and standards for  
 317 the position of executive director shall be established by the  
 318 council. The executive director may employ such other staff as  
 319 may be needed and shall have the sole authority to manage the  
 320 activities of the staff. Nothing in this act shall prevent the  
 321 executive director and the staff from being classified or exempt  
 322 employees of the Pinellas County Unified Personnel System.

323           (2) Directors of individual local government land use and  
 324 planning departments, or their designees, are the members of the  
 325 planners advisory committee. The planners advisory committee  
 326 may, at the direction of the council, perform a professional  
 327 planning review of the council staff recommendations that are to  
 328 be acted upon by the council. The planners advisory committee  
 329 may also include a representative from the planning departments  
 330 maintained by the Pinellas County School Board, the PSTA, the  
 331 DOT, and other agencies as the council may determine  
 332 appropriate. In addition to the planners advisory committee, the  
 333 council may appoint such other committees as it deems necessary,  
 334 which may be comprised of either elected or nonelected  
 335 officials. The committees provided for in this section may  
 336 perform such other duties as assigned by the council but may not

337 be involved in the administration or executive functions of the  
 338 council.

339 (3) The staff, as recognized in this act, shall prepare  
 340 all plans or other documents that the council may direct under  
 341 this act and shall assist any committee and the executive  
 342 director in day-to-day activities. The staff shall be governed  
 343 by such operating procedures as may be set forth by the council.

344 Section 8. Budget, fiscal year, appropriations,  
 345 contributions; annual audits and reports.-

346 (1) The executive director of the council shall annually  
 347 prepare the budget of the council. The budget shall be kept  
 348 within the limit of funds annually available to the council, and  
 349 each item in the budget shall be fully explained. The council  
 350 shall approve and adopt the annual millage rate and budget, and  
 351 all deliberations on the millage rate and budget by the council  
 352 shall be done at meetings open to the public. The fiscal year of  
 353 the council shall be the same as the fiscal year of the Board of  
 354 County Commissioners of Pinellas County. Notwithstanding the  
 355 above, the Board of County Commissioners of Pinellas County  
 356 shall have the right to review the millage rate and budget,  
 357 raising or reducing either as it deems necessary. In its review  
 358 of the millage rate and budget, the board of county  
 359 commissioners shall ensure that the council is funded, at a  
 360 minimum, at a level that supports the council's powers and  
 361 duties set forth in section 6.

362 (2) The Tax Collector of Pinellas County shall remit  
 363 directly to the council, from the total taxes collected from the  
 364 millage certified by the Board of County Commissioners of

HB 869

2012

365 Pinellas County for county purposes, an amount equal to the  
 366 annual budget but not to exceed one-sixth of a mill on each  
 367 dollar of the assessed valuation of taxable property made  
 368 annually by the Property Appraiser of Pinellas County. The funds  
 369 collected pursuant to this subsection shall only be expended for  
 370 council purposes.

371 (3) The council shall cause an annual independent audit to  
 372 be performed, to be paid for by the council. The council shall  
 373 also prepare an annual report on its activities as a whole.

374 Section 9. Countywide planning authority of the board of  
 375 county commissioners.--The Board of County Commissioners of  
 376 Pinellas County is vested with countywide planning authority by  
 377 section 2.04(s) of the Pinellas County Charter. Such authority  
 378 is limited to the authority provided for in the county charter  
 379 and as provided in this act.

380 Section 10. Countywide plan repeal, readoption, and  
 381 amendment.--

382 (1) COUNTYWIDE PLAN AND RULES.--

383 (a) The existing countywide plan is to be repealed and  
 384 replaced by the adoption of a new, broadly defined, and policy-  
 385 based countywide plan that conforms to the intent of this act.  
 386 It is specifically intended that a new countywide plan provide  
 387 for fewer land use categories than the existing countywide plan.  
 388 The new countywide plan shall be prepared in collaboration with  
 389 the member local governments pursuant to a process and timetable  
 390 established by the council and countywide planning authority.  
 391 Council staff shall use best efforts to develop a new countywide  
 392 plan as expeditiously as possible. Before the adoption of a new

393 countywide plan, the existing countywide plan shall remain in  
 394 full force and effect.

395 (b) An amendment to the countywide plan map may be  
 396 initiated by the council only in order to implement the new  
 397 countywide plan that conforms to the intent of this act.  
 398 Pursuant to this one-time grant of authority which is intended  
 399 to repeal and replace the existing countywide plan map, the  
 400 council may initiate an amendment to the countywide plan map to  
 401 place any new plan map categories designated under a new  
 402 countywide plan on particular parcels of property, as  
 403 applicable. Such amendment to the countywide plan map initiated  
 404 by the council shall be sent to the local government with  
 405 jurisdiction over the subject parcel for comment and review a  
 406 minimum of 60 days before council action. The manner in which  
 407 comment, review, and adoption by the local government, if  
 408 applicable, shall take place shall be set forth in the  
 409 countywide rules.

410 (c) The recommendation to repeal and replace the existing  
 411 countywide plan shall be by an affirmative vote of a majority of  
 412 the voting members of the council. Any recommendation to  
 413 subsequently amend the countywide plan shall be by an  
 414 affirmative vote of a majority of the voting members present and  
 415 constituting a quorum.

416 (d) The countywide planning authority action to repeal and  
 417 replace the existing countywide plan as recommended by the  
 418 council shall be by a majority vote of the entire countywide  
 419 planning authority. A majority vote of the members present and  
 420 constituting a quorum of the countywide planning authority is

421 required to make any subsequent amendment to the countywide plan  
 422 as recommended for adoption by the council.

423 (e) Upon adoption by the countywide planning authority,  
 424 the countywide plan shall have the full force and effect of law  
 425 countywide. All local governments' future land use plans and  
 426 land development regulations shall be consistent with the  
 427 countywide plan map and rules. The countywide planning authority  
 428 shall have the authority to enforce the countywide plan map and  
 429 rules.

430 (2) CONSISTENCY REVIEW.—

431 (a) As of the effective date of this act, it is  
 432 acknowledged that the council has recently reviewed each local  
 433 government's future land use plan and land development  
 434 regulations for consistency with the existing countywide plan  
 435 map and rules and has determined each such future land use plan  
 436 and land development regulation to be consistent with the  
 437 existing countywide plan map and rules or has outlined the  
 438 actions necessary to establish such consistency. After a new  
 439 countywide plan map and rules that conform to the intent of this  
 440 act are adopted, it is specifically intended that the local  
 441 governments' individual plans be made consistent with the new  
 442 countywide plan map and rules, if necessary, either:

443 1. Simultaneously with the next scheduled amendment, after  
 444 the effective date of this act, of the local future land use  
 445 plan and land development regulations pursuant to the Evaluation  
 446 and Appraisal Report ("EAR"), as required for local plans under  
 447 part II of chapter 163, Florida Statutes, and Rule 9J-42,  
 448 Florida Administrative Code; or



449 2. If the date provided in subparagraph 1. is less than 2  
 450 years after the adoption of the revised countywide plan map and  
 451 rules or is no longer applicable to the local government, within  
 452 2 years after the adoption of the revised countywide plan map  
 453 and rules.

454 (b) Local governments' land use categories and  
 455 corresponding regulations shall be considered to be consistent  
 456 with the countywide plan map and rules if the local governments'  
 457 land use categories provide for:

458 1. Maximum densities and intensities that are equal to or  
 459 less than the maximum densities and intensities provided by the  
 460 corresponding countywide plan map categories as set forth in the  
 461 rules.

462 2. Some or all of the same permitted uses as enumerated in  
 463 the corresponding countywide plan map categories.

464 3. Such other standards, rules, or procedures contained in  
 465 the countywide rules as are applicable.

466 (c) If a local government's future land use plan and land  
 467 development regulations have been determined to be consistent  
 468 with the countywide plan map and rules, the local future land  
 469 use plan and land development regulations shall regulate  
 470 development for the subject property.

471 (d) It is the intent of this act that land uses, lots, and  
 472 structures existing on the effective date of this act that may  
 473 be rendered nonconforming by the adoption of a new countywide  
 474 plan shall be permitted to continue until such nonconformities  
 475 are removed or ceased. Such nonconformities shall be  
 476 administered by the local government with jurisdiction.

477 (3) COUNTYWIDE PLAN MAP AMENDMENTS.—

478 (a) Amendments to the adopted countywide plan map relating  
 479 to a land use designation for a particular parcel of property  
 480 may be initiated by the local government that has jurisdiction  
 481 over the subject property. Amendments to any standard, policy,  
 482 or objective of the countywide plan strategies or the rules may  
 483 be initiated by the council or any local government.

484 (b) The council shall have 60 days after the day an  
 485 application is filed with the council to act on that amendment  
 486 and forward the recommendation to the countywide planning  
 487 authority. Action by the council may include recommendation for  
 488 approval, denial, continuation, or an alternative compromise  
 489 amendment, any of which shall constitute action by the council  
 490 within the stipulated 60-day period. Provision for the council  
 491 to make a recommendation for an alternative compromise amendment  
 492 shall be as approved and set forth in the rules.

493 (c) All amendments shall be transmitted to the countywide  
 494 planning authority with a recommendation by the council. A vote  
 495 of a majority plus one of the entire countywide planning  
 496 authority is required to take any action on the proposed  
 497 amendment that is contrary to the council's recommendation. A  
 498 recommendation shall be received by the countywide planning  
 499 authority before it takes action on an amendment.

500 (d) After action by the countywide planning authority, any  
 501 substantially affected person, the council, or the local  
 502 government that initiated the plan amendment may seek a hearing  
 503 pursuant to chapter 120, Florida Statutes. Any substantially  
 504 affected person may participate in the hearing. At the

505 conclusion of the hearing, the hearing officer's recommended  
 506 order shall be forwarded to and considered by the countywide  
 507 planning authority in a final hearing. The basis for the  
 508 countywide planning authority's final decision approving or  
 509 denying the proposed amendment is limited to the findings of  
 510 fact of the hearing officer. This paragraph shall only apply to  
 511 amendments to the countywide plan map.

512 (e) The council may contract with the Division of  
 513 Administrative Hearings to provide the hearing officers required  
 514 by this act. The council shall be responsible for compensating  
 515 the division for costs incurred by the division in the hearing  
 516 process. Except as provided in paragraph (d), the council and  
 517 the countywide planning authority are not subject to chapter  
 518 120, Florida Statutes.

519 (f) An administrative hearing under paragraph (d) is  
 520 limited to a review of the facts pertaining to the subject  
 521 property, the countywide plan map, and the rules applicable  
 522 thereto. An administrative hearing is not the appropriate forum  
 523 for a constitutional challenge.

524 (g) Decisions by the countywide planning authority, acting  
 525 in its capacity under this act, are legislative in nature.  
 526 Decisions made by the countywide planning authority may be  
 527 challenged in a court of competent jurisdiction.

528 Section 11. Public hearing and notice requirements.-

529 (1) PUBLIC HEARING BEFORE THE COUNCIL.-The council shall  
 530 hold at least one public hearing to consider recommending the  
 531 adoption of or an amendment to the countywide plan. More than  
 532 one public hearing may be held at the discretion of the council.

533 The location of public hearings shall be determined by the  
 534 council.

535 (2) PUBLIC HEARING BEFORE THE COUNTYWIDE PLANNING  
 536 AUTHORITY.—An ordinance adopted by the countywide planning  
 537 authority that adopts or amends the provisions of the countywide  
 538 plan shall be enacted or amended pursuant to the following  
 539 procedure:

540 (a) For an amendment to the adopted countywide plan map  
 541 relating to property involving less than 5 percent of the area  
 542 of the county, the countywide planning authority shall hold a  
 543 public hearing on the proposed ordinance.

544 (b) For an adoption of or amendment to the countywide plan  
 545 strategies or the countywide rules, for an amendment to the  
 546 adopted countywide plan map relating to the change in a land use  
 547 designation for property involving 5 percent or more of the area  
 548 of the county, or for an adoption of the countywide plan map  
 549 initiated by the council pursuant to section 10(1)(b), the  
 550 countywide planning authority shall hold two advertised public  
 551 hearings on the proposed ordinance. At least one of the hearings  
 552 shall be held after 5 p.m. on a weekday, and the second hearing  
 553 shall be held at least 2 weeks after the first hearing.

554 (3) FORM OF NOTICE.—Notice shall be provided for in  
 555 accordance with applicable Florida law and as provided for in  
 556 the rules.

557 Section 12. Severability.—It is declared to be the intent  
 558 of the Legislature that if any section, subsection, sentence,  
 559 clause, or provision of this act is held invalid by any court of  
 560 competent jurisdiction, the remainder of the act shall not be

561 affected.

562 Section 13. Part II of chapter 163, Florida Statutes.-  
 563 Nothing in this act shall be construed to allow the county or  
 564 any municipality in the county to adopt a local government  
 565 comprehensive plan required by part II of chapter 163, Florida  
 566 Statutes, or any amendment to such plan, that does not comply  
 567 with part II of chapter 163, Florida Statutes, or any applicable  
 568 rule or regulation adopted by the Department of Community  
 569 Affairs to implement part II of chapter 163, Florida Statutes.

570 In addition, nothing in this act shall be construed to allow any  
 571 development order, as defined in section 163.3164, Florida  
 572 Statutes, to be issued by the county or any municipality in the  
 573 county that is not consistent with the plans adopted pursuant to  
 574 part II of chapter 163, Florida Statutes, and any applicable  
 575 rule or regulation adopted by the Department of Community  
 576 Affairs to implement part II of chapter 163, Florida Statutes.

577 Section 4. Chapters 73-594, 74-584, 74-586, 76-473, 88-  
 578 464, and 90-396, Laws of Florida, are repealed.

579 Section 5. This act shall take effect upon becoming a law  
 580 or upon the final approval of the Pinellas County Metropolitan  
 581 Planning Organization's reapportionment plan increasing its  
 582 membership from 11 to 13 members ("the MPO reapportionment  
 583 plan"), whichever occurs later. The terms of the existing  
 584 members of the Pinellas Planning Council shall continue until  
 585 the MPO reapportionment plan becomes effective and the new  
 586 members are appointed to the council.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 869 (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: Community & Military  
2 Affairs Subcommittee  
3 Representative Frishe offered the following:

4  
5 **Amendment**

6 Remove lines 152-153 and insert:  
7 Transportation ("DOT"), and the Department of Economic  
8 Opportunity ("DEO").

9

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 869 (2012)

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	_____	

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1 Committee/Subcommittee hearing bill: Community & Military  
2 Affairs Subcommittee

3 Representative Frishe offered the following:

4  
5 **Amendment**

6 Remove lines 444-452 and insert:

7 January 1, 2016, of the local future land use plan and land  
8 development regulations pursuant to the evaluation and appraisal  
9 review, as required for local plans under part II of chapter  
10 163, Florida Statutes; or

11 2. Within 3 years after the adoption of the revised  
12 countywide plan map

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 869 (2012)

Amendment No. 3

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: Community & Military  
2 Affairs Subcommittee

3 Representative Frishe offered the following:

4  
5 **Amendment**

6 Remove lines 568-576 and insert:  
7 rule or regulation adopted by the Department of Economic  
8 Opportunity to implement part II of chapter 163, Florida  
9 Statutes. In addition, nothing in this act shall be construed to  
10 allow any development order, as defined in section 163.3164,  
11 Florida Statutes, to be issued by the county or any municipality  
12 in the county that is not consistent with the plans adopted  
13 pursuant to part II of chapter 163, Florida Statutes, and any  
14 applicable rule or regulation adopted by the Department of  
15 Economic Opportunity to implement part II of chapter 163,  
16 Florida Statutes.





HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 975 Pasco County Housing Authority, Pasco County

SPONSOR(S): Nehr

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee		Duncan <i>pdd</i>	Hoagland <i>[Signature]</i>
2) Economic Affairs Committee			

SUMMARY ANALYSIS

Florida law creates a housing authority in each Florida County. The area of operation of a housing authority created for a county includes all of the county for which it is created except that portion of the county which lies within the territorial boundaries of any city as defined in the Housing Authorities Law, as amended. These housing authorities may not transact business or exercise their powers until or unless the governing body of the county declares by resolution that there is need for a housing authority in such county. Upon notification of the adoption of such resolution, the commissioners of the housing authority are appointed by the Governor in the same manner as appointments are made by a mayor for a municipal housing authority.

The bill requires the commissioners of the Pasco County Housing Authority to be appointed by the Pasco County Board of County Commissioners rather than the Governor.

According to the Economic Impact Statement, this bill has no fiscal impact.

This bill has an effective date of upon becoming law.

**Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration of local bills. This bill appears to provide an exemption from s. 421.27, F.S.**

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### County Housing Authorities

Florida law creates a housing authority in each Florida county.<sup>1</sup> The area of operation of a housing authority created for a county includes all of the county for which it is created except that portion of the county which lies within the territorial boundaries of any city as defined in the Housing Authorities Law,<sup>2</sup> as amended.<sup>3</sup> As of January 4, 2012, there are 22 county housing authorities in Florida.<sup>4</sup>

These housing authorities may not transact business or exercise their powers until or unless the governing body of the county declares by resolution that there is need for a housing authority in such county. Upon notification of the adoption of such resolution, the commissioners of the housing authority are appointed by the Governor. These appointments are to be made "in the same manner as the commissioners of a housing authority created for a city may be appointed by the mayor...."<sup>5</sup>

Florida law requires the mayor to appoint no fewer than five persons, and no more than seven persons, as commissioners of the authority. Three of the commissioners who are first appointed are designated to serve for terms of one, two and three years, respectively; the remaining commissioners are designated to serve for terms of four years each, from the date of their appointment. Thereafter, each commissioner is appointed for a four-year term, except that a vacancy is filled for the unexpired term.<sup>6</sup>

Each housing authority is required to have at least one commissioner who is a resident who is current in rent in a housing project or a person of low or very low income who resides within the housing authority's jurisdiction and is receiving rent subsidy through a program administered by the authority or public housing agency that has jurisdiction for the same locality served by the housing authority. In the case of an authority, which does not have a completed project, no tenant-commissioner may be appointed until 10 percent of the units in the first project of the authority have been occupied. The cessation of a tenant-commissioner's tenancy in a housing project or the cessation of rent subsidy removes the tenant-commissioner from office, and another person meeting the qualifications required for the office is appointed for the unexpired portion of the term.<sup>7</sup>

If the commissioners find that no housing project resident or rent subsidy recipient is available to serve as a tenant-commissioner, after all reasonable efforts have been made and documented, the existing vacancy then is filled through the normal appointment procedures. However, such normal appointment does not preclude the requirement to exercise diligence in all succeeding vacancies to attempt to first appoint a tenant-commissioner until at least one tenant-commissioner has been appointed.<sup>8</sup>

No commissioner of an authority may be an officer or employee of the city for which the authority is created. A commissioner holds office until a successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner is filed with the clerk, and such certificate is conclusive evidence of the due and proper appointment of such commissioner. A commissioner receives no compensation for his or her services but is entitled to the necessary expenses, including travel expenses, incurred in the discharge of his or her duties. The requirements of

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<sup>1</sup> Section 421.27(1), F.S.

<sup>2</sup> Part I of ch. 421, F.S.

<sup>3</sup> Section 421.27(3), F.S.

<sup>4</sup> Florida Department of Economic Opportunity, Division of Community Planning and Development, Special District Information Program, Official List of Special Districts Online, *Special District Statewide Totals*, <http://www.floridajobs.org/community-planning-and-development> (last visited January 4, 2012).

<sup>5</sup> Section 421.27(2), F.S.

<sup>6</sup> Section 421.05(1), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

this provision with respect to the number of commissioners of a housing authority apply without regard to the date on which the housing authority was created.<sup>9</sup>

### Pasco County Housing Authority

The Pasco County Housing Authority is an independent special district created by a resolution of the Pasco County Board of County Commissioners dated March 27, 1973. The commissioners of the authority are appointed by the Governor.<sup>10</sup> On September 23, 2011, the Governor announced the appointment of four commissioners to the housing authority's board.<sup>11</sup> The Governor's Appointment Office is seeking a tenant-commissioner for appointment to the housing authority board.<sup>12</sup>

The housing authority owns and manages 12 developments in Pasco County and has over 2000 units under management through various housing programs.<sup>13</sup> The housing authority has been the subject of news articles regarding its poor management since August 2011. The U.S. Department of Housing and Urban Development's Office of the Inspector General and the Pasco County State Attorney's Office have launched investigations into the operations of the housing authority.<sup>14</sup>

### **Effect of Proposed Changes**

The bill requires the commissioners of the Pasco County Housing Authority to be appointed by the Pasco County Board of County Commissioners rather than the Governor.

#### B. SECTION DIRECTORY:

Section 1: Requires the commissioners of the Pasco County Housing Authority to be appointed by the Pasco County Board of County Commissioners rather than the Governor.

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

## **II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? October 16, 2011

WHERE? *The Tampa Tribune*, a daily newspaper published in Hillsborough County.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to the Economic Impact Statement, this bill has no fiscal impact.

<sup>9</sup> *Id.*

<sup>10</sup> Florida Department of Economic Opportunity, Division of Community Development, Special District Information Program, available at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/> (last visited December 16, 2011).

<sup>11</sup> Executive Office of the Governor, *Governor Rick Scott Appoints Four to the Pasco County Housing Authority*, September 23, 2011 available at <http://www.flgov.com/2011/09/23/governor-rick-scott-appoints-four-to-the-pasco-county-housing-authority/> (last visited December 16, 2011).

<sup>12</sup> Telephone interview with staff in the Governor's Appointment Office (December 20, 2011).

<sup>13</sup> Pasco County Housing Authority, Home Page and Developments, available at <http://www.pascocountyhousing.org/housing/developments.htm> (last visited December 19, 2011).

<sup>14</sup> WTSP.com, CBS News Affiliate, *10 News Investigators: New Board at Pasco Housing Authority Vows to Look into Problems*, available at <http://www.wtsp.com/news/article/216589/34/New-board-at-Pasco-Housing-Authority-vows-to-look-into-problems> (last visited December 19, 2011).

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

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

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.

18 972

The Tampa Tribune  
Published Daily  
Tampa, Hillsborough County, Florida

**NOTICE OF LEGISLATION**  
TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2012 Legislature, or 2012 Legislative Sessions, or 2012 Legislature and any Special or Extended Sessions, for passage of an act relating to Pasco County, amending section 421.27(2), Florida Statutes, relating to public housing authorities, to have appointment power of the Pasco Housing Authority Board made by the Pasco County Board of County Commissioners. For further information, contact George Romagnoli, Pasco County Community Development, at (727) 834-3445, #5648

10/16/11

State of Florida )  
County of Hillsborough ) SS.

Before the undersigned authority personally appeared C. Pugh, who on oath says that she is the Advertising Billing Analyst of The Tampa Tribune, a daily newspaper published at Tampa in Hillsborough County, Florida; that the attached copy of the

Legal Ads IN THE Tampa Tribune

In the matter of Legal Notices

was published in said newspaper in the issues of

10/16/2011

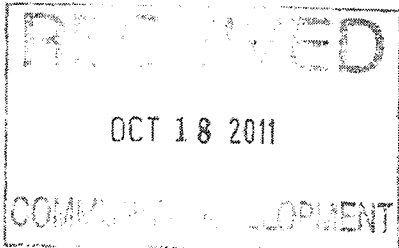
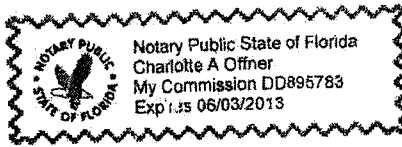
Affiant further says that the said The Tampa Tribune is a newspaper published at Tampa in said Hillsborough County, Florida, and that the said newspaper has heretofore been continuously published in said Hillsborough County, Florida, each day and has been entered as second class mail matter at the post office in Tampa, in said Hillsborough County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, this advertisement for publication in the said newspaper.

*C. Pugh*  
\_\_\_\_\_

Sworn to and subscribed by me, this 17 day  
of Oct, A.D. 2011

Personally Known  or Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

*Charlotte A. Offner*  
\_\_\_\_\_



HOUSE OF REPRESENTATIVES

2012 LOCAL BILL CERTIFICATION FORM

BILL #:

HB 975

SPONSOR(S):

Rep Peter Riehe

RELATING TO:

Pasco Housing Authority Board

[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION:

Pasco County

CONTACT PERSON:

George Romagnoli

PHONE NO.:

(271) 774-2259

E-Mail:

strobeert@pasco.k12.fl.us

I. House local bill policy requires that three things occur before a committee or subcommittee of the House considers a local bill: (1) The members of the local legislative delegation must certify that the purpose of the bill cannot be accomplished at the local level; (2) the legislative delegation must hold a public hearing in the area affected for the purpose of considering the local bill issue(s); and (3) the bill must be approved by a majority of the legislative delegation, or a higher threshold if so required by the rules of the delegation, at the public hearing or at a subsequent delegation meeting. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.

(1) Does the delegation certify that the purpose of the bill cannot be accomplished by ordinance of a local governing body without the legal need for a referendum?

YES  NO

(2) Did the delegation conduct a public hearing on the subject of the bill?

YES  NO

Date hearing held: Sept 26, 2011

Location: River Ridge High School, 11626 Turn Crest Rd, NWR, FL 34654

(3) Was this bill formally approved by a majority of the delegation members?

YES  NO

II. Article III, Section 10 of the State Constitution prohibits passage of any special act unless notice of intention to seek enactment of the bill has been published as provided by general law (s. 11.02, F. S.) or the act is conditioned to take effect only upon approval by referendum vote of the electors in the area affected.

Has this constitutional notice requirement been met?

Notice published: YES  NO  DATE 11/17/2011

Where? The Tampa Trib County Hillsborough

Referendum in lieu of publication: YES  NO

Date of Referendum \_\_\_\_\_

III. Article VII, Section 9(b) of the State Constitution prohibits passage of any bill creating a special taxing district, or changing the authorized millage rate for an existing special taxing district, unless the bill subjects the taxing provision to approval by referendum vote of the electors in the area affected.

(1) Does the bill create a special district and authorize the district to impose an ad valorem tax?

YES [ ] NO [ ] NOT APPLICABLE []

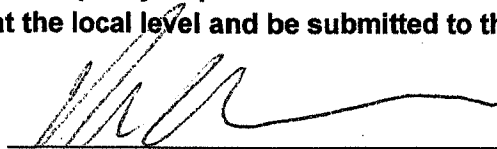
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

YES [ ] NO [ ] NOT APPLICABLE []

If the answer to question (1) or (2) is YES, does the bill require voter approval of the ad valorem tax provision(s)?

YES [ ] NO [ ]

Note: House policy requires that an Economic Impact Statement for local bills be prepared at the local level and be submitted to the Community & Military Affairs Subcommittee.

  
\_\_\_\_\_  
Delegation Chair (Original Signature)

12-8-2011  
\_\_\_\_\_  
Date

Richard Corcoran, Dist 45  
\_\_\_\_\_  
Printed Name of Delegation Chair



**HOUSE OF REPRESENTATIVES  
2012 ECONOMIC IMPACT STATEMENT FORM**

*House local bill policy requires that no local bill will be considered by a committee or a subcommittee without an Economic Impact Statement. This form must be prepared at the LOCAL LEVEL by an individual who is qualified to establish fiscal data and impacts. Please submit this completed, original form to the Community & Military Affairs Subcommittee as soon as possible after a bill is filed.*

BILL #: HB 975  
 SPONSOR(S): Peter Nehr  
 RELATING TO: PASCO COUNTY  
[Indicate Area Affected (City, County or Special District) and Subject]

**I. ESTIMATED COST OF ADMINISTRATION, IMPLEMENTATION, AND ENFORCEMENT:**

	<u>FY12-13</u>	<u>FY 13-14</u>
Expenditures:	\$0	\$0

**II. ANTICIPATED SOURCE(S) OF FUNDING:**

	<u>FY 12-13</u>	<u>FY 13-14</u>
Federal:	\$12,000,000	\$12,000,000
State:	\$0	\$0
Local:	\$0	\$0

**III. ANTICIPATED NEW, INCREASED, OR DECREASED REVENUES:**

	<u>FY 12-13</u>	<u>FY 13-14</u>
Revenues:	\$0	\$0

**IV. ESTIMATED ECONOMIC IMPACT ON INDIVIDUALS, BUSINESS, OR GOVERNMENTS:**

Advantages: none ~~present~~ except there may be some opportunities for economy of scale if contracts are consolidated with county government

Disadvantages: none

V. ESTIMATED IMPACT UPON COMPETITION AND THE OPEN MARKET FOR EMPLOYMENT:

None

VI. DATA AND METHOD USED IN MAKING ESTIMATES [INCLUDE SOURCE(S) OF DATA]:

Agency Budget

PREPARED BY:  \_\_\_\_\_  
[Must be signed by Preparer]      Date

TITLE: Community Development Manager

REPRESENTING: Pasco County

PHONE: 727 834 3445

E-Mail Address: GROMAGNOLI@PASCOCOUNTYFL.NET

HB 975

2012

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A bill to be entitled  
An act relating to the Pasco County Housing Authority,  
Pasco County; providing for the appointment of  
commissioners of the Pasco County Housing Authority by  
the Board of County Commissioners of Pasco County;  
providing an exception to general law; providing an  
effective date.

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

Section 1. The commissioners of the Pasco County Housing  
Authority shall be appointed by the Board of County  
Commissioners of Pasco County in lieu of the method of  
appointment provided for in section 421.27(2), Florida Statutes.

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



# Economic Development Financial Reference Manual

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January 11, 2012

Presented by:



The Florida Legislature  
Office of Economic and  
Demographic Research  
850.487.1402  
<http://edr.state.fl.us>

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# Criteria Used to Measure Best States for Business

## Forbes Best States for Business Methodology 2011 (criteria given equal weight):

- Business Costs
- Labor Supply
- Regulatory Environment
- Economic Climate
- Growth Prospects
- Quality of Life

## Beacon Hill Institute's State Competitiveness Report 2010 (criteria given equal weight):

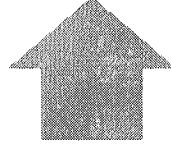
- Government and Fiscal Policy
- Security
- Infrastructure
- Human Resources
- Technology
- Business Incubation
- Openness
- Environmental Policy

## CNBC's Top States for Business 2011 (listed by weight, most to least):

- Cost of Doing Business
- Workforce
- Quality of Life
- Infrastructure & Transportation
- Economy
- Education
- Technology and Innovation
- Business Friendliness
- Access to Capital
- Cost of Living

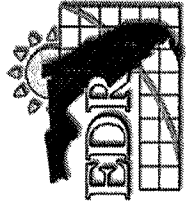
# What is Local Economic Development?

The purpose of local economic development is to build up the economic capacity of a local area to improve its economic future and the quality of life for all. It is a process by which public, business, and nongovernmental sector partners work collectively to create better conditions for economic growth and employment generation.



In the broadest sense, economic development policies encompass three major areas:

- Government efforts to meet broad economic objectives such as high employment, price stability, and sustainable growth through monetary and fiscal policies, regulation of financial institutions and access to credit, and favorable trade and tax policies.
- Programs that provide infrastructure and services such as highways, parks, affordable housing, crime prevention, and K-12 education.
- Job creation and retention through specific efforts such as downtown and neighborhood development, small business development, workforce development, business retention and expansion.





# Numerous Revenue Sources Available to Fund Local Economic Development Efforts

**General-purpose revenue sources whose uses are entirely or, for the most part, at local discretion.**

- County general fund revenues totaled \$12.2 billion in LFY 2008-09.
- Municipal general fund revenues totaled \$9.4 billion in LFY 2008-09.

**Revenue sources whose proceeds can be used to fund local infrastructure projects generally.**

- Examples include federal and state assistance programs, impact fees, local discretionary sales surtaxes, local option fuel taxes, and special assessments.

**Revenue sources whose proceeds can be used to fund local economic development efforts specifically.**

- Examples include convention development taxes, federal and state assistance programs, local business taxes, and tourist development taxes.

# Revenue Sources Available to Fund Local Infrastructure (Based on Home Rule Authority)

*Impact Fees...charges imposed by local governments against new development to provide for capital facilities' costs made necessary by population growth.*

- Reported Impact Fee Revenue Collections:
  - County governments: \$207 million in LFY 2008-09 (n=40).
  - Municipal governments: \$139 million in LFY 2008-09 (n=181).
  - School districts: \$87 million in SFY 2010-11 (n=28).
- The majority of county and municipal government-imposed impact fees generate revenues to fund physical environment and transportation infrastructure.
- Revenue collections have decreased significantly in recent years due to the housing bust and local government efforts to freeze, reduce, or repeal impact fees in light of economic conditions.



# Revenue Sources Available to Fund Local Infrastructure (Based on Home Rule Authority)

*Special Assessments...charges imposed by local governments against property to fund the construction and maintenance of capital facilities and certain services.*

- Reported Special Assessment Revenue Collections:
  - County governments: \$504 million in LFY 2008-09 (n=52).
  - Municipal governments: \$291 million in LFY 2008-09 (n=106).
- The majority of county and municipal government-imposed special assessments generate revenues to fund local service provision rather than capital facilities.
- Although still trending positive, revenue collections have slowed in recent years.



# Revenue Sources Available to Fund Local Infrastructure (Based on Statutory Authority)

*Local Discretionary Sales Surtaxes...eight separate levies [s. 212.055, F.S.] that can be imposed by county governments or school districts to fund a variety of local infrastructure, public health, or public safety needs depending on the particular levy. Total tax rate varies by county from 1.5% to 3.5%.*

- In CY 2012, 48 county governments will levy at least one surtax and only Madison County and 15 school districts will exercise all possible taxing authority.
- Total Realized and Unrealized Surtax Revenues in LFY 2011-12:
  - Realized: county governments, \$1.3 billion; school districts, \$346 million.
  - Unrealized: county governments, \$0.2 billion; school districts, \$1.0 billion.
- Proceeds from the following surtaxes generate revenues to fund physical environment and transportation infrastructure: 1) Charter County and Regional Transportation System Surtax, Local Government Infrastructure Surtax, Small County Surtax, and School Capital Outlay Surtax.
- As the sole method of authorization for several different surtaxes, voter approval in a countywide referendum may hamper increased utilization of this funding source.



# Revenue Sources Available to Fund Local Infrastructure (Based on Statutory Authority)

*Local Option Fuel Taxes...three separate levies, totaling a maximum of 12 cents per gallon on motor fuel (i.e., gasoline), that can be imposed by county governments to fund transportation infrastructure needs.*

- Ninth-Cent Fuel Tax [s. 336.021, F.S.]
  - Optional rate of 1 cent per gallon on motor fuel. Rate on diesel fuel equalized statewide at 1 cent per gallon.
  - In CY 2012, 51 counties imposing tax on motor fuel. In LFY 2011-12, \$81 million realized; \$16 million unrealized.
- 1 to 6 Cents Fuel Tax [s. 336.025, F.S.]
  - Optional rate of up to 6 cents per gallon on motor fuel. Rate on diesel fuel equalized statewide at 6 cents per gallon.
  - In CY 2012, 66 counties @ 6 cents; Franklin County @ 5 cents. In LFY 2011-12, \$540 million realized; \$55,447 unrealized by Franklin County.
- 1 to 5 Cents Fuel Tax [s. 336.025, F.S.]
  - Optional rate of up to 5 cents per gallon on motor fuel. No tax on diesel fuel.
  - In CY 2012, 2 counties @ 2 cents; 2 counties @ 3 cents; and 20 counties @ 5 cents. In LFY 2011-12, \$174 million realized; \$207 million unrealized.



# Revenue Sources Available to Fund Local Economic Development Efforts

*Convention Development Taxes...three county governments (Duval, Miami-Dade, and Volusia) are eligible to levy a tax on transient rental transactions. The maximum tax rates are either 2 or 3 percent depending on the particular levy.*

- Total Realized and Unrealized Tax Revenues in LFY 2011-12:
  - Consolidated County Tax @ 2% [s. 212.0305(4)(a), F.S.]
    - Duval County: \$4.7 million realized. No unrealized revenue.
  - Charter County Tax @ 3% [s. 212.0305(4)(a), F.S.]
    - Miami-Dade County : \$39 million realized. No unrealized revenue.
  - Special District, Special, and Subcounty Tax @ 3% [s. 212.0305(4)(c)-(e), F.S.]
    - Volusia County: \$7.0 million realized. No unrealized revenue.
- Generally, the tax proceeds may be used for capital construction of convention centers and other tourist-related facilities as well as tourism promotion. However, the authorized uses vary by levy.



# Revenue Sources Available to Fund Local Economic Development Efforts

*Local Business Tax...county and municipal governments are eligible to levy the tax, authorized in Ch. 205, F.S., for the privilege of engaging in or managing any business, profession, or occupation within their respective jurisdictions.*

- Reported Local Business Tax Collections:
  - County governments: \$32 million in LFY 2008-09 (n=35)
  - Municipal governments: \$120 million in LFY 2008-09 (n=269)
- Although the tax proceeds are considered general revenue for the county or municipality, county business tax revenues may be used for overseeing and implementing a comprehensive economic development strategy. [s. 205.033(7), F.S.]
- Several bills (SB 760, HB 1063, and HB 4025) have been filed for the 2012 legislative session, which would repeal the local business tax effective July 1, 2012.



# Revenue Sources Available to Fund Local Economic Development Efforts

*Tourist Development Taxes...eligible county governments may be able to impose up to five separate taxes on transient rental transactions. Total tax rate varies by county from 1% to 6%.*

- Authorized Tax Levies:
  - 1 or 2% Tax [s. 125.0104(3)(c), F.S.]
  - Additional 1% Tax [s. 125.0104(3)(d), F.S.]
  - 1% Professional Sports Franchise Facility Tax [s. 125.0104(3)(l), F.S.]
  - 1% High Tourism Impact Tax [s. 125.0104(3)(m), F.S.]
  - 1% Additional Professional Sports Franchise Facility Tax [s. 125.0104(3)(n), F.S.]
- Total Realized and Unrealized Tax Revenues in LFY 2011-12:
  - Realized: \$ 536 million. Unrealized: \$38 million.
- Generally, the tax proceeds may be used for capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance. However, the authorized uses vary by levy.

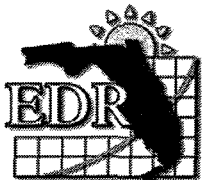




# Budgeted Programs To Assist Non-State Entities with Economic Development and/or Infrastructure Funding

- Agency for Persons with Disabilities: 1 program
- Agency for Workforce Innovation: 2 programs
- Executive Office of the Governor: 24 programs
- Dept. of Agriculture and Consumer Services: 4 programs
- Dept. of Children and Families: 2 programs
- Dept. of Community Affairs: 3 programs
- Dept. of Elder Affairs: 1 program
- Dept. of Environmental Protection: 5 programs
- Dept. of Highway Safety and Motor Vehicles: 1 program
- Dept. of Revenue: 16 programs
- Dept. of State and Secretary of State: 4 programs
- Dept. of Transportation: 22 programs
- Florida Housing Finance Corporation: 3 programs

**Total: 88 programs**



Additionally, there are 287 federal programs that provide assistance to non-federal entities for community, economic, and regional development; construction, renewal, and rehabilitation; public works; and transportation.

# Incentives – Corporate Income Tax

## Jobs for the Unemployed Tax Credit

- Provides a \$1,000 tax credit to a target industry business for each regular, full-time employee who works for at least 12 months.
- Was unemployed for at least 30 days at the time of hiring.
- Was hired on or after July 1, 2010.
- The credit may be carried forward for one year.
- Reference: Section 220.1896, Florida Statutes

## Enterprise Zone Jobs Credit

- Allows a credit to a business located in an enterprise zone that increases the total number of full-time jobs over 12 months.
- The credit is 20% of the actual monthly wages paid in this state to each new employee hired into a newly-created job. The percentage of the actual monthly wages paid could be greater than 20%, depending on certain circumstances.
- The credit may be carried forward for five years.
- Reference: Section 220.181, F.S.

## Rural Job Tax Credit

- Provides an incentive for eligible businesses, located within designated rural counties, to create new jobs.
- The tax credit can range from \$1,000 to \$1,500 per qualified employee.
- A business may receive up to \$500,000 in tax credits during any one calendar year for its efforts in creating jobs.
- The credit may be carried forward for five years.
- Reference: Section 220.1895, F.S., s. 212.098.

## Urban High-Crime Area Job Tax Credit

- Provides an incentive for eligible businesses, located within designated urban areas, to create new jobs.
- The credit can range from \$500 to \$2,000 per qualified employee.
- The credit may be carried forward for five years.
- References: Section 220.1895, F.S., s. 212.097, F.S.

## FL Employees And Fed Employment Credits

- Provides a deduction for the amount of wages and salaries paid to Florida employees for the taxable year for which no deduction is allowed under s. 280C(a) of the Internal Revenue Code (relating to credit for employment of certain new employees).
- Reference: Section 220.13(1)(b)3., F.S.

# Incentives – Corporate Income Tax (cont.)

## Enterprise Zone Property Tax Credit

- The credit is available to a corporation that does one of the following in an enterprise zone:
  - Creates a new business with five or more new jobs.
  - Expands an existing business and creates five or more new jobs.
  - Rebuilds an existing business that suffered damage in an emergency.
- The credit is computed on 96% of ad valorem taxes levied for operating purposes, not including debt service.
- The credit may be carried forward for five years.
- References: Section 220.182, F.S. and Enterprise Florida

## Entertainment Industry Tax Credit

- Credit must be approved by the Office of Tourism, Trade, and Economic Development (OTTED) under the guidelines in s. 288.1254, F.S.
- The credit may be carried forward for five years.
- References: Section 220.1899, F.S., s. 288.1254, F.S. and Governor's Office of Film and Entertainment

## New Markets Tax Credit

- Provides a credit equal to 39% of the purchase price of a qualified investment as defined in s. 288.9913(9), F.S.
- A partner, member, or shareholder of a partnership, limited liability company, subchapter S corporation, or other pass-through entity may claim the credit under an agreement among the partners, members, or shareholders.
- The credit may be carried forward for five years.
- Reference: Section 288.9916, F.S.

## Capital Investment Tax Credit

- The credit is available to businesses in a designated high-impact sector (e.g., silicon technology, transportation industries, or solar panel manufacturing facilities).
- The business must establish a qualified project which results in a cumulative capital investment of at least \$25 million.
- The project must be certified by the Office of Tourism, Trade, and Economic Development (OTTED).
- An annual credit may be claimed for up to 20 years in an amount equal to 5% of the eligible capital costs generated by a qualifying project.
- References: Section 220.191, F.S., TIP 98C01-06, TIP 08C01-04

# Incentives – Corporate Income Tax (cont.)

**Credit for Contributions to SFOs**

- The allowed credit is 100% of the eligible contributions made during the taxable year, up to 75% of the tax due after the application of all other credits.
- The credit may be carried forward for three years.
- References: Section 220.1875, F.S., s. 1002.395, F.S.

**Community Contribution Tax Credit**

- Allows a credit of 50% of a qualified community contribution to an eligible sponsor for a project as defined in s. 220.03(1)(c), F.S.
- The annual amount granted is up to \$200,000 per business.
- The credit may be carried forward for five years.
- Reference: Section 220.183, F.S.

**State Housing Tax Credit**

- Provides a credit to private corporations that build low-income housing projects in urban areas.
- A credit of up to 9% is allowed of the eligible basis of any designated project for each year of the credit period for a taxable year.
- Reference: Section 220.185, F.S.

**Contaminated Site Rehabilitation Tax Credit**

- Provides a credit to taxpayers that voluntarily rehabilitate brownfield sites or sites contaminated with dry-cleaning solvent.
- The credit must be approved by the Florida Department of Environmental Protection.
- The credit is for 50% of rehabilitation costs, up to \$500,000 per site per year.
- The credit may be carried forward for five years.
- References: Section 220.1845, F.S.

**Hazardous Waste Facility Tax Credit**

- Provides a credit to the owner of any commercial hazardous waste recycling facility that incurs expenses for hydrologic, geologic, or soil site evaluations and permit fees required by the Florida Department of Environmental Protection. The credit is equal to the amount of expenses incurred.
- Also provides a credit to the owner of any commercial hazardous waste recycling facility permitted by the Florida Department of Environmental Protection equal to 5% of the cost of stationary facility equipment placed in service during the taxable year and used for the recycling of hazardous wastes.
- The credit may be carried forward for five years.
- Reference: Section 220.184, F.S.



# Tax Incentives – Sales Tax

## Miscellaneous Exemptions

- **New or Expanding Business**
  - Applies to property that has depreciable life of 3 years or more.
  - Machinery for a new business must be ordered before the start of productive operations and received within 12 months.
  - Expanding businesses must show a minimum 10% increase in productive output. Not required for spaceport businesses.
  - Reference: Section 212.08(5)(b), Florida Statutes,
- **Machinery and Equipment to Produce Electricity or Steam**
- **Certain Repair and Labor Charges**
- **Pollution Control Machinery and Equipment**
- **Semiconductor, Defense or Space Technology**
- **Research or Development Costs**
- **Electricity or Steam Purchased for Manufacturing**
- **Boiler Fuels**
- **Resource Recovery Equipment (Refund)**
- **Solar Energy Systems**
  - References: Section 212.08, sec. 212.052, Florida Statutes

# Tax Incentives – Sales Tax (cont.)

## Motion Picture or Video Equipment Used in Motion Picture or Television Production Activities and Sound Recording Equipment Used in the Production of Master Tapes and Master Records

- Exemption on the purchase or lease of certain motion picture or video equipment and sound recording equipment used only as an integral part of the production activities in Florida.
- Property must have a depreciable life of 3 years or more.
- Production companies with a certificate of exemption issued under s. 288.1258, F. S., are eligible.
- References: Section 212.08(5)(f), F.S., The Governor's Office of Film and Entertainment

## Entertainment Industry Financial Incentive Program

- Credit must be approved by the Office of Tourism, Trade, and Economic Development (OTTED) under the guidelines in s. 288.1254, F.S.
- The credit can be carried forward for 5 years.
- References: Section 212.08(5)(g), F.S., The Governor's Office of Film and Entertainment

## Manufacturing and Spaceport Investment Incentive Program

- Provides a refund on eligible equipment purchases used in the manufacturing, processing, compounding, or production of tangible personal property for sale or for exclusive use in spaceport activities.
- The maximum amount is \$50,000 in state sales and use tax in a single year.
- Refund must be approved by the Office of Tourism, Trade, and Economic Development (OTTED).
- References: Section 288.1083, F.S.,

# Tax Incentives – Sales Tax (cont.)

## Florida's Enterprise Zone Program

### Enterprise Zone Jobs Credit

- Businesses that increased the number of full-time employees from the average of the previous 12 months, or added at least five new full-time employees, are eligible for the credit.
- The new employees may be leased employees.
- Credit is allowed for up to 24 consecutive months.
- Credit is limited to the amount due on each return. No refund or carry-forward is allowed.
- Amount of credit depends on employee category and the percentage of full-time employees who are residents of a Florida enterprise zone.
- A business cannot claim the credit against sales and use tax if it has already claimed it for corporate income tax.
- References: [Section 212.096, F.S.](#), [Enterprise Florida](#)

### Business Property Used in an Enterprise Zone (Refund)

- Eligible property includes office and warehouse equipment, and some industrial machinery and equipment.
- Property must be used only in an enterprise zone for at least 3 years.
- Refund is subject to a minimum and maximum dollar amount.
- Maximum refund amount may be increased based on the percentage of permanent, full-time employees who are residents of a Florida enterprise zone.
- References: [Section 212.08\(5\)\(h\), F.S.](#), [Enterprise Florida](#)

### Electrical Energy Used in an Enterprise Zone (Exemption)

- Exemption for municipal utility taxes for up to 5 years.
- Percentage of exemption may be increased from 50% to 100% based on the percentage of full-time employees who are residents of a Florida enterprise zone.
- References: [Section 212.08\(15\), F.S.](#), [Enterprise](#)

### Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone (Refund)

- Eligible recipient may be one of the following: owner, lessee, lessor, nonprofit community-based organization, city, county or other governmental organization.
- Amount of refund is subject to a minimum and maximum dollar amount.
- Maximum refund amount may be increased based on the percentage of permanent, full-time employees who are residents of a Florida enterprise zone.
- Only one refund is allowed for each parcel of real property.
- References: [Section 212.08\(5\)\(g\), F.S.](#), [Enterprise Florida](#)

# Incentives – Insurance Premium Tax

**Related to Jobs:** Provides a credit against insurance premium taxes and fees for up to 15 percent of the salary of employees of the affiliated group of corporations who:

- Perform insurance-related activities,
- Are located or based within this state, and
- Are covered by Chapter 443, F.S. (Unemployment Compensation).
- Reference: Section 624.509(5), Florida Statutes





# Economic Development Incentives Report- Annual survey of Local Governments

- Legislation enacted during the 2010 Regular Session requires local governments to report economic development incentives granted during the local fiscal year to EDR. Specifically, local governments that have granted economic incentives in excess of \$25,000 during the fiscal year must report to EDR by January 15, and annually thereafter, economic incentives, by class of incentive, given to businesses during the local fiscal year. (Municipalities having annual revenues and expenditures less than \$250,000 are excluded from this reporting requirement.)
- Local governments were asked to report their incentives through an online survey maintained by EDR.
- 38 counties and 36 municipalities completed the survey for LFY 09/10.

A summary of the results is on EDR's website:

(<http://edr.state.fl.us/Content/local-government/reports/index.cfm#incentives-report>).

References: Sections 125.045, s.166.021, F.S.



# Types of Offered Incentives

Respondents were asked to report incentives by class and type.  
(A detailed description of each class can be found in the report.)

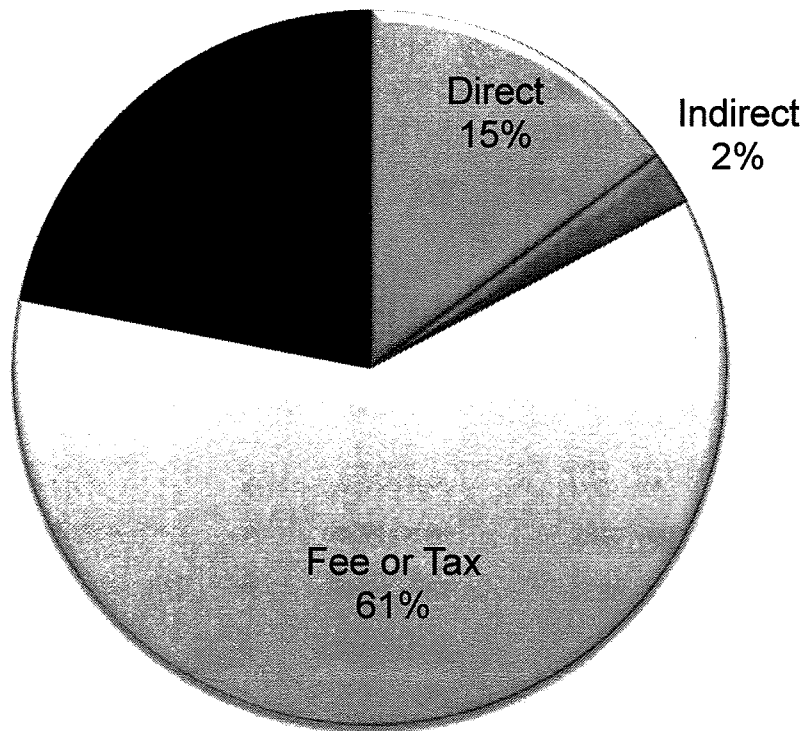
- Direct Incentives – monetary assistance provided to one or more businesses or through an organization authorized by the local government. Direct incentives include grants, loans, equity investments, loan insurance and guarantees, and training subsidies.
- Indirect Incentives – grants or loans provided to businesses or community organizations that provide support to businesses or promote business investment or development.
- Fee-based or Tax-based Incentives – Tax or fee credits, refunds, exemptions, or property tax abatement or assessment reductions.
- Below Market Rate Leases or Deeds for Real Property – provided to businesses from the local government.

# Survey Results for LFY 09/10

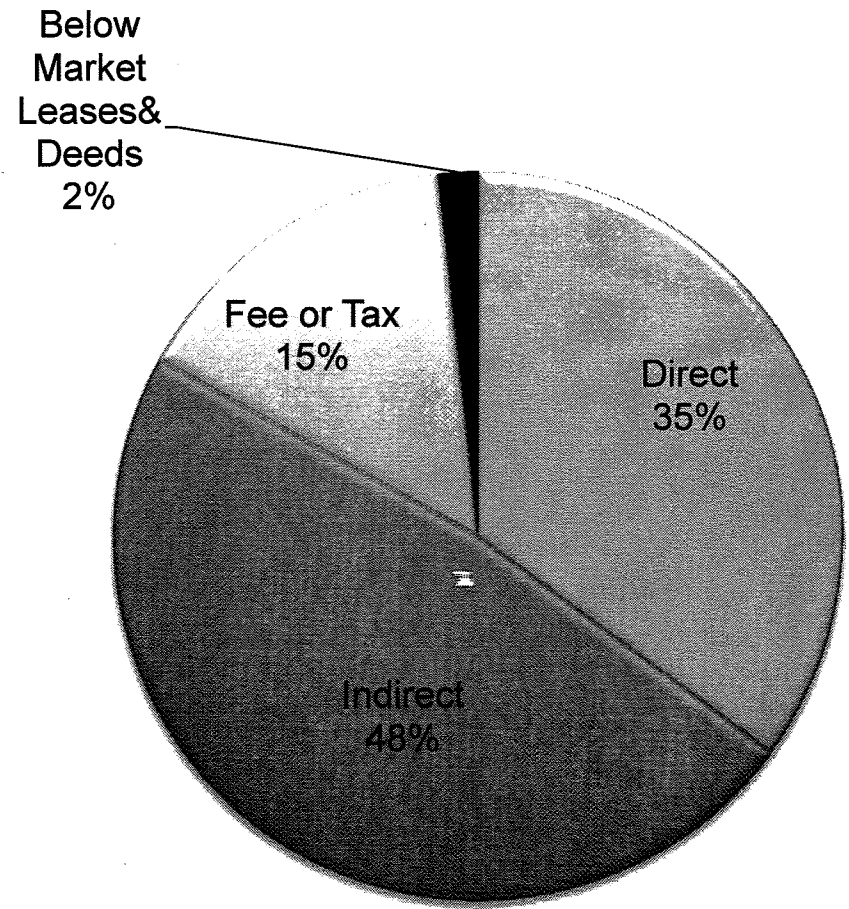
- Reporting counties issued \$84.4 million in incentives for economic development.
- Reporting municipalities issued \$60.7 million in incentives for economic development.
- Indirect incentives given to local government entities or organizations supporting and promoting business investment or development in the amount of \$40.5 million were the most popular incentive issued by counties.
- Municipalities issued the most incentives in the form of fee and tax credits in the amount of \$36.8 million.



# Local Incentive Categories



**Municipalities**



**Counties**

# Florida's Special Districts

There are 1,619 active special districts in Florida funded primarily from charges for services and ad valorem taxes. They may be categorized as follows:

- Districts that help attract businesses and retail establishments by redeveloping, improving, and maintaining commercial areas and facilities;
- Districts that allow new residential, commercial, and industrial developments to occur through financing, building, and maintenance;
- Districts that provide major infrastructure and facilities serving large areas, such as airports, roads, bridges, expressways, sea ports, waterways, and utility systems;
- Districts that protect life and property by providing fire control and rescue, flood control, and emergency medical services; and
- Districts that help make Florida a desirable place to live, work, and visit by providing civic, health, educational, conservation, parks, sports, and recreational facilities.



# Community/Economic Development

Of active special districts, the largest categories addressing community/economic development (first two categories from previous page) are:

- Community redevelopment agency (CRA) districts – 205; and
- Community development districts (CDD) – 574.

In addition, there are other categories of special districts that focus primarily on community/economic development. Some examples are:

- 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; and
- Business improvement districts – 1.



*For more information on special districts see: <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/>*

# CRA's/Funding

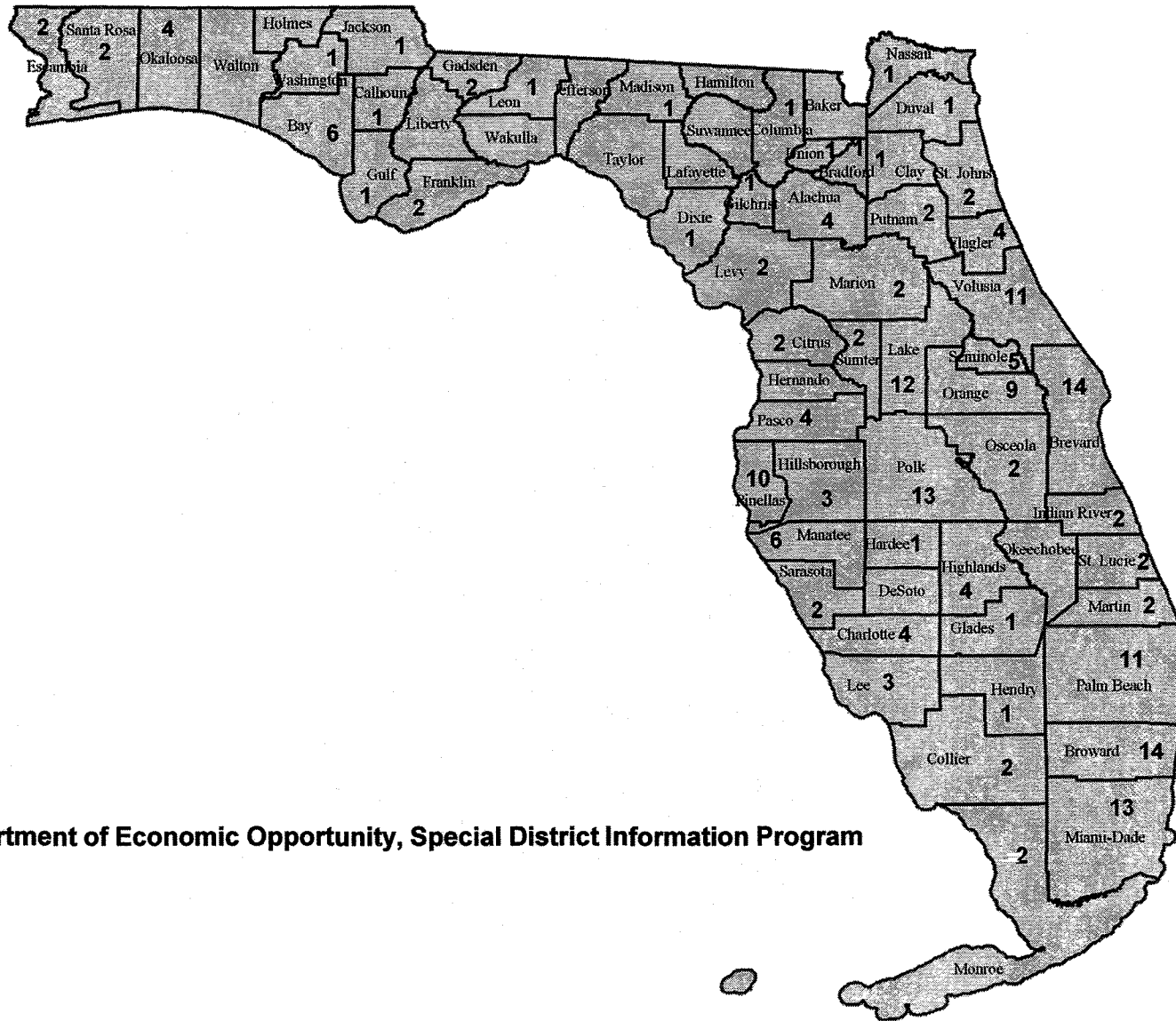
Community Redevelopment Agencies (Part III, Ch. 163, F.S.), are mechanisms that may be formed by cities and counties for eliminating, reducing, or *preventing* areas of slum and blight or crime, or for the provision of affordable housing to residents of low or moderate income.

Slum and blighted areas are defined in law to generally include a multitude of conditions that are more severe than in other areas of the respective city or county.

CRA activities are generally funded from increments of annual ad valorem taxes that result from growth in property values occurring following establishment of the community redevelopment area.



# Florida Active CRA's by County



Source: Department of Economic Opportunity, Special District Information Program



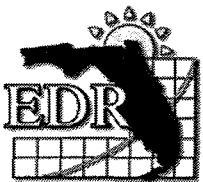


# CDD's/Funding

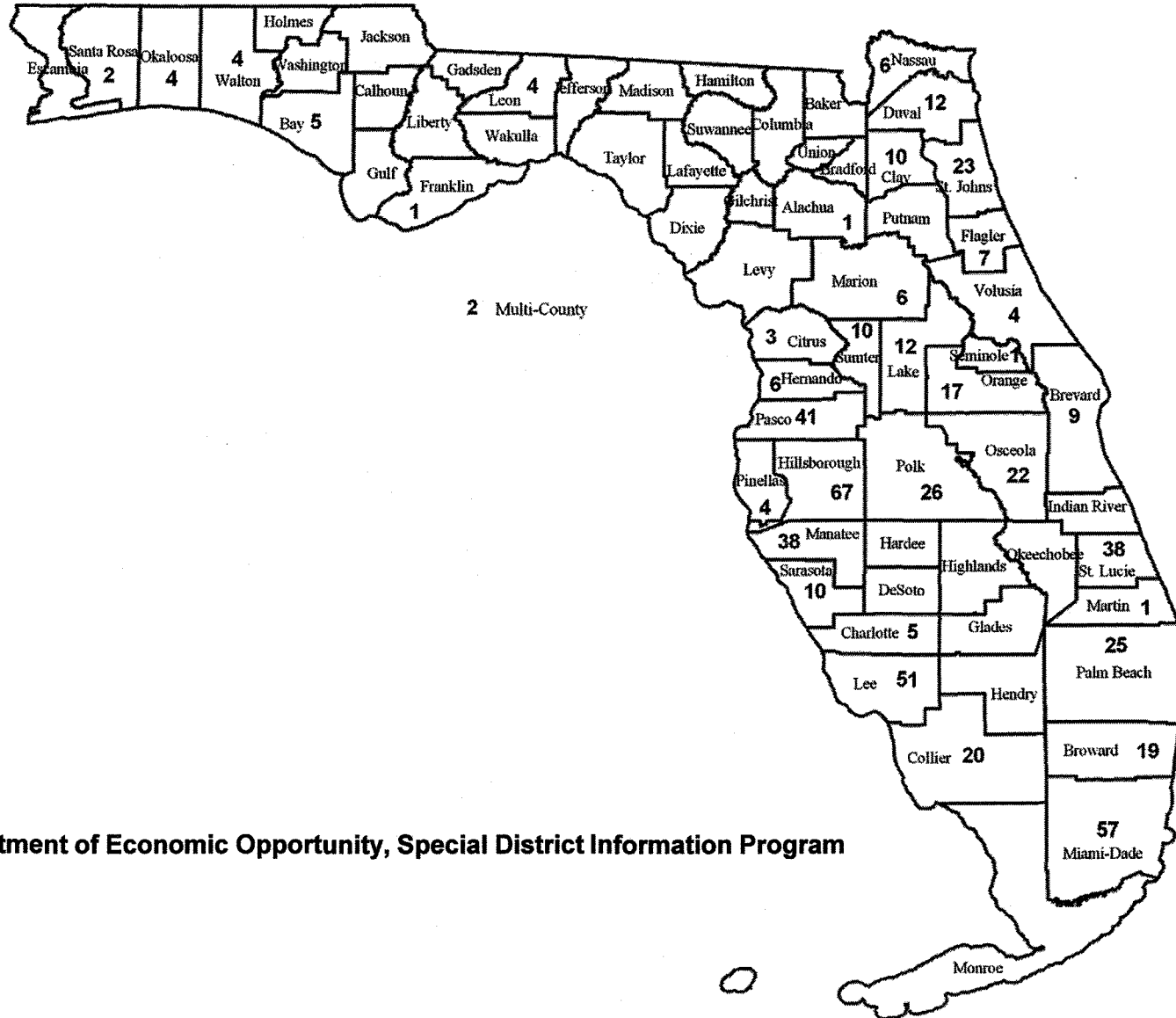
The purpose of Community Development Districts (Ch. 190, F.S.) is to provide a mechanism for independently managing and financing basic community development services relating to the delivery of capital infrastructure necessary to serve projected growth without overburdening other governments (and their taxpayers).

CDD's can range in size from "compact , urban mixed use districts" located within a municipality and community redevelopment area (maximum of 75 acres) to those of less than 1,000 acres (established by a city or county ordinance) to districts of 1,000 acres or more (established by the Florida Land and Water Adjudicatory Commission). Examples of a couple of fairly well known CDD's are: the Villages in Lake and Sumter Counties and Celebration in Osceola County.

CDD's have the power to levy: ad valorem taxes up to 3 mils for operating purposes (and additional 2 mils if exercising powers specified in s. 190.012(2), F.S.); total benefit special assessments (for bonds and related expenses); and maintenance special assessments.



# Florida Active CDD's by County



Source: Department of Economic Opportunity, Special District Information Program

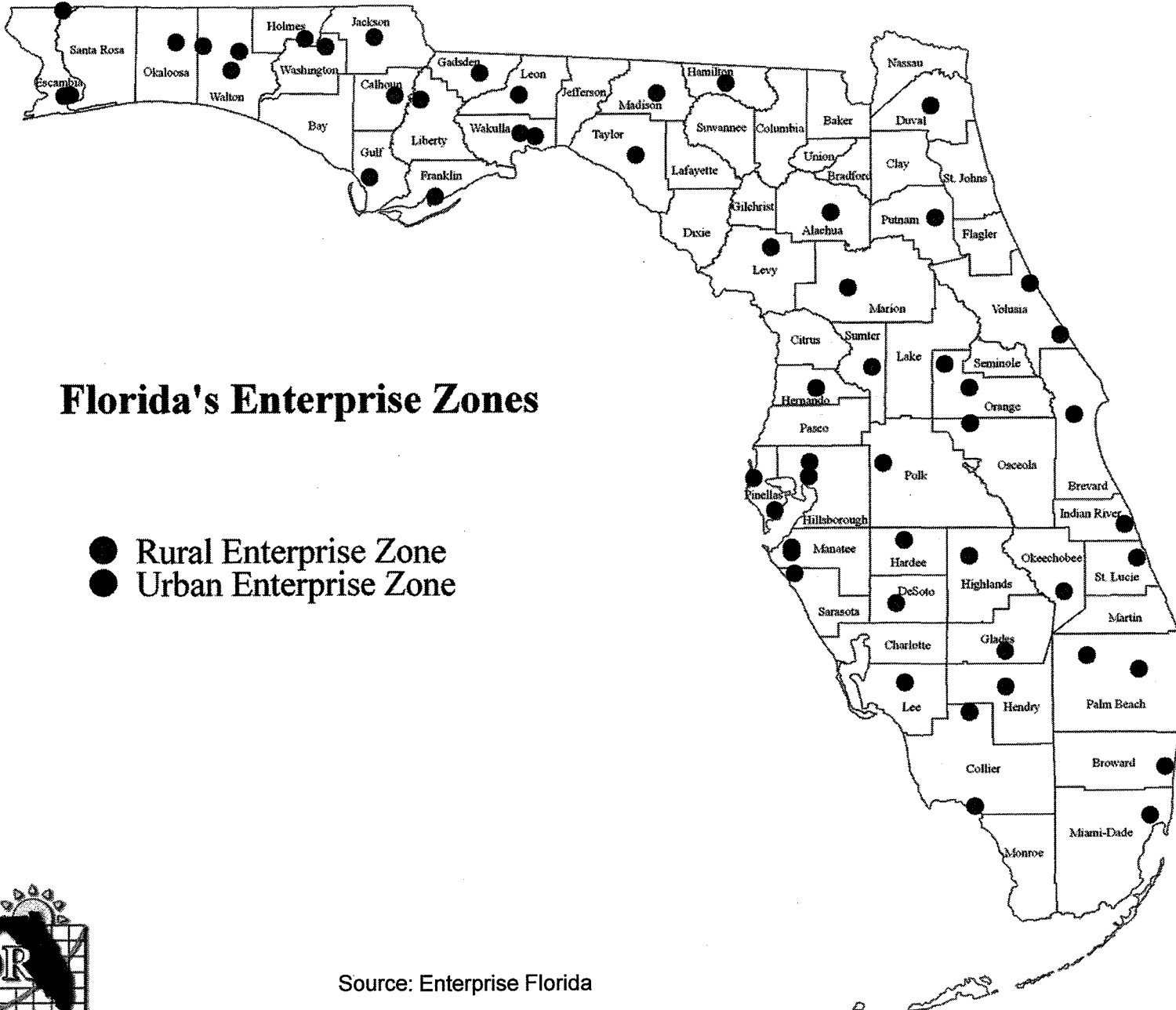


# Enterprise Zones

- Created in 1982 to encourage economic growth and investment in distressed areas, an Enterprise Zone is a specific geographic area targeted for economic revitalizing. Enterprise Zones encourage economic growth and investment in distressed areas by offering tax advantages and incentives to businesses locating within the zone boundaries.
- There are 62 approved zones that will be in effect until December 2015.



*For more information on enterprise zones see: <http://www.floridaenterprisezones.com/>*



# Enterprise Zones Incentives (s. 290.007, F.S)

## **Jobs Tax Credit (Sales Tax): Rural Enterprise Zones**

Allows a business located within a Rural Enterprise Zone to take a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a Rural County. To be eligible, a business must create at least one new job. The Sales Tax Credit cannot be used in conjunction with the Corporate Tax Jobs Credit.

## **Jobs Tax Credit (Sales Tax): Urban Enterprise Zones**

Allows a business located within an Urban Enterprise Zone to take a sales and use tax credit for 20 or 30 percent of wages paid to new employees who reside within an enterprise zone. To be eligible, a business must create at least one new job. The Sales Tax Credit cannot be used in conjunction with the Corporate Tax Jobs Credit).

## **Jobs Tax Credit (Corporate Income Tax): Rural Enterprise Zones**

Allows a business located within a Rural Enterprise Zone to take a corporate income tax credit for 30 or 45 percent of wages paid to new employees who reside within a Rural County. To be eligible, a business must create at least one new job. The Corporate Tax Credit cannot be used in conjunction with the Sales Tax Credit.

## **Jobs Tax Credit (Corporate Income Tax): Urban Enterprise Zones**

Allows a business located within an Urban Enterprise Zone to take a corporate income tax credit for 20 or 30 percent of wages paid to new employees who reside within an enterprise zone. The Corporate Tax Credit cannot be used in conjunction with the Sales Tax Credit.

## **Business Equipment Sales Tax Refund: Rural and Urban Enterprise Zones**

A refund is available for sales taxes paid on the purchase of certain business property, which is used exclusively in an Enterprise Zone for at least 3 years.

## **Building Materials Sales Tax Refund: Rural and Urban Enterprise Zones**

A refund is available for sales taxes paid on the purchase of building materials used to rehabilitate real property located in an Enterprise Zone.

## **Property Tax Credit (Corporate Income Tax): Rural and Urban Enterprise Zones**

New or expanded businesses located within an enterprise zone are allowed a credit against Florida corporate income tax equal to 96% of ad valorem taxes paid on the new or improved property.

## **Sales Tax Exemption for Electrical Energy: Rural and Urban Enterprise Zones**

A 50% sales tax exemption is available to qualified businesses located within an Enterprise Zone on the purchase of electrical energy, if the municipality has reduced the municipal utility tax by at least 50%.

## **Community Contribution Tax Credit Program: Rural and Urban Enterprise Zones**

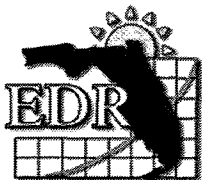
Allows businesses a 50% credit on Florida corporate income tax, insurance premium tax, or sales tax refund for donations made to local community development projects. Businesses are not required to be located in an enterprise zone to be eligible for this credit.

## **Property Tax Exemption for Childcare Facilities: Rural and Urban Enterprise Zones**

Provides an exemption from ad valorem property tax for licensed childcare facilities operating in areas designated as enterprise zones.

# Two Year Summary of Enterprise Zone Program

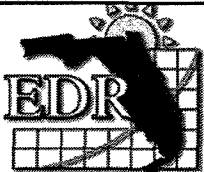
Category	2009/2010	2008/2009
New Businesses within a zone	7,559	3,104
New Jobs created within a zone	6,784	9,073
Businesses receiving technical assistance	9,056	11,708
State Incentives Approved	\$67,602,482	\$45,351,441
Local Incentives Approved	\$19,975,176	\$11,577,451
<b>Total State and Local Incentives Approved</b>	<b>\$87,577,658</b>	<b>\$56,928,892</b>



Source: Enterprise Florida

# Five Year Summary of incentives approved by the Department of Revenue

Category	2009/2010	2008/2009	2007/2008	2006/2007	2005/2006
Jobs Tax Credit (Sales and Use Tax)	\$ 5,683,252	\$ 5,227,245	\$ 5,732,605	\$ 6,087,843	\$ 6,777,250
Jobs Tax Credit (Corporate Income Tax)	\$ 4,348,031	\$ 5,072,555	\$ 5,507,311	\$ 5,919,236	\$ 4,253,621
Property Tax Credit (Corporate Income Tax)	\$ 1,384,668	\$ 1,910,708	\$ 2,184,036	\$ 2,291,961	\$ 1,267,999
Building Materials** (Sales Tax Refund)	\$ 54,012,915	\$ 30,994,860	\$ 25,665,025	\$ 18,855,129	\$ 7,415,711
Business Equipment (Sales Tax Refund)	\$ 1,035,562	\$ 1,139,066	\$ 1,269,955	\$ 1,771,396	\$ 2,940,864
Electrical Energy (Sales Tax Exemption)	\$ 1,138,054	\$ 1,007,007	\$ 606	\$ 793,179	\$ 778,090
<b>Total State Incentives</b>	<b>\$ 67,602,482</b>	<b>\$ 45,351,441</b>	<b>\$ 40,359,538</b>	<b>\$ 35,718,744</b>	<b>\$ 23,433,535</b>
Number of Zones	59	56	56	56	55



\*\* During the 2010 Legislative Session, the Florida Legislature approved legislation that amended the definition of real property by excluding "condominiums". From FY 06/07 through FY 09/10, 88% of the building materials refunds went to condominiums.

# Qualified Target Industry Tax Refund Program (s. 288.106, F.S.)

The Qualified Target Industry Tax Refund incentive is available for companies that create high wage jobs in targeted high value-added industries. This incentive includes refunds on corporate income, sales, ad valorem, intangible personal property, insurance premium, and certain other taxes from an appropriated amount set aside for this purpose. Pre-approved applicants who create jobs in Florida receive "tax refunds" of \$3,000 per net new Florida full-time equivalent job created; \$6,000 in an Enterprise Zone or Rural Community (county).

- For businesses paying 150 percent of the average annual wage, add \$1,000 per job;
- For businesses paying 200 percent of the average annual salary, add \$2,000 per job;
- For businesses falling within a designated high impact sector or increasing exports of its goods through a seaport or airport in the state by at least 10 percent in value or tonnage in each year of receiving a QTI refund, add \$2,000 per job;
- For projects locating in a designated Brownfield area (Brownfield Bonus), add \$2,500 per job.

The local community where the company locates contributes 20 percent of the total tax refund. There is a cap of \$5 million per single qualified applicant in all years, and no more than 25 percent of the total refund approved may be taken in any single fiscal year. New or expanding businesses in selected targeted industries or corporate headquarters are eligible.



# QTI Payments by Locals (LFY 10/11)

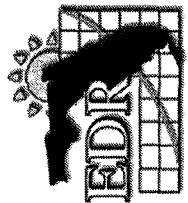
County	Ad Valorem	Local Financial Support
Alachua County	\$ -	\$ 41,750
Bay County	\$ 39,886	\$ 34,243
Brevard County	\$ 3,223	\$ 3,223
Broward County	\$ -	\$ 286,650
Duval County	\$ -	\$ 782,530
Escambia County	\$ 152,732	\$ 23,887
Flagler County	\$ -	\$ 3,119
Hillsborough County	\$ 37,625	\$ 166,250
Jackson County	\$ -	\$ 50,000
Lee County	\$ -	\$ 142,500
Leon County	\$ -	\$ 52,500
Manatee County	\$ -	\$ 9,278
Marion County	\$ -	\$ 48,279
Martin County	\$ -	\$ 6,750
Nassau County	\$ -	\$ 3,500
Orange County	\$ -	\$ 330,448
Osceola County	\$ -	\$ 1,000
Palm Beach County	\$ -	\$ 58,800
Pinellas County	\$ -	\$ 66,822
Polk County	\$ -	\$ 494
Santa Rosa County	\$ -	\$ 14,000
Seminole County	\$ -	\$ 58,773
Taylor County	\$ -	\$ 12,121
Volusia County	\$ -	\$ 8,300
<b>Grand Total</b>	<b>\$ 233,466</b>	<b>\$ 2,205,215</b>

Source: Department of Economic Opportunity

# Local Government Debt Outstanding

Reported Debt	Total	Count	Min	Max	Average
Local Fiscal Year 2008-09					
Counties	27,285,187,675	66	39,669	11,893,115,000	413,411,934
Cities	27,108,887,682	401	0	8,983,418,000	67,603,211
Special Districts	26,539,885,853	1,595	0	2,072,763,000	16,639,427
Other Entities	<u>7,419,633,249</u>	51	0	6,131,894,000	145,483,005
	<b>88,353,594,459</b>				

Subset of Spec Distr: CRAs      823,291,475



## For Additional Information...

Legislative Office of Economic and Demographic Research  
Phone Number: 850-487-1402  
<http://edr.state.fl.us/Content/local-government/index.cfm>

Local Government Revenues	• Steve O'Cain, Melissa Hallaian, and Skip Burnside
State Budgeted Programs for Economic Development	• Steve O'Cain
Tax Incentives	• Melissa Hallaian
Local Government Economic Incentive Report	• Melissa Hallaian
Special Districts	• Skip Burnside
CRAs	• Skip Burnside
CDDs	• Skip Burnside
Enterprise Zones	• Melissa Hallaian
QTI Program	• Melissa Hallaian

**Local Government  
Economic  
Development Tools**

# Local Government Economic Development Tools

*Creating Jobs and Growing Our Economy*

- \* **Broward County Commissioner Chip LaMarca  
(District 4)**
- \*
- \* House Community & Military Affairs Subcommittee
- \* January 11, 2012
- \* 11:30am – 2:00pm

# Economic Development Tools at Work

**The Greater Fort Lauderdale Alliance (Alliance) partners with Broward County to effectuate the following mission:**

... “to lead Broward County in building a stronger and more diverse economy. We do this by promoting increased public/private sector collaboration, delivering business development initiatives focused on new investment and job growth, enhancing the competitiveness of Broward's business climate and driving regional initiatives.”



# Economic Development Tools at Work

## **In FY 2011, the Alliance achieved the following successes:**

- New “Value Added” Jobs Created 1,002
- Job Retention and Expansion 1,764
- Direct Capital Investment \$56.1 million
- Private Sector Investment \$1.4 million

Source: Greater Fort Lauderdale Alliance 2011 Annual Report

## **Some of the companies the Alliance and OESBD attracted and/or retained over the past 10 years include:**

- DHL’s Americas Headquarters 1,300 new jobs
- Kaplan University’s Headquarters 1,700 new jobs
- Aetna Rx Mail Order Pharmacy 857 new jobs
- Research in Motion (RIM) 500 new jobs
- Associated Grocers Headquarters 400 new jobs
- Royal Caribbean Cruise Lines 410 new jobs

Source: Broward County Office of Management and Budget.

# Economic Development Tools at Work

- The **local business tax (LBT)**, authorized by the Legislature in 1995 and formerly known as the local occupational license tax, is a major source of revenue for Broward County's successful economic development programs.
- The maximum annual LBT "business" contribution is \$150 per year.
- LBT revenue is reinvested back into the community for economic development, supporting new business marketing, recruitment and expansion efforts
- \* **In 2011, Broward County's Office of Economic & Small Business Development used the LBT revenues for the following programs:**
  - Economic Development \$558,540
  - Small Business Development \$1.2 million
  - Economic Development Incentives \$143,325

\* Source: Broward County's Office of Economic and Small Business Development <sup>4</sup>



## POTENTIAL IMPACT OF REPEALING LBTR

The Legislature's Revenue Estimating Conference estimated the loss to local governments at \$156.4 million. Broward County would lose a total of approximately \$3 million in LBTR revenue, including a **\$1.7 million** loss for the municipalities.

Between FY **2007-2011** Broward County collected **\$5,242,522** for economic development efforts from the LBTR. This funding was allocated between the Greater Fort Lauderdale Alliance (Alliance) and the Office of Economic & Small Business Development (OESBD) and distributed in the following manner:

➤ Alliance	\$ 4,816,460
➤ OESBD	\$ 426,062

Source: Broward County's Office of Management and Budget.

# Economic Development Tools at Work

## **How many businesses have been attracted to Broward by these programs?**

- \* During the period from 2007 through 2011, the Alliance and OESBD have assisted more than 700 targeted industry companies through their business assistance programs. In addition to its efforts with targeted industries, the OESBD maintains an active client list of 1,537 certified firms that receive various types of services.

## **How many direct jobs have been created by these programs?**

- \* The total number of direct targeted industry jobs created with assistance by the Alliance, OESBD, and municipal partners is 8,668 (FY 2007-2011). The total number of targeted industry retained jobs is 5,447.

Source: OESBD Summary of Performance Accomplishments (FY2007 – FY2011), December 22, 2011.



## **Small businesses also benefit from Broward County's commitment to their success:**

- Complementing economic development responsibilities to those of the Alliance including a special focus on small to mid-sized companies
- Assistance in identifying procurement contract opportunities for the County offered to small businesses and many municipalities
- New start-up technical assistance, industrial revenue and private activity bond financing, and export/import training
- Business outreach and marketing
- Business development and counseling
- Business finance and incentives programs
- Regulatory & Support Functions

Source: OESBD/GLFA Recruit and Expansion Projects – Highlights 12 22 2011



## Kaplan, Inc.

**Industry:** Higher Education  
**Jobs:** 300

Incentive Amount:	QTI (County Portion):	\$ 25,000
	Direct Cash (County Portion):	\$ <u>75,000</u>
	<b>Total County Portion:</b>	<b>\$100,000</b>
	Total QTI:	\$250,000
	Total Direct Cash:	\$ <u>150,000</u>
	<b>Total Incentive Awarded:</b>	<b>\$400,000</b>

<b>Investment:</b>	
Construction/Renovations	\$ 3,010,000
Equipment	\$ <u>1,739,000</u>
<b>Total Investment (Phase III)</b>	<b>\$ 4,749,000</b>

Source: Broward County Board of County Commissioners' Agenda 9/1/2009.



**CBeyond, Inc.**

**Industry:** Telecommunications Equipment and Service  
**Jobs:** 100

**Incentive Amount:** QTI (County Portion): \$ 50,000  
**Total County Portion:** \$ 50,000  
**Total QTI:** \$500,000  
**Total Incentive Awarded:** \$500,000

**Investment:**  
Construction/Renovations \$ 1,145,000  
Equipment \$ 13,404,313  
**Total Investment \$ 14,549,313**

Source: Broward County Board of County Commissioners' Agenda 10/23/2007.





## S & B Industries

**Industry:** Mobile Communications Device Development and Engineering

**Jobs:** 150

<b>Incentive Amount:</b>	QTI (County Portion):	\$ 75,000
	Direct Cash (County Portion):	<u>\$ 50,000</u>
	Total County Portion:	\$125,000
	Total QTI:	\$750,000
	Total Direct Cash:	<u>\$100,000</u>

<b>Investment:</b>	
Construction/Renovations	\$ 1,325,000
Equipment	<u>\$ 15,975,000</u>
<b>Total Investment</b>	<b>\$ 17,300,000</b>

Source: Broward County Board of County Commissioners' Agenda 6/2/2009.



**Nipro Diagnostics, Inc. (formerly Home Diagnostics)**

<b>Industry:</b>	Medical Device Development/Manufacturing	
<b>Jobs:</b>	135	
<b>Incentive Amount:</b>	QTI (County Portion):	\$ 40,500
	Direct Cash (County Portion):	<u>\$135,000</u>
	<b>Total County Portion:</b>	<b>\$175,500</b>
	Total QTI:	\$405,000
	Total Direct Cash:	<u>\$270,000</u>
	<b>Total Incentive Awarded:</b>	<b>\$675,000</b>

<b>Investment:</b>	
Construction/Renovations	\$ 2,200,000
Equipment	<u>\$ 27,800,000</u>
<b>Total Investment</b>	<b>\$ 30,000,000</b>

Source: Broward County Board of County Commissioners' Agenda 12/12/2006.





**Federated Precision, Inc.**

**Industry:** Aerospace Parts Manufacturing  
**Jobs:** 66

**Incentive Amount:**

QTI (Broward County 10% Match)	\$33,000
QTI (City of Deerfield Beach 10% Match)	\$33,000
QTI (State of Florida – 80%)	<u>\$264,000</u>
Total QTI	\$330,000

**Investment:**

Equipment	<u>\$13,875,000</u>
<b>Total Investment</b>	<b>\$13,875,000</b>

Source: Broward County Board of County Commissioners' Agenda 6/28/2011.





# Local Government Economic Development and Financing Tools

put people to...

**WORK!**