



LOCAL & FEDERAL AFFAIRS COMMITTEE

Meeting Packet


Wednesday, March 12, 2014

1:00 p.m.

Webster Hall (212 Knott)

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 15 Fair Tax Act of 2013
SPONSOR(S): Van Zant and others
TIED BILLS: IDEN./SIM. **BILLS:** SM 118

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Kelly KK	Rojas 
2) Finance & Tax Subcommittee			

SUMMARY ANALYSIS

HM 15 urges the United States Congress to adopt H.R. 25, known as the Fair Tax Act of 2013 (Act). The Act would repeal the 16th Amendment from the U.S. Constitution as well as eliminate the federal income tax, payroll tax, estate tax, gift tax, capital gains tax, alternative minimum tax, self-employment tax, the corporate tax, and all other current federal taxes. Finally, in place of these removed taxes, the Act would implement a 23 percent national retail sales tax on all new goods and services bought at the point of final purchase for consumption.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

H.R. 25 is federal legislation known as the Fair Tax Act of 2013 (Act). The Act would repeal the 16th Amendment from the U.S. Constitution and eliminate the federal income tax, payroll tax, estate tax, gift tax, capital gains tax, alternative minimum tax, self-employment tax, the corporate tax, and all other current federal taxes. Finally, in place of these removed taxes, the Act would implement a 23 percent national retail sales tax on all new goods and services bought at the point of final purchase for consumption.

Supporters of the Act argue the current income tax system discourages personal savings and investments by taxing capital gains, dividends, and interest earned. By implementing a single sales tax, the Act is fair, simple, efficient, and would have a positive economic impact.¹

Opposition of the Act argues the benefits of a 23 percent national sales tax is misleading and based on overly optimistic assumptions for economic benefit. Opposition also states this Act would be a regressive policy because the Act only positively benefits individuals earning more than \$200,000 per year.²

Congressman Woodall of Georgia introduced the Act in January 2013. Currently, the bill has been assigned to the Ways and Means Committee.³

Background on Taxation

The Sixteenth Amendment

The basis for income taxes in the United States comes from the ratification of the 16th Amendment to the U.S. Constitution in 1913. Accordingly, the 16th Amendment grants Congress the power to lay and collect taxes from individuals and corporations on "income, from whatever source derived," and eliminates the previous requirement that all direct federal taxes be apportioned by population.⁴

Federal Tax System

Federal Income Taxes

Federal income taxes are a tool used to raise revenue for the federal government. This tax is calculated by applying taxable income calculated as gross income minus any tax deductions that is defined by the Internal Revenue Code (IRC) to a tax rate (which can increase as income increases) also set by the IRC. Individuals and corporations can be directly taxed, while estates and trusts may be taxable on undistributed income.⁵

On an individual basis, tax liability is determined by: "(1) regular individual income tax liability reduced by credits allowed against the regular tax, or (2) [alternative] minimum tax reduced by credits allowed against the minimum tax."⁶ Income that is taxable is determined by the individual's total gross income

¹ FAIR TAX.ORG, available at <http://www.fairtax.org/site/PageServer?pagename=HowFairTaxWorks>.

² FACTCHECK.ORG, available at <http://www.factcheck.org/2007/05/unspinning-the-fairtax/>.

³ H.R. 25, GOVTRACK.US, available at <https://www.govtrack.us/congress/bills/113/hr25>.

⁴ U.S. CONST. amend. XVI; 46 A.L.R. Fed. 2d 301 (Originally published in 2010).

⁵ JOSEPH M. DODGE ET AL., FEDERAL INCOME TAX: DOCTRINE, STRUCTURE, AND POLICY (4th ed, 2012).

⁶ SHIRLEY DENNIS ESCOFFIER & KAREN A. FORTIN, TAXATION FOR DECISION MAKERS, 3-4 (Thompson South Western 2008).

less the individual's deductions (using the standard deduction or itemized deductions) and personal exemptions.⁷ An individual's adjusted gross income (AGI) is determined by the individual's total income less certain adjustments for items like moving expenses, student loan interest, IRA contributions, and alimony. After the AGI is reduced, marginal tax rates based on corresponding income brackets are then applied to the taxable income with the maximum rate set at 39.6 percent.⁸

Some individual's may also elect to pay Alternative Minimum Tax (AMT). Taxpayers must either pay the higher rate of the regular income tax or the AMT. AMT is usually applied at a flat rate on taxable income. The main difference between the AMT and the regular income tax is that the various exemptions usually available for regular income tax is replaced by a single deduction that is phased out at higher income levels. Taxes for corporations are paid in a similar manner.⁹

Federal Payroll Taxes

Payroll and estate taxes also interact with the federal income tax scheme. Federal "payroll" taxes largely refer to the federal Social Security tax (enacted in 1935) and the Medicare tax. (enacted in 1966). The revenue for these taxes comes from labor income including wages and self-employment income. Originally, for the Social Security tax, the first \$3,000 of wages were subject to the tax at a rate of 1 percent to the employer and 1 percent to the employee. Wages above that line were exempt. Today, the rate and the "wage ceiling" have increased, making the wage ceiling approximately \$106,800 at a tax rate of 6.2 percent for both the employer and the employee. Despite this change, wages above this ceiling still remain to be exempt.¹⁰

The Medicare tax is imposed today on all wages and self-employment income at a rate of 1.45 percent on both the employer and the employee. There is no wage ceiling for this particular tax. Collectively, most households pay more payroll taxes than income taxes. Likewise, Federal revenue generated from payroll taxes contributes almost as much as individual income taxes.¹¹

Federal Estate and Gift Taxes

A gift tax is imposed on any transfer of ownership of property made in the United States. The tax is imposed on the donor of the gift. However, certain exemptions apply including deductions for gifts made to spouses, charities, tuition, or medical expenses paid for someone made directly to a medical or educational entity. Estate taxes are imposed when a person inherits money or property from a deceased person. The gift and estate taxes are based on the same graduated rate schedule, with a maximum tax rate of 40 percent.¹²

The Fair Tax Act

In 2011, similar legislation to the current Act was introduced in the 112th Congress (known as the Fair Tax Act of 2011).¹³ Presently, Act have been re-introduced in the 113th Congress.¹⁴ Below is a summary describing current Act, prepared by the Congressional Research Service:

This legislation proposes to repeal the individual income tax, the corporate income tax, all payroll taxes, the self-employment tax, and the estate and gift taxes. These taxes would effectively be replaced with a 23% (tax-inclusive, meaning that the rate is a proportion of the

⁷ Kelly Phillips, *Making Sense of Income and Tax Terms*, FORBES.COM (November 13, 2012), <http://www.forbes.com/sites/kellyphillipsrb/2012/11/13/making-sense-of-income-and-tax-terms/>.

⁸ JOSEPH M. DODGE ET AL., *FEDERAL INCOME TAX: DOCTRINE, STRUCTURE, AND POLICY* (4th ed, 2012).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ H.R. 25 / S. 13.

¹⁴ H.R. 25 / S. 13.

after-tax rather than the pre-tax value) national retail sales tax. The tax-inclusive retail sales tax would equal 23% of the sum of the sales price of an item and the amount of the retail sales tax. Every family would receive a rebate of the sales tax on spending amounts up to the federal poverty level (plus an extra amount to prevent any marriage penalty). The Social Security Administration would provide a monthly sales tax rebate to registered qualified families. The 23% national retail sales [tax] would not be levied on exports. The sales tax would be separately stated and charged. Social Security and Medicare benefits would remain the same with payroll tax revenue replaced by some of the revenue from the retail sales tax. States could elect to collect the national retail sales tax on behalf of the federal government in exchange for a fee. Taxpayer rights provisions are incorporated into the act. The sales tax would sunset at the end of a seven-year period beginning on the enactment of this act if the Sixteenth Amendment is not repealed. This amendment provided Congress the 'power to lay and collect taxes on income.'¹⁵

Effect of Proposed Changes

HM 15 urges the United States Congress to adopt H.R. 25, known as the Fair Tax Act of 2013 (Act). The Act would repeal the 16th amendment from the U.S. Constitution as well as eliminate the federal income tax, payroll tax, estate tax, gift tax, capital gains tax, alternative minimum tax, self-employment tax, the corporate tax, and all other current federal taxes. Finally, in place of these removed taxes, the Act would enact a 23 percent national retail sales tax on all new goods and services bought at the point of final purchase for consumption.

- B. SECTION DIRECTORY:
Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

¹⁵ Congressional Research Service, *Tax Reform in the 113th Congress: An Overview of Proposals*, available at <http://www.fas.org/sgp/crs/misc/R43060.pdf>.

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:
None.

2. Other:
None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Memorial

A memorial to the Congress of the United States, urging Congress to repeal all taxes on income and enact a national retail sales tax as specified in H.R. 25, the Fair Tax Act of 2013.

WHEREAS, our Founding Fathers, being mindful that history has demonstrated that income taxes give government too much power over citizens, specifically forbade such taxes in the Constitution of the United States, and

WHEREAS, Alexander Hamilton wrote in The Federalist No. 21 that "it is a signal advantage of taxes on articles of consumption, that they contain in their own nature a security against excess," and

WHEREAS, the current income tax system requires individual taxpayers to prepare annual tax returns using many complicated forms, causing innocent errors that are heavily punished, and

WHEREAS, the current income tax system actually penalizes marriage, and

WHEREAS, the federal income tax:

(1) Retards economic growth and has reduced the standard of living of the American public;

(2) Impedes the international competitiveness of United States industry;

(3) Reduces savings and investment in the United States by taxing income multiple times;

(4) Slows the capital formation necessary for real wages to steadily increase;

HM 15

2014

29 (5) Lowers productivity;

30 (6) Imposes unacceptable and unnecessary administrative
 31 and compliance costs on individual and business taxpayers;

32 (7) Is unfair and inequitable;

33 (8) Unnecessarily intrudes upon the privacy and civil
 34 rights of United States citizens;

35 (9) Hides the true costs of government by embedding taxes
 36 in the costs of everything that Americans buy;

37 (10) Is not being complied with at satisfactory levels
 38 and, therefore, raises the tax burden on law-abiding citizens;
 39 and

40 (11) Impedes upward social mobility, and

41 WHEREAS, federal payroll taxes, including social security
 42 and Medicare payroll taxes and self-employment taxes:

43 (1) Raise the cost of employment;

44 (2) Destroy jobs and cause unemployment; and

45 (3) Have a disproportionately adverse impact on lower-
 46 income Americans, and

47 WHEREAS, the federal estate and gift taxes:

48 (1) Force family businesses and farms to be sold by the
 49 family in order to pay taxes;

50 (2) Discourage capital formation and entrepreneurship;

51 (3) Foster the continued dominance of large enterprises
 52 over small family-owned companies and farms; and

53 (4) Impose unacceptably high tax-planning costs on small
 54 businesses and farms, and

55 WHEREAS, a broad-based national sales tax on goods and
 56 services purchased for final consumption:

57 (1) Is similar in many respects to the sales and use taxes
 58 that are authorized in 45 of the 50 states;

59 (2) Will promote savings and investment;

60 (3) Will promote fairness;

61 (4) Will promote economic growth;

62 (5) Will raise the standard of living;

63 (6) Will enhance productivity and international
 64 competitiveness;

65 (7) Will reduce administrative burdens on the American
 66 taxpayer;

67 (8) Will improve upward social mobility; and

68 (9) Will respect the privacy interests and civil rights of
 69 taxpayers, and

70 WHEREAS, Congress should consider when implementing the
 71 administration of a national sales tax that:

72 (1) Most of the practical experience in administering
 73 sales taxes is found at the state level;

74 (2) It is desirable to harmonize federal and state
 75 collection and enforcement efforts to the maximum extent
 76 possible;

77 (3) It is sound tax administration policy to foster
 78 administration and collection of the federal sales tax at the
 79 state level in return for a reasonable administration fee to the
 80 states; and

81 (4) A business that must collect and remit taxes should
 82 receive reasonable compensation for the cost of doing so, and

83 WHEREAS, the 16th Amendment to the United States
 84 Constitution should be repealed, NOW, THEREFORE,

85
86
87
88
89
90
91
92
93
94
95
96
97
98
99

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

That the Legislature of the State of Florida, with all due respect, does hereby urge the United States Congress to enact H.R. 25, the Fair Tax Act of 2013, which eliminates the personal income tax, the alternative minimum tax, the inheritance tax, the gift tax, the capital gains tax, the corporate income tax, the self-employment tax, and the employee and employer payroll tax and replaces them with a national retail sales tax.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 189 Growth Management
SPONSOR(S): Boyd
TIED BILLS: IDEN./SIM. BILLS: SB 374

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	11 Y, 0 N	Duncan	West
2) Local & Federal Affairs Committee		Flegiel <i>MF</i>	Rojas <i>JK</i>
3) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 189 revises the prohibition on initiative and referendum processes for local comprehensive plan amendments or map amendments by removing a provision that allows such initiatives or referendum processes for any local comprehensive plan amendment or map amendment that affects more than five parcels of land under certain conditions.

The bill prohibits initiative or referendum processes for any local comprehensive plan amendment or map amendment, unless the initiative or referendum process is expressly authorized by specific language in a local government charter which was lawful and in effect on June 1, 2011.

The bill is effective upon becoming law.

The bill does not have a fiscal impact on state or local government revenues.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 2006, voters in the City of St. Pete Beach amended the city's charter to require voter referendums on all future changes to comprehensive plans, redevelopment plans, and building height regulations.¹ This process, often called "Hometown Democracy," caused delay in the local development process.² In November 2010, a similar proposal with statewide effect appeared on the general election ballot as a proposed amendment to Florida's Constitution. Florida voters decided against implementing Hometown Democracy statewide with a 67.1 percent 'no' vote, rejecting Amendment 4.³ In March 2011, voters in the City of St. Pete Beach repealed the town's Hometown Democracy provisions by 54.18 percent.⁴

The 2011 Legislature passed HB 7207, known as the "Community Planning Act."⁵ Among other things, the bill prohibited local governments from adopting initiative or referendum processes for any development orders, comprehensive plan amendments, or map amendments in an attempt to provide clarity in local land development processes.⁶ Prior to the passage of the act, local governments were prohibited from adopting initiative or referendum processes for comprehensive plan amendments or map amendments affecting 5 or fewer parcels of land.⁷

At the time, the Town of Longboat Key, the Town of Yankeetown, and the City of Miami Beach had land use referendum or initiative processes in place.⁸ One of these affected governments, the Town of Yankeetown (Yankeetown), had a charter provision which specifically authorized a referendum vote on comprehensive plan amendments affecting more than five parcels of land.⁹ Following the enactment of HB 7207 (2011), Yankeetown filed a complaint in the Leon County Circuit Court against the Department of Community Affairs (DCA), now the Department of Economic Opportunity (DEO), stating its desire to maintain its charter provision.¹⁰

In September 2011, DCA and Yankeetown reached a proposed settlement agreement contingent upon the Legislature passing, and the Governor signing into law, a proposed amendment to the Community

¹ "Is St. Pete Beach a Valid Case Study for Amendment 4?" *St. Petersburg Times*, March 15, 2010.

<http://www.politifact.com/florida/statements/2010/mar/19/citizens-lower-taxes-and-stronger-economy/st-pete-beach-amendment-4-hometown-democracy/> (last visited Jan. 15, 2014).

² *Id.*

³ Florida Department of State, Division of Elections, November 2, 2010 General Election Official Results.

<http://doe.dos.state.fl.us/elections/resultsarchive/Index.asp?ElectionDate=11/2/2010&DATAMODE=> (last visited Jan 15, 2014).

⁴ Pinellas County Supervisor of Elections, 2011 Municipal Election Results, St. Pete Beach Charter Amendment 1.

<http://enr.votepinellas.com/FL/Pinellas/26521/43085/en/vts.html?cid=0116> (last visited Jan. 15, 2014).

⁵ Part II of ch. 163, F.S. is known as the "Community Planning Act." Section 163.3161(1), F.S.

⁶ Section 7, ch. 2011-139, L.O.F., (HB 7207). Section 163.3167(8), F.S., (2011).

⁷ Section 163.3167(12), F.S. (2010).

⁸ Florida Department of Economic Opportunity, Division of Community Development, Email to House Economic Development & Tourism Subcommittee staff (Jan. 22, 2014). Email on file with the subcommittee.

⁹ *See Town of Yankeetown, FL v. Dep't of Econ. Opportunity, et. al.*, No. 37 2011-CA-002036 (Fla. 2d Cir. Ct. 2011), Town of Yankeetown's Amended Complaint for Declaratory Judgment, p. 3 (Aug. 9, 2011).

¹⁰ *Id.* The complaint alleged that ch. 2011-139, L.O.F., violated the single subject provision in s. 6, Art. III, State Constitution, and that it was read by a misleading, inaccurate title. Yankeetown also alleged that the law contained unconstitutionally vague terms and contained an unlawful delegation of legislative authority. The City of St. Pete Beach also filed a motion to intervene as a defendant in the case, on the same side as the state.

Planning Act.¹¹ During the 2012 legislative session, the resulting bill, CS/HB 7081, amended s. 163.3167(8), F.S., to allow charter provisions like that of Yankeetown to remain valid. The bill was intended to have a limited impact, protecting only those local government charter provisions that: 1) were in effect as of June 1, 2011; and 2) authorized an initiative or referendum process for development orders, comprehensive plan amendments, or map amendments.¹² The Legislature passed the bill on March 7, 2012, and the Governor signed CS/HB 7081 into law on April 6, 2012.¹³

Chapter 2012-99, L.O.F., (CS/HB 7081) left open the possibility for an interpretation that deemed all referendum or initiative provisions in effect as of June 1, 2011, as valid, not merely those specifically related to development orders, comprehensive plan amendments, or map amendments.

In October 2012, the Palm Beach County Circuit Court ruled that CS/HB 7081 (2012) extended the exception to all local government general referendum or initiative charter provisions in effect as of June 1, 2011.¹⁴ The court held that such a general provision encompassed specific land amendments, such as development orders and comprehensive map amendments, despite the charter language not specifically authorizing either. This interpretation was contrary to the intent of the 2011 and 2012 legislation, which sought to restrict those voting mechanisms.

In 2013, the Legislature passed CS/HB 7019¹⁵ and CS/CS/HB 537,¹⁶ which narrowed the interpretation of s. 163.3167(8), F.S., while preserving the intent and purpose of the Community Planning Act. The laws prohibited initiative or referendum processes for any development order, local comprehensive plan amendment, or map amendment. However, if a local government charter specifically authorizes initiative and referendum voting processes for land use amendments and was lawful and in effect June 1, 2011, then such processes are allowed for local comprehensive plan amendments or map amendments affecting more than five parcels of land. Initiative and referendum processes relating to development orders were removed from the exception and were prohibited.

The Town of Longboat Key is one of the few local governments that have a land use referendum or initiative process in its charter. The provision in the Town of Longboat Key charter states, "The present density limitations provided in the existing comprehensive plan as adopted March 12, 1984 shall not be increased without the referendum approval of the electors of Longboat Key."¹⁷ Thus, the Town of Longboat Key is prohibited from authorizing a referendum vote on local comprehensive plan amendments affecting less than five parcels of land.

Effect of Proposed Changes

The bill revises the prohibition on initiative or referendum processes for local comprehensive plan amendments or map amendments by removing a provision that allows such initiatives or referendum processes for any local comprehensive plan amendment or map amendment that affects more than five parcels of land under certain conditions.

¹¹ Settlement Letter between the Department of Community Affairs and St. Pete Beach and Yankeetown, Re: Case No. 37 2011 CA 002036 (Sept. 28, 2011). Letter on file with the House Economic Development & Tourism Subcommittee.

¹² Section 1, ch. 2012-99, L.O.F.

¹³ CS/HB 7081 became law on April 6, 2012 and was published as ch. 2012-99, L.O.F.

¹⁴ *City of Boca Raton v. Kennedy, et. al.*, Case No. 2012CA009962MB (Fla. 15th Cir. Ct. 2012), Order denying plaintiff, City of Boca Raton's and Intervener/Co-Plaintiff, Archstone Palmetto Park, LLC's Motions for Summary Judgment and Granting Defendants' Motion for Summary Judgment. J. Chernow Brown, Oct. 16, 2012.

¹⁵ Section 3, ch. 2013-213, L.O.F.

¹⁶ Section 1, ch. 2013-115, L.O.F.

¹⁷ Longboat Key Charter, Article II, Section 22(b). Municode Library, Longboat Key, Florida Code of Ordinances, Codified through Ordinance No. 2013-31, passed Dec. 2, 2013 (Supp. No. 5, Update 3).

http://library.municode.com/HTML/14959/level2/LOKECH_ARTIITOCO.html#LOKECH_ARTIITOCO_S22COPLTO (Retrieved Feb. 6th, 2014).

The bill prohibits initiative or referendum processes for any local comprehensive plan amendment or map amendment, unless the initiative or referendum process is expressly authorized by specific language in a local government charter which was lawful and in effect on June 1, 2011. The bill effectively exempts the Town of Longboat Key's referendum charter provision from the state statutory provision prohibiting such initiative or referendum processes for local comprehensive plan amendments or map amendments.

Additionally, the bill provides that it is the intent of the Legislature that initiative and referendum processes be prohibited in regard to any local comprehensive plan amendment or map amendment, except as narrowly permitted under s. 163.3167(8)(b), F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 163.3167(8)(b) and (c), F.S., relating to the scope of the Community Planning Act, to revise the prohibition of initiative or referendum processes for local comprehensive plan amendments or map amendments.

Section 2: Provides an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to growth management; amending s.
 3 163.3167, F.S.; revising restrictions on an initiative
 4 or referendum process in regard to local comprehensive
 5 plan amendments and map amendments; providing an
 6 effective date.

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

9
 10 Section 1. Paragraphs (b) and (c) of subsection (8) of
 11 section 163.3167, Florida Statutes, are amended to read:

12 163.3167 Scope of act.—

13 (8)

14 (b) An initiative or referendum process in regard to any
 15 local comprehensive plan amendment or map amendment is
 16 prohibited unless. ~~However, an initiative or referendum process~~
 17 ~~in regard to any local comprehensive plan amendment or map~~
 18 ~~amendment that affects more than five parcels of land is allowed~~
 19 if it is expressly authorized by specific language in a local
 20 government charter that was lawful and in effect on June 1,
 21 2011. A general local government charter provision for an
 22 initiative or referendum process is not sufficient.

23 (c) It is the intent of the Legislature that initiative
 24 and referendum be prohibited in regard to any development order.
 25 It is the intent of the Legislature that initiative and
 26 referendum be prohibited in regard to any local comprehensive

27 | plan amendment or map amendment, except as specifically and
28 | narrowly permitted in paragraph (b) ~~with regard to local~~
29 | ~~comprehensive plan amendments that affect more than five parcels~~
30 | ~~of land or map amendments that affect more than five parcels of~~
31 | ~~land~~. Therefore, the prohibition on initiative and referendum
32 | stated in paragraphs (a) and (b) is remedial in nature and
33 | applies retroactively to any initiative or referendum process
34 | commenced after June 1, 2011, and any such initiative or
35 | referendum process that has been commenced or completed
36 | thereafter is hereby deemed null and void and of no legal force
37 | and effect.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 281 Keystone XL Pipeline
SPONSOR(S): Hill
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Kelly KK	Rojas JR
2) Regulatory Affairs Committee			

SUMMARY ANALYSIS

HM 281 urges the President to issue final approval of the Keystone XL Pipeline Project (Project). The proposed Project advocates for the construction of an 875 mile pipeline spanning between Morgan, Montana to Steele City, Nebraska. The Project would also cross the U.S.-Canadian border at Morgan, Montana. The construction of the Project is the fourth and final phase of the larger Keystone Pipeline (Pipeline), a pipeline infrastructure that would have the capacity to deliver roughly 830,000 barrels per day (bpd) of crude oil from oil sands in Canada to the Gulf Coast of Texas.

Supporters of the Keystone XL Pipeline state obtaining crude oil via the Pipeline from Canada would reduce the necessity to rely on foreign oil companies in more unstable regions and would create more U.S. jobs. Supporters also argue that not only is the Pipeline convenient, but it is also the safest way to transport hazardous substances such as oil.

Those in opposition to the Keystone XL Pipeline argue that the potential environmental impacts outweigh the economic benefits. In Florida, the opposition is concerned about the atmospheric carbon pollution and its related impacts that are associated with emissions from burning fossil fuels.

All proposed petroleum pipelines that cross international borders of the U.S. must go through the Presidential Permit process per Executive Order 13337. As part of the Presidential Permit process, in January 2014 the Department of State (Department) completed and published its Final Supplemental Environmental Impact Statement (FSEIS) of the Project. The published FSEIS triggered a 90 day window in which the Department must obtain comment on the FSEIS from various agencies identified in Executive Order 13337. Beginning on February 5, 2014, the Department also began a 30 day public comment period. This window does not impact the President's undetermined timeline for making a decision on the Project's application.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The construction the Keystone XL Pipeline Project (Project) is the fourth and final phase of the larger Keystone Pipeline (Pipeline), a pipeline infrastructure built to transport crude oil from Canada to the U.S. The entire Pipeline is financially backed by the Canadian company, TransCanada Keystone Pipeline, LP (TransCanada).¹ The Project proposes the construction of an 875 mile pipeline between Morgan, Montana to Steele City, Nebraska. This portion of the Project is estimated to cost approximately \$3.3 billion and will be paid entirely by TransCanada. Upon authorization of the Presidential Permit, the Project would also cross the U.S.-Canadian border at Morgan, Montana.² The Project is estimated to take two years to complete construction. Along with the three subsequently built phases of the Pipeline, the Project would have the capacity to deliver roughly 830,000 barrels per day (bpd) of crude oil from oil sands in Canada to the Gulf Coast of Texas.³

TransCanada submitted an application for the Project in May 2012. In January 2014, the Department of State (Department) completed and published the Final Supplemental Environmental Impact Statement (FSEIS), triggering a 90 day period for the Department to solicit comment from the appropriate U.S. agencies per Executive Order 13337.

Supporters of the Keystone XL Pipeline state the Project supports market demand for crude oil refineries in closer proximity to the U.S. More so, obtaining crude oil from Canada would reduce the necessity to rely on foreign oil companies in unstable regions.⁴ Likewise, according to the U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration (PHMSA), pipelines are one of the safest and cost-effective ways to transport oil and other hazardous liquid products to the U.S.⁵ Using less risky means to transport oil will reduce the potential for spills and other related disasters.

Specifically in Florida, supporters of the Pipeline argue quick and easy access to oil is important to Florida because Floridians consume approximately 9.5 billion gallons of gasoline and diesel fuel annually.⁶ Likewise, various Florida industries such as fertilizer, agrochemical, and plastic rely heavily on the access and use of oil products. Because Florida has no crude oil refineries, much of its petroleum products must be delivered to ports in cities such as Jacksonville, Miami, Tampa, Port Canaveral, Port Manatee, and Port Everglades.⁷ The use of pipelines through the heart of America would deliver oil to Gulf Coast refineries closer to Florida, eliminating the risk of an energy crisis in the

¹ United States Department of State Bureau of Oceans and International Environmental and Scientific Affairs, Final Supplemental Impact Statement for the Keystone XL Project (FSEIS) (January 2014), available at <http://keystonepipeline-xl.state.gov/documents/organization/221135.pdf>.

² FSEIS Exec. Summ. at 9.

³ FSEIS Exec. Summ. at 6.

⁴ Nancy Smith, *Enough Stalling on the Keystone XL Pipeline*, SUNSHINE STATE NEWS (October 19, 2013), available at <http://www.sunshinestatenews.com/story/enough-stalling-keystone-xl-pipeline-already>.

⁵ U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration, Safe Pipeline FAQs, available at <http://phmsa.dot.gov/portal/site/PHMSA/menuitem.ebdc7a8a7e39f2e55cf2031050248a0c/?vgnnextoid=2c6924cc45ea4110VgnVCM100009ed07898RCRD&vgnnextchannel=f7280665b91ac010VgnVCM1000008049a8c0RCRD&vgnnextfmt=print>.

⁶ Federal Highway Administration, Motor-Fuel Use 2012, available at <http://www.fhwa.dot.gov/policyinformation/statistics/2012/pdf/mf21.pdf>.

⁷ U.S. Energy Information Administration, Florida State Profile and Energy Estimates, available at

<http://www.eia.gov/state/analysis.cfm?sid=FL>.

state if ports experience a natural disaster. Finally, supporters state Canada and Florida have long been beneficiaries of one another, and this Project would prove yet another economic benefit.⁸

Those in opposition to the Keystone XL Pipeline argue largely that the potential environmental impacts outweigh the economic benefits. In Florida, the opposition is concerned about the atmospheric carbon pollution that is associated with emissions from burning fossil fuels.⁹ Specifically, the opposition argues the completion of the Pipeline will increase the rate of greenhouse emissions because the method of extracting tar sand oil employed in this Project will produce more gasses than traditional oil. These emissions cause potential risks including economic loss, biodiversity loss, food and water shortages, health issues, extreme weather, storms, and sea level rise. Finally, the opposition states that because Florida's environmental and economic industries (like tourism) rely on clean shorelines and water, increasing pollution via fossil fuel emissions could hinder these kinds of industries.¹⁰

Background on the Keystone Pipeline and the Keystone XL Pipeline Project

The Pipeline is a four-phase project that ultimately connects Canada to the Gulf Coast of Texas. Phase one, which spans between Hardisty, Alberta to Steele City, Nebraska, Wood River, Illinois, and Patoka, Illinois, is already constructed and currently operating. Phase two of the pipeline runs through Steele City, Nebraska to Cushing, Oklahoma. This pipeline is finished and has been operating since 2010. Finally, phase three, known as the "Cushing Market Link," spans between Cushing, Oklahoma to Nederland, Texas.¹¹ The Keystone XL Pipeline is the fourth and final phase of the larger Pipeline infrastructure.

Construction of all proposed petroleum pipelines that cross international borders of the U.S. must go through the Presidential Permit process per Executive Order 13337.¹² In this process, the President must first issue an Executive Order which directs the Department of State (Department) to determine whether a particular project serves a national interest.¹³ In this determination, the Department considers factors consistent with the National Environmental Policy Act (NEPA) and prepares a FSEIS which determines if the project does or does not serve a national interest.¹⁴ Upon publishing the FSEIS, the Department has 90 days to consult with eight federal agencies including the Department of Energy, Defense, Transportation, Homeland Security, Justice, Commerce, and the Environmental Protection Agency. The Department must also consider public comment on the proposed project. This window does not impact the President's undetermined timeline for making a decision on the Project's application. At any point after this Presidential Permit process, the President may issue a National Interest Determination (NID) and then either approve or deny the Project's application.¹⁵

In 2008, TransCanada submitted its first application for the Project. The pipeline infrastructure in the first application was 1,384 miles, approximately 1.5 times the length of the current proposal. More so, the pipeline would have crossed 90 miles of the Sand Hills Region in Nebraska, a region the Nebraska Department of Environmental Quality (NDEQ) identified as environmentally-sensitive. The Department published the FSEIS for this proposal in 2011, but the President subsequently denied the permit due to the controversial path the Project took across the Sand Hills Region. On May 4, 2012, TransCanada filed a new Presidential Permit application, proposing a new route which avoided the Sand Hills Region and terminated the Project at Steele City, Nebraska. In accordance with review of the permit, the

⁸ Kevin Doyle, *Keystone Pipeline Important to Florida*, StAugustine.com (June 26, 2013), available at <http://staugustine.com/opinions/2013-06-26/guest-column-keystone-xl-pipeline-important-florida#.UvKBWvldW9U>.

⁹ CREDO Action, *Sigh the Keystone XL Pledge of Resistance*, available at http://act.credoaction.com/sign/kxl_pledge.

¹⁰ *Stop the Keystone XL Pipeline*, available at <http://florida.sierraclub.org/northeast/issues/articles/XLPipeline.html>.

¹¹ FSEIS Exec. Summ. at 3.

¹² FSEIS Exec. Summ. at 1.

¹³ *Issuance of Permits With Respect to Certain Energy-Related Facilities and Land Transportation Crossings on the International Boundaries of the United States*, 69 FR 25299; 3 U.S.C.A. § 301 (West).

¹⁴ 42 U.S.C.A. § 4332 (West).

¹⁵ 42 U.S.C.A. § 4332 (West); U.S. Department of State, *Remarks on the Release of the Final Supplemental Environmental Impact Statement for the Proposed Keystone Pipeline*, (Jan. 31, 2014), available at <http://www.state.gov/e/oes/rls/remarks/2014/221129.htm>

Department selected the consulting firm, Environmental Resources Management (ESM) as a third-party to prepare the Supplemental Environmental Impact Statement (SEIS). In preparing the FSEIS, the Department took into consideration over 1.5 million public comment submissions.¹⁶ The Department issued the FSEIS in January 2014, triggering a 90 day period for the Department to solicit comment from the appropriate U.S. agencies.

In early 2013, 53 Senators including 44 Republicans and 9 Democrats signed and sent a letter to the President urging him to approve the Project.¹⁷ At least one poll has shown approximately two-thirds of Americans support the construction of the Project.¹⁸

Effect of Proposed Changes

HM 281 urges the President to issue final approval of the Project. Upon approval, TransCanada will begin construction on the Project, completing the entire Pipeline within two years. At completion of the Pipeline, TransCanada will have the capacity to deliver roughly 830,000 barrels per day (bpd) of crude oil from oil sands in Canada to the Gulf Coast of Texas.¹⁹

The FSEIS states the Project will not significantly add to greenhouse emissions.²⁰ Specifically, the FSEIS states that assuming the Project occurs within the next few years, the climate conditions would not substantially differ from the current conditions.²¹ The FSEIS also states the potential for certain spills have been mitigated by implementation of the PHSMA prevention plan.²² Finally, the FSEIS states the Project would support approximately 42,100 jobs either indirectly, directly, or induced by the Project. Approximately 3,900 of these jobs are construction jobs located through Montana, South Dakota, Nebraska, and Kansas. Overall, approximately 2 billion dollars in earnings would result from the Project.²³

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

- B. SECTION DIRECTORY:
Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

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

¹⁶ U.S. Department of State, Keystone XL Pipeline Evaluation Process Fact Sheet, *available at* [Keystonepipeline-xl.state.gov/draftseis/205549.htm](http://keystonepipeline-xl.state.gov/draftseis/205549.htm).

¹⁷ Matt Daly, 53 Senators Urge Approval of Keystone XL Pipeline, USA Today (Jan. 23, 2013), *available at* <http://www.usatoday.com/story/news/politics/2013/01/23/senators-urge-approval-keystone-pipeline/1860003/>.

¹⁸ Pew Research Center, Continued Support for Keystone XL Pipeline (Sept. 26, 2013), *available at* <http://www.people-press.org/2013/09/26/continued-support-for-keystone-xl-pipeline/>.

¹⁹ FSEIS Exec. Summ. at 6.

²⁰ FSEIS Exec. Summ. at 15, 34.

²¹ FSEIS Exec. Summ. at 17.

²² FSEIS Exec. Summ. at 19.

²³ *Id.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Memorial

A memorial to the President of the United States, urging the President to issue final approval for construction and completion of the Keystone XL pipeline project.

WHEREAS, Floridians consume approximately 26 million gallons of gasoline and diesel fuel daily and approximately 9.5 billion gallons of gasoline and diesel fuel annually, and

WHEREAS, across party lines, Floridians have long recognized the dependence of the state's tourism and agricultural economy on access to reliable and affordable petroleum products, and

WHEREAS, many other Florida industries, including fertilizer, agrochemical, plastic, manufacturing, bakeries, juice processing, pulp and paper, road construction, metals, restaurants, and grocery stores, are heavily dependent on access to reliable and affordable petroleum products to transport goods, and

WHEREAS, Gulf state refineries produce the vast majority of the gasoline and diesel fuel crude oil delivered and consumed in Florida, and

WHEREAS, the Keystone XL pipeline will be capable of transporting more than 800,000 barrels of crude oil per day to 57 Gulf state refineries, and

26 WHEREAS, the crude oil transported through the Keystone XL
 27 pipeline could replace oil from unstable regions of the world
 28 with oil from Canada, a friendly and historically reliable
 29 neighbor and our principal source of imported crude oil, and

30 WHEREAS, according to the United States Department of
 31 Transportation Pipeline and Hazardous Material Safety
 32 Administration, pipelines are one of the safest and most cost-
 33 effective means to transport petroleum products, and

34 WHEREAS, the Keystone XL pipeline could reduce the large
 35 numbers of tankers and barges carrying crude oil through the
 36 Straits of Florida and across the Gulf of Mexico, and

37 WHEREAS, the Keystone XL pipeline will not encounter the
 38 disruptions experienced by tankers and barges delivering crude
 39 oil to Gulf state refineries during hurricanes in the Gulf of
 40 Mexico, thus enhancing Florida's energy security during
 41 emergencies, and

42 WHEREAS, the southern portion of the Keystone XL pipeline
 43 has already been approved and construction is proceeding, and

44 WHEREAS, according to the United States Department of
 45 State, construction of the United States portion of the Keystone
 46 XL pipeline is a \$3.3 billion project that will create thousands
 47 of American jobs, and

48 WHEREAS, the Keystone XL pipeline project has been subject
 49 to the most thorough public consultation process of any proposed
 50 United States pipeline, and

HM 281

2014

51 WHEREAS, according to the Supplementary Environmental
 52 Impact Statement issued by the United States Department of
 53 State, multiple environmental impact statements and studies have
 54 concluded that the Keystone XL pipeline poses the least impact
 55 to the environment and is much safer than other modes of
 56 transporting crude oil, and

57 WHEREAS, the Keystone XL pipeline project has received
 58 bipartisan support in the United States Congress, including a
 59 letter to the President signed by 53 Senators urging the
 60 President to support the pipeline, and

61 WHEREAS, a recent Pew Research Center survey has found that
 62 two-thirds of Americans support the Keystone XL pipeline
 63 project, NOW, THEREFORE,

64

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

66

67 That the President of the United States is strongly urged
 68 to issue final approval for construction and completion of the
 69 Keystone XL pipeline project.

70 BE IT FURTHER RESOLVED that copies of this memorial be
 71 dispatched to the President of the United States, to the
 72 President of the United States Senate, to the Speaker of the
 73 United States House of Representatives, and to each member of
 74 the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 301 Medical Examiners
SPONSOR(S): Health Quality Subcommittee; Spano and others
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	12 Y, 0 N, As CS	McElroy	O'Callaghan
2) Local & Federal Affairs Committee		Kelly <i>KK</i>	Rojas <i>JR</i>
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Section 382.011, F.S., requires any case in which a death or fetal death resulted from the causes or conditions listed in s. 406.011, F.S., to be referred to the district medical examiner for the determination of the cause of death. The bill corrects a citation in s. 382.011, F.S., to clarify that only deaths and fetal deaths involving circumstances set forth in subsection (1) of s. 406.11, F.S., are required to be referred to the district medical examiner for the determination of the cause of death. The remaining provisions in s. 406.11, F.S., are not related to causes or conditions of death upon which a medical examiner can make a determination.

Section 406.06, F.S., entitles a medical examiner to compensation, and a reasonable salary and fees as established by a board of county commissioners. A number of counties and district medical examiners have interpreted this provision as authorizing a medical examiner to collect a fee for a determination of cause of death performed pursuant to s. 406.11(1)(c), F.S. The bill amends s. 406.06, F.S., to prohibit district medical examiners and counties from charging a member of the public or any person licensed under ch. 497, F.S. (a funeral home or crematorium), a fee for any determination of death performed pursuant to s. 406.11, F.S.

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

The bill provides an effective date of October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Medical Examiners Act

The Medical Examiners Act (Act), ch. 406, F.S., establishes minimum and uniform requirements for statewide medical examiner services. The Act created the Medical Examiners Commission (Commission) which is composed of seven persons appointed by the Governor, the Attorney General and the State Surgeon General. The Commission is responsible for establishing, by rule, minimum and uniform standards of excellence, performance of duties, and maintenance of records requirements for medical examiners.¹ The Commission is additionally responsible for the creation of medical examiner districts throughout the state.² There are currently 24 medical examiner districts.³

Determination of Cause of Death

Each district medical examiner is responsible for conducting investigations, examinations and autopsies and reporting vital statistics to the Department of Health for their district. Section 382.011, F.S. currently requires that any case of death or fetal death due to causes or conditions listed in s. 406.11, F.S., be referred to the district medical examiner for investigation and determination of the cause of death.

Section 406.11, F.S., requires a medical examiner to determine the cause of a death when a person dies under certain circumstances or a body is transported or disposed of in a certain manner. Specifically, s. 406.11(1)(a), F.S., requires the medical examiner to determine the cause of death when any person dies in the state:

- of criminal violence;
- by accident;
- by suicide;
- suddenly, when in apparent good health;
- unattended by a practicing physician or other recognized practitioner;
- in any prison or penal institution;
- in police custody;
- in any suspicious or unusual circumstance;
- by criminal abortion;
- by poison;
- by disease constituting a threat to public health; or
- by disease, injury, or toxic agent resulting from employment.

Section 406.11(1)(b), F.S., requires a medical examiner to perform a determination of the cause of death when a dead body is brought into the state without proper medical certification. Finally, pursuant to s. 406.11(1)(c), F.S., a medical examiner must perform a determination of the cause of death when a body is to be cremated, dissected, or buried at sea.

Under s. 406.11(1) F.S., the district medical examiner is authorized to perform any such examinations, investigations, and autopsies as he or she deems necessary to determine the cause of death. The

¹ Section 406.04, F.S.

² Section 406.05, F.S.

³ A map of the medical examiner districts in Florida is available at <http://myfloridamedicalexaminer.com/>.

complexity of the determination of the cause of death, however, can differ greatly depending on whether the investigation is required pursuant to s. 406.11(1)(a), F.S., or s. 406.11(1)(c), F.S.

A determination pursuant to s. 406.11(1)(a), F.S., requires a comprehensive review to determine the cause of a death that occurred under unusual circumstances. Physical inspection of the decedent's remains is typically required. As such, a district medical examiner usually performs autopsies or other necessary physical examinations. A district medical examiner also typically requests and reviews any pertinent documentation related to the person's death.

When a death occurs under ordinary circumstances, the district medical examiner does not perform an autopsy or investigation. The disposition of the remains occurs and no further issues arise. On occasion, issues arise after disposition, which raise the question of whether a death actually occurred under ordinary circumstances. In these situations, the body is exhumed and the district medical examiner performs a determination of cause of death. This examination cannot occur if the body has been cremated, dissected, or buried at sea. Thus, s. 406.11(1)(c), F.S., requires the medical examiner to make a determination of cause of death in situations where there is an irretrievable disposal of the remains.

Determinations of the cause of death performed pursuant to s. 406.11(1)(c), F.S., are generally administrative in nature and less comprehensive than determinations under s. 406.11(1)(a), F.S. The process begins with the funeral home or crematorium completing the death certificate and forwarding it to the decedent's attending or primary physician for signature.⁴ Once the funeral home or crematorium receives the signed death certificate, it forwards it to the district medical examiner for review. Unless the medical examiner identifies an issue on the face of the death certificate, he or she grants approval and the funeral home or crematorium may proceed with the disposal of the remains. The medical examiner may conduct a more thorough investigation if he or she identifies an issue on the face of the death certificate. For example, if a secondary cause of death is a fractured hip, the medical examiner may request additional information to ensure that it was not related to abuse or neglect. Even in that situation, the investigation is generally less comprehensive than the investigation performed under s. 406.11(1)(a), F.S.

Prior to 2012, the approval process for a death certificate was a slow and arduous paper process. It required the manual entry and the transmittal of information through numerous offices within county and state departments. However, in 2012, Florida's Department of Health automated the process through the Electronic Death Registration System. The electronic transmittal of the information has made the approval process more efficient by reducing reporting time and allows for more timely issuances of death certificates.

Medical Examiner Fees

Pursuant to s. 406.06(3), F.S., district medical examiners and associate medical examiners are entitled to compensation. As such, the board of county commissioners set reasonable salary and fees. This provision has been interpreted by some counties and district medical examiners as allowing a fee for performing determinations of deaths pursuant to s. 406.11, F.S. Specifically, 19 of the 24 medical examiner districts currently charge a fee for the determination of the cause of death when a body is to be cremated, dissected, or buried at sea.⁵ This fee is charged to the direct disposal establishment⁶ licensed under ch. 497, F.S. (i.e. a funeral home or crematorium), who then passes the expense on to the members of the public. These fees range from no charge in 24 counties to \$63 per approval in Miami-Dade County. The estimated revenue from these fees in 2012 was approximately \$3.93 million.⁷

⁴ Section 382.008, F.S.

⁵ These are determinations made pursuant to s. 406.11(1)(c), F.S.

⁶ "Direct disposal establishment" means a facility licensed under ch. 497, F.S., where a direct disposer practices direct disposition. "Final disposition" means the final disposal of a dead human body. See s. 497.005(25) and (32), F.S.

⁷ Florida Department of Law Enforcement 2014 Legislative Bill Analysis for HB 301, dated January 29, 2014 (on file with the Florida House of Representatives Health Quality Subcommittee).

Effect of Proposed Changes

HB 301 would correct a citation in s. 382.011, F.S., to clarify that only deaths and fetal deaths involving circumstances set forth in subsection (1) of s. 406.11, F.S., are required to be referred to the district medical examiner for the determination of the cause of death. The remaining provisions in s. 406.11, F.S., are not related to causes or conditions of death upon which a medical examiner can make a determination. Instead, the remaining provisions include:

- grant medical examiners discretion to perform autopsies and other laboratory examinations necessary to determine the cause of death;
- require the Commission to adopt rules to require a medical examiner to notify the decedent's next of kin of a medical examiner investigation;
- prohibit a medical examiner from retaining or furnishing a body part of the deceased for research or other purposes without approval by the next of kin; and
- provide rulemaking authority for the Commission.

HB 301 would also prohibit district medical examiners and counties from charging a member of the public, or any person licensed under ch. 497, F.S. (a funeral home or crematorium), a fee for any determination of death performed pursuant to s. 406.11, F.S. HB 301 does not limit counties in their ability to raise revenues in the aggregate.

The bill provides an effective date of October 1, 2014.

B. SECTION DIRECTORY:

Section 1: Amends s. 382.011, F.S., relating to medical examiner determination of cause of death.

Section 2: Amends s. 406.06, F.S., relating to district medical examiners, associates, and suspension of medical examiners.

Section 3: Provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Currently 19 of the 24 medical examiner districts, which represents 42 counties, charge fees for any determination of the cause of death performed pursuant to s. 406.11(1)(c), F.S. The fees vary from district to district. The estimated revenue from these fees in 2012 was approximately \$3.93 million.⁸ The bill prohibits the collection of these fees.

⁸ *Id.*

2. Expenditures:

Indeterminate. The actual cost to the counties is unclear as there is a broad discrepancy in the fees currently charged (fees range from no charge to \$63 per approval), and there does not seem to be a correlation between the fees charged to services being provided by the medical examiner.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because the bill prohibits medical examiners and counties from charging fees, it is likely that the private sector will achieve some cost-savings.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 5, 2014, the Health Quality Subcommittee adopted an amendment to HB 301 and reported the bill favorably as a committee substitute. The amendment:

- Clarifies that medical examiners and counties are prohibited from charging a member of the public or any person licensed under ch. 497, F.S., a fee for any determination of death performed pursuant to s. 406.11, F.S.
- Changes the effective date from July 1, 2014, to October 1, 2014.

The analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.

1 A bill to be entitled
 2 An act relating to medical examiners; amending s.
 3 382.011, F.S.; clarifying the circumstances under
 4 which a case must be referred to the district medical
 5 examiner for the determination of cause of death;
 6 amending s. 406.06, F.S.; prohibiting user fees for
 7 specified services; providing an effective date.

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

10
 11 Section 1. Subsection (1) of section 382.011, Florida
 12 Statutes, is amended to read:

13 382.011 Medical examiner determination of cause of death.—

14 (1) In the case of any death or fetal death involving the
 15 circumstances ~~due to causes or conditions~~ listed in s. 406.11(1)
 16 ~~406.11~~, any death that occurred more than 12 months after the
 17 decedent was last treated by a primary or attending physician as
 18 defined in s. 382.008(3), or any death for which there is reason
 19 to believe that the death may have been due to an unlawful act
 20 or neglect, the funeral director or other person to whose
 21 attention the death may come shall refer the case to the
 22 district medical examiner of the county in which the death
 23 occurred or the body was found for investigation and
 24 determination of the cause of death.

25 Section 2. Subsection (3) of section 406.06, Florida
 26 Statutes, is amended to read:

CS/HB 301

2014

27 406.06 District medical examiners; associates; suspension
 28 of medical examiners.—

29 (3) District medical examiners and associate medical
 30 examiners shall be entitled to compensation and such reasonable
 31 salary and fees as are established by the board of county
 32 commissioners in the respective districts; however, a medical
 33 examiner or a county may not charge a member of the public or
 34 any person licensed under chapter 497 a fee for an examination,
 35 investigation, or autopsy performed pursuant to s. 406.11.

36 Section 3. This act shall take effect October 1, 2014.

1 A bill to be entitled
 2 An act relating to medical examiners; amending s.
 3 382.011, F.S.; clarifying the circumstances under
 4 which a case must be referred to the district medical
 5 examiner for the determination of cause of death;
 6 amending s. 406.06, F.S.; prohibiting user fees for
 7 specified services; providing an effective date.

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

10
 11 Section 1. Subsection (1) of section 382.011, Florida
 12 Statutes, is amended to read:

13 382.011 Medical examiner determination of cause of death.—

14 (1) In the case of any death or fetal death involving the
 15 circumstances ~~due to causes or conditions~~ listed in s. 406.11(1)
 16 ~~406.11~~, any death that occurred more than 12 months after the
 17 decedent was last treated by a primary or attending physician as
 18 defined in s. 382.008(3), or any death for which there is reason
 19 to believe that the death may have been due to an unlawful act
 20 or neglect, the funeral director or other person to whose
 21 attention the death may come shall refer the case to the
 22 district medical examiner of the county in which the death
 23 occurred or the body was found for investigation and
 24 determination of the cause of death.

25 Section 2. Subsection (3) of section 406.06, Florida
 26 Statutes, is amended to read:

27 | 406.06 District medical examiners; associates; suspension
28 | of medical examiners.-

29 | (3) District medical examiners and associate medical
30 | examiners shall be entitled to compensation and such reasonable
31 | salary and fees as are established by the board of county
32 | commissioners in the respective districts; however, a medical
33 | examiner or a county may not charge a user fee for an
34 | examination, investigation, or autopsy performed pursuant to s.
35 | 406.11.

36 | Section 3. This act shall take effect July 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 301 (2014)

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: Local & Federal Affairs
2 Committee

3 Representative Spano offered the following:

4

5 **Amendment**

6 Remove line 33 and insert:


7 examiner or a county, except in a county as defined in s.

8 125.011(1), F.S., may not charge a member of the public or

9

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 307 Regulation Of Public Lodging Establishments & Public Food Service Establishments
SPONSOR(S): Hutson and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 356

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	10 Y, 3 N	Butler	Luczynski
2) Local & Federal Affairs Committee		Flegiel MF	Rojas 
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

In 2011, the Legislature passed CS/CS/CS/HB 883 that preempted to the state the power to regulate vacation rentals and prevented local governments from enacting any law, ordinance, or regulation that restricted or prohibited the use of vacation rentals based on classification, use, or occupancy. CS/CS/CSHB 883 exempted any local law, ordinance, or regulation enacted on or before June 1, 2011, from this preemption.

Thus, after June 1, 2011, local governments could no longer enact a local law, ordinance, or rule to ban or restrict vacation rentals and could only adopt legislation or regulations that treated vacation rentals the same as any other residential property.

This bill deletes the provision that prohibits local laws, ordinances, or regulations from restricting the use of vacation rentals, prohibiting vacation rentals, or regulating vacation rentals based solely on their classification, use, or occupancy.

The bill has no fiscal impact on state funds.

The bill has an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) is the state agency charged with enforcing the provisions of ch. 509, F.S., and all other applicable laws relating to the inspection and regulation of public lodging establishments and public food service establishments for the purpose of protecting the public health, safety, and welfare. The department licenses vacation rentals within the state, and has the power to inspect a licensed vacation rental.¹

A vacation rental is defined as:

[A]ny unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment.²

A transient public lodging establishment is defined as:

[A]ny unit, group of units, dwelling, building, or group of buildings . . . which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.³

The department requires each vacation rental to be readily available for inspection, but vacation rentals are not subject to the inspection requirements of other transient public lodging establishments and the division only inspects a vacation rental if there is a complaint.⁴

Prior to June 1, 2011, local governments held authority to regulate vacation rentals (also referred to as resort dwellings in many local laws) based on their classification as vacation rentals. Local governments could restrict or prohibit vacation rentals, up to and including banning the use of residential properties as vacation rentals.

In 2011, the Legislature passed CS/CS/CS/HB 883 which preempted vacation rental regulation to the State, and prevented local governments from enacting any new law, ordinance, or regulation that restricted or prohibited the use of vacation rentals based on classification, use, or occupancy. This legislation exempted any local law, ordinance, or regulation that was enacted by a local government on or prior to June 1, 2011.

Several municipalities created regulations specifically relating to vacation rentals prior to June 1, 2011.⁵ One such ordinance prohibited owners of single-family residences in residential zones from renting their properties for durations of less than 30 days, although it grandfathered certain vacation rentals

¹ Section 509.241, F.S.

² Section 509.242(c), F.S.

³ Section 509.013(4)(a)(1.), F.S.

⁴ See Rule 61C-1.002(3), F.A.C; Section 509.032(2)(a), F.S. (stating “[p]ublic lodging units classified as vacation rentals are not subject to this [inspection] requirement but shall be made available to the division upon request”).

⁵ See City of Venice, Fla., Code of Ordinances, ch. 86, art. V, Div. 3 (2009). See also Monroe County Code, No. 004-1997 (2013); Bal Harbour Village Ordinance No. 2011-549 (2011).

that had already obtained all applicable state and local licenses and permits.⁶ This ordinance effectively prevented new vacation rentals from opening within the city.⁷

The preemption has made it difficult for municipalities who have regulations on vacation rentals predating the Legislature's action from amending those regulations without invalidating them. One town reports that despite having regulations for vacation rentals in place, the town cannot consider addressing new issues caused by vacation rentals for fear of invalidating their existing ordinances.⁸ Under the current law, vacation rentals cannot be regulated in a manner that would single out a vacation rental for more onerous restrictions than residential properties.

After the passing of CS/CS/CS/HB 883 in 2011, businesses have reportedly bought foreclosed or distressed residential properties and converted them into vacation rentals. In some cases, new houses have been built or are being built for the sole purpose of being used as vacation rentals.

Effect of the Bill

The bill removes the state preemption of vacation rentals; thereby authorizing local governments to regulate vacation rentals in the same way that was possible before the 2011 amendments to s. 509.032(7)(b) and (c), F.S. This bill will allow local governments to enact local laws, ordinances, and regulations restricting the use of vacation rentals, prohibiting vacation rentals, or regulating vacation rentals based solely on their classification, use, or occupancy.

B. SECTION DIRECTORY:

Section 1 amends s. 509.032, F.S., to delete paragraphs (b) and (c) of subsection (7), repealing the prohibition of enacting local laws, ordinances, or regulations that effect vacation rentals based on classification, use, or occupancy.

Section 2 provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

⁶ §§ 86-81(d), 86-151. See also *City of Venice v. Gwynn*, 76 So. 3d 401, 403 (Fla. 2d DCA 2011).

⁷ *Gwynn*, 76 So. 3d at 403 (noting the constitutionality of the Venice provision).

⁸ Letter from Gary L. Smith, Mayor of Ponce Inlet, Re: Support for legislation that repeals the State preemption of the regulation of vacation rental properties in order to allow local governments to regulate such properties (Nov. 25, 2013) (on file with the Business & Professional Regulation Subcommittee).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The direct economic impact on businesses or individuals who currently participate in the vacation rental industry in Florida is indeterminate.

A report prepared by Robinson & Cole outlines many options for local jurisdictions to apply regulations that could curtail the complained effect vacation rentals have on a community.⁹ It is possible for a local government to create regulations of the vacation rental industry in a way that could have a beneficial impact on both local property values and keep the vacation rental market relatively intact.¹⁰ In these instances, the economic impact on the private sector could be minimal.

It is also possible that a local government could prohibit vacation rentals, thus eliminating the vacation rental industry within the jurisdiction of the local government. In that case, the economic impact on the private sector could be significant.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

A local government law, ordinance, or regulation that prohibits the use of residential property as a vacation rental when previously this use was permitted could potentially raise the issue of a regulatory taking. Florida courts have traditionally held that such a regulation is constitutional, insofar, as to prevent new vacation rentals.¹¹ Additionally, the Supreme Court of the United States has held that zoning ordinances, for example, do not result in a taking so long as they do not extinguish a fundamental attribute of ownership and advance a legitimate state interest.¹²

This potential issue is most likely if a prohibition of vacation rentals results in the affected property having no other economic value. This case is unlikely, because even if a property is prevented from being a vacation rental, it likely will have at least some other economic value. But, so far no Florida court has reached this issue on the merits and it is unlikely that such a scenario will occur that deprives a residential property of all economic value absent its use as a vacation rental.¹³

Traditionally, local governments have grandfathered non-conforming uses to avoid this issue, but there is no mandate that exists to require a local government to grandfather current vacation rentals.¹⁴

⁹ Robinson & Cole, *Short-Term Rental Housing Restrictions: White Paper*, pp. 7-9, National Association of Realtors (2012).

¹⁰ *Id.* at 22-29.

¹¹ See *Gwynn*, 76 So. 3d at 403 (explaining that the economic test from *Penn Central Transp. Co. v. City of New York*, 438 U.S. 104 (1978), requires a weighing not just of the loss of potential rental income from short term rentals, but must weigh this against the continued value of the property as a long-term rental or sale as investment property).

¹² See generally *Penn Central*, 438 U.S. at 145.

¹³ See *Neumont v. Florida*, 610 F.3d 1249, 1252 (11th Cir. 2010).

¹⁴ See generally *Gwynn v. City of Venice*, 6 2009 CA 17007 NC (Fla. 12th Cir. Ct. 2009) (informing that although most ordinances will grandfather existing nonconforming uses, those jurisdictions are not mandated to do so).

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
2 An act relating to the regulation of public lodging
3 establishments and public food service establishments;
4 amending s. 509.032, F.S.; deleting the restriction
5 preventing local laws, ordinances, or regulations from
6 regulating the use of vacation rentals based solely on
7 their classification, use, or occupancy; providing an
8 effective date.

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

11
12 Section 1. Subsection (7) of section 509.032, Florida
13 Statutes, is amended to read:

14 509.032 Duties.—

15 (7) PREEMPTION AUTHORITY.—

16 ~~(a)~~ The regulation of public lodging establishments and
17 public food service establishments, including, but not limited
18 to, sanitation standards, inspections, training and testing of
19 personnel, and matters related to the nutritional content and
20 marketing of foods offered in such establishments, is preempted
21 to the state. This subsection ~~paragraph~~ does not preempt the
22 authority of a local government or local enforcement district to
23 conduct inspections of public lodging and public food service
24 establishments for compliance with the Florida Building Code and
25 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
26 633.206.

HB 307

2014

27 ~~(b) A local law, ordinance, or regulation may not restrict~~
28 ~~the use of vacation rentals, prohibit vacation rentals, or~~
29 ~~regulate vacation rentals based solely on their classification,~~
30 ~~use, or occupancy. This paragraph does not apply to any local~~
31 ~~law, ordinance, or regulation adopted on or before June 1, 2011.~~

32 ~~(c) Paragraph (b) does not apply to any local law,~~
33 ~~ordinance, or regulation exclusively relating to property~~
34 ~~valuation as a criterion for vacation rental if the local law,~~
35 ~~ordinance, or regulation is required to be approved by the state~~
36 ~~land planning agency pursuant to an area of critical state~~
37 ~~concern designation.~~

38 Section 2. This act shall take effect July 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 307 (2014)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Local & Federal Affairs
2 Committee

3 Representative Hutson offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (7) of section 509.032, Florida
8 Statutes, is amended to read:

9 509.032 Duties.-

10 (7) PREEMPTION AUTHORITY.-

11 (a) The regulation of public lodging establishments and
12 public food service establishments, including, but not limited
13 to, sanitation standards, inspections, training and testing of
14 personnel, and matters related to the nutritional content and
15 marketing of foods offered in such establishments, is preempted
16 to the state. This paragraph does not preempt the authority of a
17 local government or local enforcement district to conduct

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 307 (2014)

Amendment No.

18 inspections of public lodging and public food service
19 establishments for compliance with the Florida Building Code and
20 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
21 633.206.

22 (b) A local law, ordinance, or regulation may not ~~restrict~~
23 ~~the use of vacation rentals~~, prohibit vacation rentals, or
24 regulate the duration of rental of vacation rentals based solely
25 ~~on their classification, use, or occupancy~~. This paragraph does
26 not apply to any local law, ordinance, or regulation relating to
27 a ban or duration adopted on or before June 1, 2011, except when
28 such law, ordinance or regulation is being amended to be less
29 restrictive.

30 (c) Paragraph (b) does not apply to any local law,
31 ordinance, or regulation exclusively relating to property
32 valuation as a criterion for vacation rental if the local law,
33 ordinance, or regulation is required to be approved by the state
34 land planning agency pursuant to an area of critical state
35 concern designation.

36

37 Section 2. This act shall take effect July 1, 2014.

38

39

40

41

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

42

Remove everything before the enacting clause and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 307 (2014)

Amendment No.

43 An act relating to the regulation of public lodging
44 establishments and public food services establishments; amending
45 s. 509.032, F.S.; clarifying which local laws, ordinances and
46 regulations regarding vacation rentals are prohibited;
47 clarifying when s. 509.032(7)(b) applies to local laws,
48 ordinances and regulations adopted on or before June 1, 2011;
49 providing an effective date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 307 (2014)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Local & Federal Affairs
2 Committee

3 Representative La Rosa offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (7) of section 509.032, Florida

8 Statutes, is amended to read:

9 509.032 Duties.-

10 (7) PREEMPTION AUTHORITY.-

11 (a) The regulation of public lodging establishments and
12 public food service establishments, including, but not limited
13 to, sanitation standards, inspections, training and testing of
14 personnel, and matters related to the nutritional content and
15 marketing of foods offered in such establishments, is preempted
16 to the state. This paragraph does not preempt the authority of a
17 local government or local enforcement district to conduct

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 307 (2014)

Amendment No.

18 inspections of public lodging and public food service
19 establishments for compliance with the Florida Building Code and
20 the Florida Fire Prevention Code, pursuant to ss. 553.80 and
21 633.206.

22 (b) A local law, ordinance, or regulation may not ~~restrict~~
23 ~~the use of vacation rentals, prohibit vacation rentals, or~~
24 regulate the duration or frequency of vacation rentals based
25 ~~solely on their classification, use, or occupancy.~~ This
26 paragraph does not apply to any local law, ordinance, or
27 regulation adopted on or before June 1, 2011 that prohibits or
28 restricts the frequency or duration of vacation rentals, except
29 when such law, ordinance, or regulation is being amended to be
30 less restrictive.

31 (c) Paragraph (b) does not apply to any local law,
32 ordinance, or regulation exclusively relating to property
33 valuation as a criterion for vacation rental if the local law,
34 ordinance, or regulation is required to be approved by the state
35 land planning agency pursuant to an area of critical state
36 concern designation.

37
38 Section 2. This act shall take effect July 1, 2014.
39

40
41 -----

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

43 Remove everything before the enacting clause and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 307 (2014)

Amendment No.

44 An act relating to the regulation of public lodging
45 establishments and public food services establishments; amending
46 s. 509.032, F.S.; clarifying which local laws, ordinances and
47 regulations regarding vacation rentals are prohibited;
48 clarifying when s. 509.032(7)(b) applies to local laws,
49 ordinances and regulations adopted on or before June 1, 2011;
50 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 311 Orlando-Orange County Expressway Authority
SPONSOR(S): Transportation & Highway Safety Subcommittee, Nelson
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 230

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	10 Y, 2 N, As CS	Johnson	Miller
2) Local & Federal Affairs Committee		Flegiel MF	Rojas JR
3) Transportation & Economic Development Appropriations Subcommittee			
4) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill renames the Orlando-Orange County Expressway Authority Law as the Central Florida Expressway Authority Law. Specifically, the bill:

- Creates the Central Florida Expressway Authority (CFX) and provides for the transfer of governance and control, legal rights and powers, responsibilities, terms and obligations of the Orlando-Orange County Expressway Authority (OOCEA) to CFX.
- Provides for the composition of the governing body of CFX and the appointment of its officers.
- Provides that the area served by CFX is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties.
- Removes the existing OOCEA requirement that the route of a project be approved by a municipality before the right-of-way can be acquired.
- Requires that CFX encourage the inclusion of local-, small-, minority-, and women-owned businesses in its procurement and contracting opportunities.
- Removes the existing OOCEA authority to waive payment and performance bonds for certain public works projects awarded pursuant to an economic development program.
- Provides that upon termination of the lease-purchase agreement of the Central Florida Expressway System, title will be retained by the state, and extends the term of the lease-purchase agreements from 40 to 99 years.
- Provides for the transfer of the Osceola County Expressway System to CFX and provides for the repeal of part V of ch. 348, F.S., when the Osceola County Expressway System is transferred to CFX.
- Makes numerous conforming, grammatical, and editorial changes.

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

The bill has an effective date of July 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Orlando Orange County Expressway Authority

The Orlando Orange County Expressway Authority (OOCEA), created in part III of ch. 348, F.S.,¹ currently serves Orange County and is authorized to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in the county, as well as outside the jurisdictional boundaries of Orange County with the consent of the county within whose jurisdiction the activities occur.²

The OOCEA's governing body consists of five members. The Governor appoints three members who are citizens of Orange County and who serve four year terms and may be reappointed. The Orange County Mayor and the Department of Transportation's (DOT) district five secretary serve as *ex-officio* members of the Board.³

The OOCEA currently owns and operates 105 centerline miles of roadway in Orange County, which includes:

- 22 miles of the Spessard L. Holland East-West Expressway (SR 408);
- 23 miles of the Martin Andersen Beachline Expressway (SR 528);
- 33 miles of the Central Florida GreeneWay (SR 417);
- 22 miles of the Daniel Webster Western Beltway (SR 429); and
- 5 miles of the John Land Apopka Expressway (SR 414).

Pursuant to an existing Memorandum of Understanding (MOU) and lease-purchase agreement between DOT and OOCEA, OOCEA will independently finance, build, own, and manage certain portions of the Wekiva Parkway. In order to ensure that funds are available to DOT for the Wekiva Parkway, in 2012, the Legislature codified references to the existing MOU and lease-purchase agreements, and established a repayment schedule for OOCEA to reimburse DOT for the costs of operation and maintenance of the Orlando-Orange County Expressway System in accordance with terms of the MOU.⁴

The OOCEA was required to pay DOT \$10 million on July 1, 2012, and is required to pay \$20 million every July 1 thereafter to pay off the long-term debt obligation to DOT. When the debt has been fully repaid, DOT's obligation to pay any cost of operation, maintenance, repair, or rehabilitation of the OOCEA system will terminate, and ownership of the system will remain with OOCEA. DOT advises that OOCEA's current long-term debt is over \$211 million.⁵

Osceola County Expressway Authority

Created in 2010, as part V of ch. 348, F.S.,⁶ the Osceola County Expressway Authority (OCX) currently serves Osceola County and has the purposes and powers identified in the Florida Expressway

¹ Part III of ch. 348, F.S., consists of ss. 348.751 through 348.765, F.S.

² S. 348.754(2)(n), F.S.

³ S. 348.753(2), F.S.

⁴ Ch. 2012-128, L.O.F.

⁵ Florida Department of Transportation bill analysis of SB 230. On file with Transportation & Highway Safety Subcommittee staff.

⁶ Part V of ch. 348, F.S., consists of ss. 348.9950 through 348.9961, F.S.

Authority Act,⁷ including the power to acquire, hold, construct, improve, maintain, operate, and own an expressway system.⁸

The OCX governing board consists of six members. Five members, one of which must be a member of a racial or ethnic minority, must be residents of Osceola County. Three of the five members are appointed by the governing body of the county and the remaining two are appointed by the Governor. DOT's district five secretary serves as an *ex-officio*, non-voting member.⁹

OCX is not currently operating any facility and has no funding or staffing. Staff assistance and other support have been provided by Osceola County. The Florida Transportation Commission indicates that in 2012, DOT provided \$2.5 million in funding to OCX, which will primarily be used for two Project Development & Environment Studies to be conducted by Florida's Turnpike Enterprise. OCX has developed a master plan that includes construction of four proposed tolled expressways: Poinciana Parkway, Southport Connector Expressway, Northeast Connector Expressway, and Osceola Parkway Extension. OCX has an agreement with Osceola County under which the county will advance funds for operation and startup costs until OCX has a revenue-producing project and which requires OCX to repay the county within 15 years of receiving the funds. A 2012 agreement calls for the issuance of bonds by the county to pay for the Poinciana Parkway project costs incurred by OCX. OCX will design and construct the parkway pursuant to a lease-purchase agreement with the county.¹⁰

Seminole County and Lake County

In 2011, the Legislature abolished the Seminole County Expressway authority,¹¹ and Seminole County is currently not served by an expressway authority. Lake County is also not currently served by an expressway authority.

Proposed Changes

Short Title (Section 1)

The bill amends s. 348.751, F.S., changing the short title of part III of ch. 348, F.S., from the "Orlando-Orange County Expressway Authority Law" to the "Central Florida Expressway Authority Law."

Definitions (Section 2)

The bill amends s. 348.752, F.S., revising various definitions used in part III of ch. 348, F.S.

The bill defines "Central Florida Expressway Authority" to mean the body politic and corporate and agency of the state created by this part.

The bill defines "Central Florida Expressway System" to mean any expressway or appurtenant facilities within the jurisdiction of the authority, including all approaches, roads, bridges, and avenues for the expressway and any rapid transit transportation system, tram, or fixed-guideway system located within the right-of-way of an expressway.

The bill defines "transportation facilities" to mean and include the mobile and fixed assets, and the associated real or personal property or rights, used in the transportation of persons or property by any means of conveyance and all appurtenances, such as, but not limited to, highways; limited or controlled access lanes, avenues of access, and facilities; vehicles; fixed guideway facilities, including maintenance facilities; and administrative and other office space for the exercise by the authority of the powers and obligations granted in this part.

⁷ Part I of ch. 348, F.S.

⁸ S. 348.0004, F.S.

⁹ S. 348.9952, F.S.

¹⁰ Florida Transportation Commission *Transportation Authority Monitoring and Oversight Fiscal Year 2012 Report*, p. 171.

¹¹ Ch. 2011-64, L.O.F.

The bill deletes the definitions for "city" and "county," and revises various definitions making plain-language changes and conforming terminology to the renaming.

The bill removes a provision providing that the singular includes the plural and vice versa, and words importing persons include firms and corporations. This provision is redundant to s. 1.01, F.S., regarding general statutory construction.

Central Florida Expressway Authority (Section 3)

The bill amends s. 348.753, F.S., changing the catchline from Orlando-Orange County Expressway Authority to Central Florida Expressway Authority.

The bill provides that effective July 1, 2015; the Central Florida Expressway Authority (CFX) assumes the governance and control of the OOCEA system, including its assets, personnel, contracts, obligations, liabilities, facilities, and tangible and intangible property. Any rights in such property and other legal rights of the authority are transferred to CFX. CFX succeeds and assumes the powers, responsibilities, and obligations of OOCEA on July 1, 2015.

The transfer is subject to the terms and covenants provided for the protection of the OOCEA bondholders and in the lease-purchase agreement and the resolutions adopted in connection with the issuance of the bonds. Further, the transfer does not impair the terms of the contract between the OOCEA and the bondholders, does not act to the detriment of the bondholders, and does not diminish the security of the bonds.

After the transfer, CFX shall operate and maintain the expressway system and any other facilities of the OOCEA in accordance with the terms, conditions, and covenants contained in the bond resolutions and lease-purchase agreement securing the bonds of the authority. CFX shall collect toll revenues and apply them to the payment of debt service as provided in the bond resolution securing the bonds and shall expressly assume all obligations relating to the bonds to ensure that the transfer will have no adverse impact on the security for the bonds. The transfer does not make the obligation to pay the principal and interest on the bonds a general liability of CFX or pledge additional expressway system revenues to payment of the bonds.

Revenues that are generated by the expressway system and other facilities of CFX which were pledged by OOCEA to payment of the bonds will remain subject to the pledge for the benefit of the bondholders. The transfer does not modify or eliminate any prior obligation of DOT to pay certain costs of the expressway system from sources other than revenues of the expressway system.

The bill also provides for an 11 member governing board for CFX. The chairs of the boards of the county commissions of Seminole, Lake, and Osceola Counties each appoint one member, who may be a commission member or chair. The Governor appoints six citizen members; two must be citizens of Orange County, one member each must be a citizen of Seminole, Lake, or Osceola Counties, and one member may be a citizen of any of the identified counties. The 10th member is the mayor of Orange County and the 11th member is the mayor of the City of Orlando. The executive director of the Florida Turnpike Enterprise serves as a non-voting advisor to the governing body of the authority.

Each board member appointed by the Governor serves a four-year term, and county appointed members serve a two-year term. Standing board members complete their terms. Except as provided, a person who is an officer or employee of a municipality or county is not eligible for appointment to the authority.

Purposes and Powers (Section 4)

The bill amends s. 348.754, F.S., relating to the purposes and powers of CFX. The bill provides that except otherwise specifically provided; the area served by the authority is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties. The bill authorizes CFX to construct the

Central Florida Expressway System including rapid transit, trams, fixed guideways, thoroughfares, and boulevards.

To ensure the continued financial feasibility of the portion of the Wekiva Parkway to be constructed by DOT, CFX may not, without prior consent of the secretary of DOT, construct any extensions, additions, or improvements to the expressway system in Lake County.

The bill changes from 40 years to 99 years the length of time CFX is authorized to enter into and make lease-purchase agreements with DOT.

The bill provides that CFX is a party to a lease-purchase agreement between DOT and OOCEA dated December 23, 1985, as supplemented by a first supplement to the lease purchase agreement dated November 25, 1986, and a second supplement to the lease-purchase agreement dated October 28, 1988. CFX may not enter into another lease-purchase agreement with DOT and may not amend the existing agreement in a manner that expands or increases DOT's obligation unless DOT determines that the agreement or amendment is necessary to permit the refunding of bonds issued before July 1, 2013.

The bill provides that toll revenues attributable to an increase in toll rates charged on or after July 1, 2015, for use of a facility or portion of a facility may not be used to construct or expand a different facility unless a two-thirds majority of the members of the authority votes to approve such use. This requirement does not apply if and to the extent that:

- Application of the requirement would violate any covenant established in a resolution or trust indenture under which bonds were issued by OOCEA on or before July 1, 2015; or
- Application of the requirement would cause the authority to be unable to meet its obligations under the terms of the MOU between the authority and DOT as ratified by the OOCEA board on February 22, 2012.

Notwithstanding s. 338.165, F.S.,¹² except as otherwise prohibited by part III of ch. 348, F.S., to the extent revenues of the expressway system exceed amounts required to comply with any covenants made with holders of the bonds, revenues may be used, within the right-of-way of the expressway system, for the financing or refinancing the planning design, acquisition, construction, extension, rehabilitation, equipping, preservation, maintenance, or improvement of an intermodal facility of facilities, a multimodal corridor or corridors, or any programs or projects that will improve the levels of service on the expressway system, provide the expenditures are consistent with the metropolitan planning organization's long-range plan.

The bill provides that CFX shall encourage the inclusion of local businesses, small businesses, and minority-owned and women-owned businesses in its procurement and contracting opportunities.

The requirement for approval of the municipal governing board of a project route prior to the acquisition of right-of-way for a project within the boundaries of Orange County is removed, as are provisions authorizing CFX to waive payment and performance bonds on certain construction contracts and related small business provisions.

Conforming Changes (Sections 5 through 11)

The bill amends the following sections conforming terminology, and make grammatical and editorial changes:

- Section 348.7543, F.S., relating to improvements, bond financing authority for.
- Section 348.7544, F.S., relating to Northwest Beltway Part A, construction authorized; financing.
- Section 348.7545, F.S., relating to Western Beltway part C, construction authorized; financing.

¹² Section 338.165, F.S., relates to the continuation of tolls.

- Section 348.7546, F.S., relating to Wekiva Parkway, construction authorized; financing.
- Section 348.7547, F.S., relating to Maitland Boulevard Extension and Northwest Beltway Part A Realignment construction authorized; financing.
- Section 348.755, F.S., relating to bonds of the authority.
- Section 348.756, F.S., relating to remedies of the bondholders.

Lease-Purchase Agreements (Section 12)

The bill amends s. 348.757, F.S., providing that upon the termination of the current lease purchase agreement between OOCEA and DOT, title in fee simple absolute to the former OOCEA system must be transferred to the state. The bill also makes conforming, grammatical, and editorial changes to that section.

Conforming Changes (Sections 13 through 18)

The bill amends the following sections conforming terminology, and make grammatical and editorial changes:

- Section 348.758, F.S., relating to appointment of DOT as agent of authority for construction.
- Section 348.759, F.S., relating to acquisition of land and property.
- Section 348.760, F.S., relating to cooperation with other units, boards, agencies, and individuals.¹³
- Section 348.761, F.S., relating to covenant of the state.
- Section 348.765, F.S., relating to this part complete and additional authority.
- Section 369.317, F.S., relating to the Wekiva Parkway.

Wekiva River Basin Commission (Section 19)

The bill amends s. 369.324(1), F.S., removing and replacing references to the OOCEA and previously repealed Seminole County Expressway Authority, and revises the composition of the Wekiva River Basin Commission due to the previous repeal of the Seminole County Expressway Authority.

Transfer of the Osceola County Expressway System (Section 20)

The bill provides that effective upon the completion of the Poinciana Parkway,¹⁴ a limited-access facility of approximately nine miles in Osceola County between the intersection of County Road 54 and U.S. 17/U.S. 92 and the intersection of Rhododendron and Cypress Parkway, described in OCX's May 8, 2012, master plan,¹⁵ all powers, governance, and control of the Osceola County Expressway System¹⁶ is transferred to CFX, and the assets, liabilities, facilities, tangible and intangible property and any rights in the property, and any other legal rights of OCX are transferred to CFX. The effective date of the transfer shall be extended until completion of construction of such portions of the Southport Connector Expressway, the Northeast Connector Expressway, such portions of the Poinciana Parkway to connect to State Road 429, and the Osceola Parkway Connection, as each is described in OCX's May 8, 2012, Master Plan, which are included in any design contract executed by OCX before July 1, 2020. Since it is based on contingencies, there is not a date certain when OCX will be transferred to CFX. Part V of Ch. 348, F.S.,¹⁷ is repealed on the same date that the OCX is transferred to CFX.

The bill requires CFX to reimburse any and all obligations of any other governmental entities with respect to the Osceola County Expressway System, including any obligations of Osceola County with respect to operations and maintenance of the Osceola County Expressway System and any loan

¹³ This section also removes a reference to the previously repealed Seminole County Expressway Authority.

¹⁴ Information on the Poinciana Parkway is available at: http://www.osceolaxway.com/ocx/297-21261-21262/poinciana_parkway_project.cfm (Last visited November 14, 2013).

¹⁵ The Poinciana Parkway is expected to be completely open to traffic in June 2016. *Ground Broken on Poinciana Parkway*. Lakeland Ledger, December 18, 2013. Available at: <http://www.theledger.com/article/20131218/NEWSCHIEF/131219179> (Last Visited: February 10, 2014).

¹⁶ The Osceola County Expressway System is created pursuant to part V of Ch. 348, F.S.

¹⁷ Part V of ch. 348, F.S., consists of ss. 348.9950 through 348.9961, F.S.

repayment obligations, including repayment obligations with respect to state infrastructure bank loans. Such reimbursement shall be made from revenues available for such purpose after payment of all amounts required:

- Otherwise by law;
- By the terms of any resolution authorizing the issuance of bonds by CFX, OOCEA, or OCX;
- By the terms of any resolution under which bonds are issued by Osceola County for the purpose of constructing improvements to the Osceola County Expressway System; and
- By the terms of the MOU between OOCEA and DOT as ratified by the board of OOCEA on February 22, 2012.

Effective Date (Section 21)

The bill has an effective date of July 1, 2015.

B. SECTION DIRECTORY:

- Section 1 Amends s. 348.751, F.S, providing a short title.
- Section 2 Amends s. 348.752, F.S., providing definitions.
- Section 3 Amends s. 348.753, F.S., relating to the Central Florida Expressway Authority.
- Section 4 Amends s. 348.754, F.S., relating to purposes and powers.
- Section 5 Amends s. 348.7543, F.S., relating to improvements, bond financing authority for.
- Section 6 Amends s. 348.7544, F.S., relating to Northwest Beltway Part A, construction authorized; financing.
- Section 7 Amends s. 348.7545, F.S., relating to Western Beltway Part C, construction authorized; financing.
- Section 8 Amends s. 348.7546, F.S., relating to Wekiva Parkway, construction authorized; financing.
- Section 9 Amends s. 348.7547, F.S., relating to Maitland Boulevard Extension and Northwest Beltway Part A Realignment construction authorized; financing.
- Section 10 Amends s. 348.755, F.S., relating to bonds of the authority.
- Section 11 Amends s. 348.756, F.S., relating to remedies of bondholders.
- Section 12 Amends s. 348.757, F.S., relating to lease-purchase agreements.
- Section 13 Amends s. 348.758, F.S., relating to appointment of the department as agent of authority for construction.
- Section 14 Amends s. 348.759, F.S., relating to acquisition of lands and property.
- Section 15 Amend s. 348.760, F.S., relating to cooperation with other unites, boards, agencies, and individuals.
- Section 16 Amends s. 348.761, F.S., relating to covenant of the state.
- Section 17 Amends s. 348.765, F.S., relating to this part complete and additional authority.

- Section 18 Amends s. 369.317, F.S., relating to the Wekiva Parkway.
- Section 19 Amends s. 369.324, F.S., relating to the Wekiva River Basin Commission.
- Section 20 Provides for the transfer of the Osceola County Expressway Authority to the Central Florida Expressway Authority.
- Section 21 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There is a possible indeterminate negative impact to DOT as the bill extends the maximum term of the lease-purchase agreement from the longer of 40 years and bonds outstanding to the longer of 99 years and bonds outstanding. The bill provides that existing lease-purchase agreement may not be amended to expand or increase DOT's obligations that are determined necessary to permit the refunding bonds issued before July 1, 2013. The current long-term debt is over \$211 million.

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:

In section 7, the bill makes conforming changes to s. 348.7545, F.S. This statute authorizes OOCEA to construct the Western Beltway, Part C. According to DOT, since the statute's original passage, Western Beltway, Part C, has been constructed and opened. However, although the statute authorizes OOCEA to build the entire roadway segment, OOCEA only built one half of the segment. This section could be corrected to reflect the roadway limits actually constructed, owned, and operated by OOCEA.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

CS/HB 311

2014

1 A bill to be entitled
2 An act relating to the Orlando-Orange County
3 Expressway Authority; amending s. 348.751, F.S.;
4 revising a short title; amending s. 348.752, F.S.;
5 revising and providing definitions; amending s.
6 348.753, F.S.; creating the Central Florida Expressway
7 Authority; providing for the Central Florida
8 Expressway Authority to assume the governance and
9 control of the Orlando-Orange County Expressway
10 Authority System; providing for transfer of governance
11 and control, legal rights and powers,
12 responsibilities, terms, and obligations; providing
13 conditions for the transfer; providing for membership
14 and organization of the governing body of the Central
15 Florida Expressway Authority; providing quorum and
16 voting requirements; providing for agents and
17 employees; amending s. 348.754, F.S.; providing that
18 the area served by the authority is within the
19 geographical boundaries of Orange, Seminole, Lake, and
20 Osceola Counties; requiring the authority to have
21 prior consent from the secretary of the Department of
22 Transportation to construct an extension, addition, or
23 improvement to the expressway system in Lake County;
24 extending the term of lease-purchase agreements;
25 limiting the authority's authority to enter into a
26 lease-purchase agreement; limiting the use of certain

27 toll-revenues; providing exceptions; removing the
 28 requirement that the route of a project be approved by
 29 a municipality before the right-of-way can be
 30 acquired; requiring that the authority encourage the
 31 inclusion of local, small, minority-owned, and women-
 32 owned businesses in its procurement and contracting
 33 opportunities; removing the authority and criteria for
 34 an authority to waive payment and performance bonds
 35 for certain public works projects that are awarded
 36 pursuant to an economic development program; amending
 37 ss. 348.7543, 348.7544, 348.7545, 348.7546, 348.7547,
 38 348.755, and 348.756, F.S.; conforming terminology;
 39 amending s. 348.757, F.S.; providing that upon
 40 termination of the lease-purchase agreement of the
 41 former Orlando-Orange County Expressway System, title
 42 in fee simple to the former system will be retained by
 43 the authority; amending ss. 348.758, 348.759, 348.760,
 44 348.761, 348.765, and 369.317, F.S.; conforming
 45 terminology; amending s. 369.324, F.S.; revising the
 46 membership of the Wekiva River Basin Commission;
 47 providing criteria for the transfer of the Osceola
 48 County Expressway Authority System to the Central
 49 Florida Expressway Authority; providing for the repeal
 50 of part V of ch. 348, F.S., relating to the Osceola
 51 County Expressway Authority, when such system is
 52 transferred to the Central Florida Expressway

CS/HB 311

2014

53 Authority; requiring the Central Florida Expressway
 54 Authority to reimburse other governmental entities for
 55 obligations related to the Osceola County Expressway
 56 System; providing an effective date.

57
 58 Be It Enacted by the Legislature of the State of Florida:

59
 60 Section 1. Section 348.751, Florida Statutes, is amended
 61 to read:

62 348.751 Short title.—This part ~~shall be known and~~ may be
 63 cited as the "Central Florida ~~Orlando Orange County~~ Expressway
 64 Authority Law."

65 Section 2. Section 348.752, Florida Statutes, is amended
 66 to read:

67 348.752 Definitions.—As used in this part, the term ~~The~~
 68 ~~following terms, whenever used or referred to in this law, shall~~
 69 ~~have the following meanings, except in those instances where the~~
 70 ~~context clearly indicates otherwise:~~

71 (1) ~~The term~~ "Agency of the state" means ~~and includes~~ the
 72 state and any department of, or corporation, agency, or
 73 instrumentality ~~heretofore or hereafter~~ created, designated, or
 74 established by, the state.

75 (2) ~~The term~~ "Authority" means the Central Florida
 76 Expressway Authority ~~body politic and corporate, and agency of~~
 77 ~~the state created by this part.~~

78 (3) ~~The term~~ "Bonds" means ~~and includes~~ the notes, bonds,

79 refunding bonds, or other evidences of indebtedness or
 80 obligations, in either temporary or definitive form, that ~~which~~
 81 the authority may ~~is authorized to~~ issue pursuant to this part.

82 (4) "Central Florida Expressway Authority" means the body
 83 politic and corporate and agency of the state created by this
 84 part.

85 (5) "Central Florida Expressway System" means any
 86 expressway and appurtenant facilities within the jurisdiction of
 87 the authority, including all approaches, roads, bridges, and
 88 avenues for the expressway and any rapid transit transportation
 89 system, tram, or fixed-guideway system located within the right-
 90 of-way of an expressway.

91 ~~(4) The term "city" means the City of Orlando.~~

92 ~~(5) The term "county" means the County of Orange.~~

93 ~~(6) The term "Department" means the Department of~~
 94 ~~Transportation existing under chapters 334-339.~~

95 ~~(7) The term "Expressway" has the same meaning is the same~~
 96 ~~as limited access expressway.~~

97 ~~(8) The term "Federal agency" means and includes the~~
 98 ~~United States, the President of the United States, and any~~
 99 ~~department of, or corporation, agency, or instrumentality~~
 100 ~~heretofore or hereafter created, designated, or established by,~~
 101 ~~the United States.~~

102 ~~(9) The term "Lease-purchase agreement" means the lease-~~
 103 ~~purchase agreements that ~~which~~ the authority may ~~is authorized~~~~
 104 ~~pursuant to this part to enter into with the Department of~~

105 Transportation pursuant to this part.

106 (10) ~~The term "Limited access expressway"~~ means a street
 107 or highway specifically especially designed for through traffic,
 108 and over, from, or to which ~~a, no person does not shall~~ have the
 109 right of easement, use, or access except in accordance with the
 110 rules of and regulations promulgated and established by the
 111 authority governing its use for the use of such facility. Such
 112 highways or streets may be parkways that do not allow traffic
 113 ~~by, from which~~ trucks, buses, and other commercial vehicles
 114 ~~shall be excluded, or they may be~~ freeways open to use by all
 115 customary forms of street and highway traffic.

116 (11) ~~The term "members" means the governing body of the~~
 117 ~~authority, and the term "Member" means an individual who serves~~
 118 ~~on the one of the individuals constituting such governing body~~
 119 ~~of the authority.~~

120 (12) ~~The term "Orange County gasoline tax funds"~~ means ~~all~~
 121 ~~the revenue derived from the~~ 80-percent surplus gasoline tax
 122 funds accruing in each year to the Department of Transportation
 123 for use in Orange County under ~~the provisions of s. 9, Art. XII~~
 124 of the State Constitution, after deducting deduction only of any
 125 amounts of said gasoline tax funds previously heretofore pledged
 126 by the department or the county for outstanding obligations.

127 ~~(13) The term "Orlando Orange County Expressway System"~~
 128 ~~means any and all expressways and appurtenant facilities~~
 129 ~~thereto, including, but not limited to, all approaches, roads,~~
 130 ~~bridges, and avenues of access for said expressway or~~

131 ~~expressways.~~

132 ~~(13) (14) The term "State Board of Administration" means~~
133 ~~the body corporate existing under the provisions of s. 4, Art.~~
134 ~~IV of the State Constitution, or any successor thereto.~~

135 (14) "Transportation facilities" means and includes the
136 mobile and fixed assets, and the associated real or personal
137 property or rights, used in the transportation of persons or
138 property by any means of conveyance and all appurtenances, such
139 as, but not limited to, highways; limited or controlled access
140 lanes, avenues of access, and facilities; vehicles; fixed
141 guideway facilities, including maintenance facilities; and
142 administrative and other office space for the exercise by the
143 authority of the powers and obligations granted in this part.

144 ~~(15) Words importing singular number include the plural~~
145 ~~number in each case and vice versa, and words importing persons~~
146 ~~include firms and corporations.~~

147 Section 3. Section 348.753, Florida Statutes, is amended
148 to read:

149 348.753 Central Florida ~~Orlando-Orange County~~ Expressway
150 Authority.-

151 (1) There is ~~hereby~~ created and established a body politic
152 and corporate, an agency of the state, to be known as the
153 Central Florida ~~Orlando-Orange County~~ Expressway Authority. 7
154 ~~hereinafter referred to as "authority."~~

155 (2) (a) Effective July 1, 2015, the Central Florida
156 Expressway Authority shall assume the governance and control of

157 the Orlando-Orange County Expressway Authority System, including
 158 its assets, personnel, contracts, obligations, liabilities,
 159 facilities, and tangible and intangible property. Any rights in
 160 such property and other legal rights of the authority are
 161 transferred to the Central Florida Expressway Authority. The
 162 Central Florida Expressway Authority shall succeed to and assume
 163 the powers, responsibilities, and obligations of the Orlando-
 164 Orange County Expressway Authority on July 1, 2015.

165 (b) The transfer pursuant to this subsection is subject to
 166 the terms and covenants provided for the protection of the
 167 holders of the Orlando-Orange County Expressway Authority bonds
 168 in the lease-purchase agreement and the resolutions adopted in
 169 connection with the issuance of the bonds. Further, the transfer
 170 does not impair the terms of the contract between the Orlando-
 171 Orange County Expressway Authority and the bondholders, does not
 172 act to the detriment of the bondholders, and does not diminish
 173 the security for the bonds. After the transfer, the Central
 174 Florida Expressway Authority shall operate and maintain the
 175 expressway system and any other facilities of the Orlando-Orange
 176 County Expressway Authority in accordance with the terms,
 177 conditions, and covenants contained in the bond resolutions and
 178 lease-purchase agreement securing the bonds of the authority.
 179 The Central Florida Expressway Authority shall collect toll
 180 revenues and apply them to the payment of debt service as
 181 provided in the bond resolution securing the bonds and shall
 182 expressly assume all obligations relating to the bonds to ensure

183 that the transfer will have no adverse impact on the security
 184 for the bonds. The transfer does not make the obligation to pay
 185 the principal and interest on the bonds a general liability of
 186 the Central Florida Expressway Authority or pledge additional
 187 expressway system revenues to payment of the bonds. Revenues
 188 that are generated by the expressway system and other facilities
 189 of the Central Florida Expressway Authority which were pledged
 190 by the Orlando-Orange County Expressway Authority to payment of
 191 the bonds will remain subject to the pledge for the benefit of
 192 the bondholders. The transfer does not modify or eliminate any
 193 prior obligation of the department to pay certain costs of the
 194 expressway system from sources other than revenues of the
 195 expressway system.

196 (3)-(2) The governing body of the authority shall consist
 197 of 11 ~~five~~ members. The chairs of the boards of the county
 198 commissions of Seminole, Lake, and Osceola Counties shall each
 199 appoint one member, who may be a commission member or chair. The
 200 Governor shall appoint six citizen members. Of the Governor's
 201 appointments, two ~~Three~~ members ~~must shall~~ be citizens of Orange
 202 County, one member each must be a citizen of Seminole, Lake, and
 203 Osceola Counties, and one member may be a citizen of any of the
 204 identified counties ~~who shall be appointed by the Governor.~~ The
 205 10th ~~fourth~~ member ~~must shall~~ be, ~~ex officio,~~ the Mayor of chair
 206 ~~of the County Commissioners of Orange County.~~ The 11th member
 207 must be the Mayor of the City of Orlando. The executive director
 208 of the Florida Turnpike Enterprise shall serve as a nonvoting

CS/HB 311

2014

209 advisor to the governing body of the authority, ~~and the fifth~~
 210 ~~member shall be, ex officio, the district secretary of the~~
 211 ~~Department of Transportation serving in the district that~~
 212 ~~contains Orange County. The term of~~ Each appointed member
 213 appointed by the Governor shall serve ~~be~~ for 4 years. Each
 214 county-appointed member shall serve for 2 years. Standing board
 215 members shall complete their terms. Each appointed member shall
 216 hold office until his or her successor has been appointed and
 217 has qualified. A vacancy occurring during a term must ~~shall~~ be
 218 filled only for the balance of the unexpired term. Each
 219 appointed member of the authority must ~~shall~~ be a person of
 220 outstanding reputation for integrity, responsibility, and
 221 business ability, but, except as provided in this subsection, a
 222 ~~no~~ person who is an officer or employee of a municipality or ~~any~~
 223 ~~city or of Orange county~~ may not in any other capacity ~~shall~~ be
 224 an appointed member of the authority. Any member of the
 225 authority is ~~shall be~~ eligible for reappointment.

226 (4)(3)(a) The authority shall elect one of its members as
 227 chair of the authority. The authority shall also elect one of
 228 its members as vice chair, one of its members as a secretary,
 229 and one of its members as a treasurer ~~who may or may not be~~
 230 ~~members of the authority.~~ The chair, vice chair, secretary, and
 231 treasurer shall hold such offices at the will of the authority.
 232 Six ~~Three~~ members of the authority ~~shall~~ constitute a quorum,
 233 and the vote of six ~~three~~ members is ~~shall be~~ necessary for any
 234 action taken by the authority. A ~~No~~ vacancy in the authority

CS/HB 311

2014

235 | does not ~~shall~~ impair the right of a quorum of the authority to
 236 | exercise all of the rights and perform all of the duties of the
 237 | authority.

238 | (b) Upon the effective date of his or her appointment, or
 239 | as soon thereafter as practicable, each appointed member of the
 240 | authority shall enter upon his or her duties.

241 | (c) Members of the authority may be removed from office by
 242 | the Governor for misconduct, malfeasance, misfeasance, or
 243 | nonfeasance in office.

244 | (d) Members of the authority may receive from the
 245 | authority travel and other necessary expenses incurred in
 246 | connection with the business of the authority as provided in s.
 247 | 112.061 but may not draw salaries or other compensation.

248 | (5)(4)(a) The authority may employ an executive secretary,
 249 | an executive director, its own counsel and legal staff,
 250 | technical experts, and the ~~such~~ engineers, and ~~such~~ employees
 251 | that, permanent or temporary, as it requires. The authority may
 252 | ~~require and~~ may determine the qualifications and fix the
 253 | compensation of such persons, firms, or corporations and may
 254 | employ a fiscal agent or agents; ~~provided, however, that~~ the
 255 | authority shall solicit sealed proposals from at least three
 256 | persons, firms, or corporations for the performance of any
 257 | services as fiscal agents. The authority may delegate to one or
 258 | more of its agents or employees the ~~such of its power as it~~
 259 | deems ~~shall deem~~ necessary to carry out the purposes of this
 260 | ~~part, subject always to the supervision and control of the~~

261 ~~authority. Members of the authority may be removed from their~~
 262 ~~office by the Governor for misconduct, malfeasance, misfeasance,~~
 263 ~~or nonfeasance in office.~~

264 ~~(b) Members of the authority shall be entitled to receive~~
 265 ~~from the authority their travel and other necessary expenses~~
 266 ~~incurred in connection with the business of the authority as~~
 267 ~~provided in s. 112.061, but they shall draw no salaries or other~~
 268 ~~compensation.~~

269 Section 4. Section 348.754, Florida Statutes, is amended
 270 to read:

271 348.754 Purposes and powers.—

272 (1)(a) The authority created and established under ~~by the~~
 273 ~~provisions of this part is hereby~~ granted and has ~~shall~~ have the
 274 right to acquire, hold, construct, improve, maintain, operate,
 275 own, and lease in the capacity of lessor, the Central Florida
 276 Orlando-Orange County Expressway System, hereinafter referred to
 277 as "system." Except as otherwise specifically provided by law,
 278 including paragraph (2)(n), the area served by the authority
 279 shall be within the geographical boundaries of Orange, Seminole,
 280 Lake, and Osceola Counties.

281 ~~(b) It is the express intention of this part that said~~
 282 ~~authority,~~ In the construction of the Central Florida ~~said~~
 283 Orlando-Orange County Expressway System, the authority may ~~shall~~
 284 ~~be authorized to~~ construct any extensions, additions, or
 285 improvements to the ~~said~~ system or appurtenant facilities,
 286 including all necessary approaches, roads, bridges, and ~~and~~ avenues

287 of access, rapid transit, trams, fixed guideways, thoroughfares,
 288 and boulevards with any ~~such~~ changes, modifications, or
 289 revisions of the said project which are ~~as shall be~~ deemed
 290 desirable and proper.

291 (c) Notwithstanding any other provision of this section,
 292 to ensure the continued financial feasibility of the portion of
 293 the Wekiva Parkway to be constructed by the department, the
 294 authority may not, without the prior consent of the secretary of
 295 the department, construct any extensions, additions, or
 296 improvements to the expressway system in Lake County.

297 (2) The authority ~~is hereby granted, and shall have and~~
 298 may exercise all powers necessary, appurtenant, convenient, or
 299 incidental to the implementation ~~carrying out~~ of the stated
 300 ~~aforsaid~~ purposes, including, but not ~~without being~~ limited to,
 301 the following rights and powers:

302 (a) To sue and be sued, implead and be impleaded,
 303 complain, and defend in all courts.

304 (b) To adopt, use, and alter at will a corporate seal.

305 (c) To acquire by donation or otherwise, purchase, hold,
 306 lease as lessee, and use any franchise or any property, real,
 307 personal, ~~or~~ mixed, or tangible or intangible, or any options
 308 ~~thereof~~ in its own name or in conjunction with others, or
 309 interest in those options ~~therein~~, necessary or desirable to
 310 carry for ~~carrying~~ out the purposes of the authority, and to
 311 sell, lease as lessor, transfer, and dispose of any property or
 312 interest in the property ~~therein~~ at any time acquired by it.

CS/HB 311

2014

313 (d) To enter into and make leases for terms not exceeding
 314 99 years, as ~~either~~ lessee or lessor, in order to carry out the
 315 right to lease as specified ~~set forth~~ in this part.

316 (e) To enter into and make lease-purchase agreements with
 317 the department for terms not exceeding 99 ~~40~~ years, or until any
 318 bonds secured by a pledge of rentals pursuant to the agreement
 319 ~~thereunder~~, and any refundings pursuant to the agreement
 320 ~~thereof~~, are fully paid as to both principal and interest,
 321 whichever is longer. The authority is a party to a lease-
 322 purchase agreement between the department and the Orlando-Orange
 323 County Expressway Authority dated December 23, 1985, as
 324 supplemented by a first supplement to the lease-purchase
 325 agreement dated November 25, 1986, and a second supplement to
 326 the lease-purchase agreement dated October 27, 1988. The
 327 authority may not enter into other lease-purchase agreements
 328 with the department and may not amend the existing agreement in
 329 a manner that expands or increases the department's obligations
 330 unless the department determines that the agreement or amendment
 331 is necessary to permit the refunding of bonds issued before July
 332 1, 2013.

333 (f) To fix, alter, charge, establish, and collect rates,
 334 fees, rentals, and other charges for the services and facilities
 335 of the Central Florida ~~Orlando-Orange County~~ Expressway System,
 336 which must ~~rates, fees, rentals and other charges shall~~ always
 337 be sufficient to comply with any covenants made with the holders
 338 of any bonds issued pursuant to this part; ~~provided~~, however,

339 ~~that~~ such right and power may be assigned or delegated~~7~~ by the
 340 authority~~7~~ to the department. Toll revenues attributable to an
 341 increase in the toll rates charged on or after July 1, 2015, for
 342 the use of a facility or portion of a facility may not be used
 343 to construct or expand a different facility unless a two-thirds
 344 majority of the members of the authority votes to approve such
 345 use. This requirement does not apply if and to the extent that:

346 1. Application of the requirement would violate any
 347 covenant established in a resolution or trust indenture under
 348 which bonds were issued by the Orlando-Orange County Expressway
 349 Authority on or before July 1, 2015; or

350 2. Application of the requirement would cause the
 351 authority to be unable to meet its obligations under the terms
 352 of the memorandum of understanding between the authority and the
 353 department as ratified by the Orlando-Orange County Expressway
 354 Authority board on February 22, 2012.

355
 356 Notwithstanding s. 338.165 and except as otherwise prohibited by
 357 this part, to the extent revenues of the expressway system
 358 exceed amounts required to comply with any covenants made with
 359 the holders of bonds issued pursuant to this part, revenues may
 360 be used for purposes enumerated in subsection (6), provided the
 361 expenditures are consistent with the metropolitan planning
 362 organization's adopted long-range plan.

363 (g) To borrow money; ~~to~~7 make and issue negotiable notes,
 364 bonds, refunding bonds, and other evidences of indebtedness or

365 obligations, either in temporary or definitive form, ~~hereinafter~~
 366 ~~in this chapter sometimes called "bonds" of the authority,~~ for
 367 the purpose of financing all or part of the improvement or
 368 extension of the Central Florida ~~Orlando-Orange County~~
 369 Expressway System, and appurtenant facilities, including all
 370 approaches, streets, roads, bridges, and avenues of access for
 371 the Central Florida ~~said Orlando-Orange County~~ Expressway System
 372 and for any other purpose authorized by this part; ~~said bonds~~
 373 ~~to mature in not exceeding 40 years from the date of the~~
 374 ~~issuance thereof,~~ and to secure the payment of such bonds or any
 375 part thereof by a pledge of any or all of its revenues, rates,
 376 fees, rentals, or other charges, including all or any portion of
 377 the Orange County gasoline tax funds received by the authority
 378 pursuant to ~~the terms of~~ any lease-purchase agreement between
 379 the authority and the department; and in general to provide for
 380 the security of the said bonds and the rights and remedies of
 381 the holders thereof. ~~Provided,~~ However, ~~that~~ no portion of the
 382 Orange County gasoline tax funds may ~~shall~~ be pledged for the
 383 construction of any project for which a toll is to be charged
 384 unless the anticipated toll is ~~tolls are~~ reasonably estimated by
 385 the board of county commissioners, at the date of its resolution
 386 pledging the said funds, to be sufficient to cover the principal
 387 and interest of such obligations during the period when the said
 388 pledge of funds is ~~shall be~~ in effect. The bonds issued under
 389 this paragraph must mature not more than 40 years after their
 390 issue dates.

391 1. The authority shall reimburse Orange County for any
 392 sums expended from the ~~said~~ gasoline tax funds used for the
 393 payment of such obligations. Any gasoline tax funds so disbursed
 394 must ~~shall~~ be repaid when the authority deems it practicable,
 395 together with interest at the highest rate applicable to any
 396 obligations of the authority.

397 2. If, pursuant to this section, ~~In the event~~ the
 398 authority funds ~~shall determine to fund~~ or refunds ~~refund~~ any
 399 bonds previously ~~theretofore~~ issued by the ~~said~~ authority, or
 400 the ~~by~~ said commission before the bonds mature ~~as aforesaid~~
 401 ~~prior to the maturity thereof,~~ the proceeds of such funding or
 402 refunding must ~~bonds shall,~~ pending the prior redemption of
 403 these ~~the~~ bonds to be funded or refunded, be invested in direct
 404 obligations of the United States, ~~and it is the express~~
 405 ~~intention of this part that such outstanding bonds may be funded~~
 406 ~~or refunded by the issuance of bonds pursuant to this part.~~

407 (h) To make contracts ~~of every name and nature,~~ including,
 408 but not limited to, partnerships providing for participation in
 409 ownership and revenues, and to execute all instruments necessary
 410 or convenient for conducting ~~the carrying on~~ of its business.

411 (i) Notwithstanding paragraphs (a)-(h) ~~Without limitation~~
 412 ~~of the foregoing,~~ to borrow money and accept grants from, and to
 413 enter into contracts, leases, or other transactions with, any
 414 federal agency, the state, any agency of the state, Orange ~~the~~
 415 County ~~of Orange,~~ the City of Orlando, or ~~with~~ any other public
 416 body of the state.

CS/HB 311

2014

417 (j) ~~To have~~ The power of eminent domain, including the
 418 procedural powers granted under ~~both~~ chapters 73 and 74.

419 (k) To pledge, hypothecate, or otherwise encumber ~~all or~~
 420 any part of the revenues, rates, fees, rentals, or other charges
 421 or receipts of the authority, including all or any portion of
 422 the Orange County gasoline tax funds received by the authority
 423 pursuant to the terms of any lease-purchase agreement between
 424 the authority and the department, as security for ~~all or~~ any of
 425 the obligations of the authority.

426 (l) To enter into partnership and other agreements
 427 respecting ownership and revenue participation in order to
 428 facilitate financing and constructing the Western Beltway, or
 429 portions thereof.

430 (m) To do everything ~~all acts and things~~ necessary or
 431 convenient for the conduct of its business and the general
 432 welfare of the authority, in order to comply with ~~carry out the~~
 433 ~~powers granted to it by~~ this part or any other law.

434 (n) With the consent of the county within whose
 435 jurisdiction the following activities occur, ~~the authority shall~~
 436 ~~have the right~~ to construct, operate, and maintain roads,
 437 bridges, avenues of access, transportation facilities,
 438 thoroughfares, and boulevards outside the jurisdictional
 439 boundaries of Orange, Seminole, Lake, and Osceola Counties
 440 County, ~~and together with the right~~ to construct, repair,
 441 replace, operate, install, and maintain electronic toll payment
 442 systems thereon, ~~with all necessary and incidental powers to~~

443 ~~accomplish the foregoing.~~

444 (3) The authority may not ~~shall have no power at any time~~
 445 ~~or in any manner to~~ pledge the credit or taxing power of the
 446 state or any political subdivision or agency thereof, including
 447 any city or any county ~~the City of Orlando and the County of~~
 448 ~~Orange,~~ nor may ~~shall~~ any of the authority's obligations be
 449 deemed to be obligations of the state or of any political
 450 subdivision or agency thereof, nor may ~~shall~~ the state or any
 451 political subdivision or agency thereof, except the authority,
 452 be liable for the payment of the principal of or interest on
 453 such obligations.

454 ~~(4) Anything in this part to the contrary notwithstanding,~~
 455 ~~acquisition of right-of-way for a project of the authority which~~
 456 ~~is within the boundaries of any municipality in Orange County~~
 457 ~~shall not be begun unless and until the route of said project~~
 458 ~~within said municipality has been given prior approval by the~~
 459 ~~governing body of said municipality.~~

460 ~~(4)(5)~~ The authority has ~~shall~~ have no power, other than
 461 by consent of an affected Orange county or ~~any affected~~ city, to
 462 enter into any agreement that ~~which~~ would legally prohibit the
 463 construction of a any road by the respective county or city
 464 ~~Orange County or by any city within Orange County.~~

465 (5) The authority shall encourage the inclusion of local
 466 businesses, small businesses, and minority-owned and women-owned
 467 businesses in its procurement and contracting opportunities.

468 (6)(a) The authority may, within the right-of-way of the

469 expressway system, finance or refinance the planning, design,
 470 acquisition, construction, extension, rehabilitation, equipping,
 471 preservation, maintenance, or improvement of an intermodal
 472 facility or facilities, a multimodal corridor or corridors, or
 473 any programs or projects that will improve the levels of service
 474 on the expressway system ~~Notwithstanding s. 255.05, the Orlando-~~
 475 ~~Orange County Expressway Authority may waive payment and~~
 476 ~~performance bonds on construction contracts for the construction~~
 477 ~~of a public building, for the prosecution and completion of a~~
 478 ~~public work, or for repairs on a public building or public work~~
 479 ~~that has a cost of \$500,000 or less and when the project is~~
 480 ~~awarded pursuant to an economic development program for the~~
 481 ~~encouragement of local small businesses that has been adopted by~~
 482 ~~the governing body of the Orlando-Orange County Expressway~~
 483 ~~Authority pursuant to a resolution or policy.~~

484 ~~(b) The authority's adopted criteria for participation in~~
 485 ~~the economic development program for local small businesses~~
 486 ~~requires that a participant:~~

- 487 ~~1. Be an independent business.~~
- 488 ~~2. Be principally domiciled in the Orange County Standard~~
 489 ~~Metropolitan Statistical Area.~~
- 490 ~~3. Employ 25 or fewer full-time employees.~~
- 491 ~~4. Have gross annual sales averaging \$3 million or less~~
 492 ~~over the immediately preceding 3 calendar years with regard to~~
 493 ~~any construction element of the program.~~
- 494 ~~5. Be accepted as a participant in the Orlando-Orange~~

495 ~~County Expressway Authority's microcontracts program or such~~
 496 ~~other small business program as may be hereinafter enacted by~~
 497 ~~the Orlando Orange County Expressway Authority.~~

498 ~~6. Participate in an educational curriculum or technical~~
 499 ~~assistance program for business development that will assist the~~
 500 ~~small business in becoming eligible for bonding.~~

501 ~~(c) The authority's adopted procedures for waiving payment~~
 502 ~~and performance bonds on projects with values not less than~~
 503 ~~\$200,000 and not exceeding \$500,000 shall provide that payment~~
 504 ~~and performance bonds may only be waived on projects that have~~
 505 ~~been set aside to be competitively bid on by participants in an~~
 506 ~~economic development program for local small businesses. The~~
 507 ~~authority's executive director or his or her designee shall~~
 508 ~~determine whether specific construction projects are suitable~~
 509 ~~for:~~

- 510 ~~1. Bidding under the authority's microcontracts program by~~
 511 ~~registered local small businesses; and~~
 512 ~~2. Waiver of the payment and performance bond.~~

513
 514 ~~The decision of the authority's executive director or deputy~~
 515 ~~executive director to waive the payment and performance bond~~
 516 ~~shall be based upon his or her investigation and conclusion that~~
 517 ~~there exists sufficient competition so that the authority~~
 518 ~~receives a fair price and does not undertake any unusual risk~~
 519 ~~with respect to such project.~~

520 ~~(d) For any contract for which a payment and performance~~

521 ~~bond has been waived pursuant to the authority set forth in this~~
 522 ~~section, the Orlando Orange County Expressway Authority shall~~
 523 ~~pay all persons defined in s. 713.01 who furnish labor,~~
 524 ~~services, or materials for the prosecution of the work provided~~
 525 ~~for in the contract to the same extent and upon the same~~
 526 ~~conditions that a surety on the payment bond under s. 255.05~~
 527 ~~would have been obligated to pay such persons if the payment and~~
 528 ~~performance bond had not been waived. The authority shall record~~
 529 ~~notice of this obligation in the manner and location that surety~~
 530 ~~bonds are recorded. The notice shall include the information~~
 531 ~~describing the contract that s. 255.05(1) requires be stated on~~
 532 ~~the front page of the bond. Notwithstanding that s. 255.05(9)~~
 533 ~~generally applies when a performance and payment bond is~~
 534 ~~required, s. 255.05(9) shall apply under this subsection to any~~
 535 ~~contract on which performance or payment bonds are waived and~~
 536 ~~any claim to payment under this subsection shall be treated as a~~
 537 ~~contract claim pursuant to s. 255.05(9).~~

538 ~~(e) A small business that has been the successful bidder~~
 539 ~~on six projects for which the payment and performance bond was~~
 540 ~~waived by the authority pursuant to paragraph (a) shall be~~
 541 ~~ineligible to bid on additional projects for which the payment~~
 542 ~~and performance bond is to be waived. The local small business~~
 543 ~~may continue to participate in other elements of the economic~~
 544 ~~development program for local small businesses as long as it is~~
 545 ~~eligible.~~

546 ~~(f) The authority shall conduct bond eligibility training~~

CS/HB 311

2014

547 ~~for businesses qualifying for bond waiver under this subsection~~
 548 ~~to encourage and promote bond eligibility for such businesses.~~

549 ~~(g) The authority shall prepare a biennial report on the~~
 550 ~~activities undertaken pursuant to this subsection to be~~
 551 ~~submitted to the Orange County legislative delegation. The~~
 552 ~~initial report shall be due December 31, 2010.~~

553 Section 5. Section 348.7543, Florida Statutes, is amended
 554 to read:

555 348.7543 Improvements, bond financing authority for.—
 556 Pursuant to s. 11(f), Art. VII of the State Constitution, the
 557 Legislature ~~hereby~~ approves for bond financing by the Central
 558 Florida Orlando-Orange County Expressway Authority improvements
 559 to toll collection facilities, interchanges to the legislatively
 560 approved expressway system, and any other facility appurtenant,
 561 necessary, or incidental to the approved system. Subject to
 562 terms and conditions of applicable revenue bond resolutions and
 563 covenants, such costs may be financed in whole or in part by
 564 revenue bonds issued pursuant to s. 348.755(1)(a) or (b),
 565 whether currently issued or issued in the future, or by a
 566 combination of such bonds.

567 Section 6. Section 348.7544, Florida Statutes, is amended
 568 to read:

569 348.7544 Northwest Beltway Part A, construction
 570 authorized; financing.—Notwithstanding s. 338.2275, the Central
 571 Florida Orlando-Orange County Expressway Authority may ~~is hereby~~
 572 ~~authorized to~~ construct, finance, operate, own, and maintain

CS/HB 311

2014

573 that portion of the Western Beltway known as the Northwest
 574 Beltway Part A, extending from Florida's Turnpike near Ocoee
 575 north to U.S. 441 near Apopka, as part of the authority's 20-
 576 year capital projects plan. This project may be financed with
 577 any funds available to the authority for such purpose or revenue
 578 bonds issued by the Division of Bond Finance of the State Board
 579 of Administration on behalf of the authority pursuant to s. 11,
 580 Art. VII of the State Constitution and the State Bond Act, ss.
 581 215.57-215.83.

582 Section 7. Section 348.7545, Florida Statutes, is amended
 583 to read:

584 348.7545 Western Beltway Part C, construction authorized;
 585 financing.—Notwithstanding s. 338.2275, the Central Florida
 586 ~~Orlando-Orange County~~ Expressway Authority may ~~is authorized to~~
 587 exercise its condemnation powers over, construct, finance,
 588 operate, own, and maintain that portion of the Western Beltway
 589 known as the Western Beltway Part C, extending from Florida's
 590 Turnpike near Ocoee in Orange County southerly through Orange
 591 and Osceola Counties to an interchange with I-4 near the
 592 Osceola-Polk County line, as part of the authority's 20-year
 593 capital projects plan. This project may be financed with any
 594 funds available to the authority for such purpose or revenue
 595 bonds issued by the Division of Bond Finance of the State Board
 596 of Administration on behalf of the authority pursuant to s. 11,
 597 Art. VII of the State Constitution and the State Bond Act, ss.
 598 215.57-215.83. This project may be refinanced with bonds issued

CS/HB 311

2014

599 by the authority pursuant to s. 348.755(1)(d).

600 Section 8. Section 348.7546, Florida Statutes, is amended
601 to read:

602 348.7546 Wekiva Parkway, construction authorized;
603 financing.-

604 (1) The Central Florida ~~Orlando-Orange County~~ Expressway
605 Authority may ~~is authorized to~~ exercise its condemnation powers
606 and ~~to~~ construct, finance, operate, own, and maintain those
607 portions of the Wekiva Parkway which are identified by agreement
608 between the authority and the department and which are included
609 as part of the authority's long-range capital improvement plan.
610 The "Wekiva Parkway" means any limited access highway or
611 expressway constructed between State Road 429 and Interstate 4
612 specifically incorporating the corridor alignment recommended by
613 Recommendation 2 of the Wekiva River Basin Area Task Force final
614 report dated January 15, 2003, and the recommendations of the SR
615 429 Working Group which were adopted January 16, 2004. This
616 project may be financed with any funds available to the
617 authority for such purpose or revenue bonds issued by the
618 authority under s. 11, Art. VII of the State Constitution and s.
619 348.755(1)(b). This section does not invalidate the exercise by
620 the authority of its condemnation powers or the acquisition of
621 any property for the Wekiva Parkway before July 1, 2012.

622 (2) Notwithstanding any other provision of law ~~to the~~
623 ~~contrary~~, in order to ensure that funds are available to the
624 department for its portion of the Wekiva Parkway, beginning July

625 1, 2012, the authority shall repay the expenditures by the
 626 department for costs of operation and maintenance of the Central
 627 Florida ~~Orlando-Orange County~~ Expressway System in accordance
 628 with the terms of the memorandum of understanding between the
 629 authority and the department as ratified by the authority board
 630 on February 22, 2012, which requires the authority to pay the
 631 department \$10 million on July 1, 2012, and \$20 million on each
 632 successive July 1 until the department has been fully reimbursed
 633 for all costs of the Central Florida ~~Orlando-Orange County~~
 634 Expressway System which were paid, advanced, or reimbursed to
 635 the authority by the department, with a final payment in the
 636 amount of the balance remaining. Notwithstanding any other law
 637 ~~to the contrary~~, the funds paid to the department pursuant to
 638 this subsection must ~~shall~~ be allocated by the department for
 639 construction of the Wekiva Parkway.

640 (3) The department's obligation to construct its portions
 641 of the Wekiva Parkway is contingent upon the timely payment by
 642 the authority of the annual payments required of the authority
 643 and receipt of all required environmental permits and approvals
 644 by the Federal Government.

645 Section 9. Section 348.7547, Florida Statutes, is amended
 646 to read:

647 348.7547 Maitland Boulevard Extension and Northwest
 648 Beltway Part A Realignment construction authorized; financing.—
 649 Notwithstanding s. 338.2275, the Central Florida ~~Orlando-Orange~~
 650 ~~County~~ Expressway Authority may ~~is hereby authorized to~~ exercise

CS/HB 311

2014

651 its condemnation powers over, construct, finance, operate, own,
 652 and maintain the portion of State Road 414 known as the Maitland
 653 Boulevard Extension and the realigned portion of the Northwest
 654 Beltway Part A as part of the authority's long-range capital
 655 improvement plan. The Maitland Boulevard Extension extends ~~will~~
 656 ~~extend~~ from the current terminus of State Road 414 at U.S. 441
 657 west to State Road 429 in west Orange County. The realigned
 658 portion of the Northwest Beltway Part A runs ~~will run~~ from the
 659 point at or near where the Maitland Boulevard Extension connects
 660 ~~will connect~~ with State Road 429 and proceeds ~~will proceed~~ to
 661 the west and then north resulting in the northern terminus of
 662 State Road 429 moving farther west before reconnecting with U.S.
 663 441. However, under no circumstances may ~~shall~~ the realignment
 664 of the Northwest Beltway Part A conflict with or contradict ~~with~~
 665 the alignment of the Wekiva Parkway as defined in s. 348.7546.
 666 This project may be financed with any funds available to the
 667 authority for such purpose or revenue bonds issued by the
 668 authority under s. 11, Art. VII of the State Constitution and s.
 669 348.755(1) (b).

670 Section 10. Subsections (2) and (3) of section 348.755,
 671 Florida Statutes, are amended to read:

672 348.755 Bonds of the authority.—

673 (2) Any ~~such~~ resolution that authorizes ~~or resolutions~~
 674 ~~authorizing~~ any bonds issued under this section hereunder may
 675 contain provisions that must ~~which shall~~ be part of the contract
 676 with the holders of such bonds, relating ~~as~~ to:

677 (a) The pledging of ~~all or~~ any part of the revenues,
 678 rates, fees, rentals, ~~(including all or any portion of the~~
 679 Orange County gasoline tax funds received by the authority
 680 pursuant to the terms of any lease-purchase agreement between
 681 the authority and the department, or any part thereof), or other
 682 charges or receipts of the authority, derived by the authority,
 683 from the Central Florida ~~Orlando-Orange County~~ Expressway
 684 System.

685 (b) The completion, improvement, operation, extension,
 686 maintenance, repair, and lease or lease-purchase agreement of
 687 the said system, and the duties of the authority and others,
 688 including the department, ~~with reference thereto.~~

689 (c) Limitations on the purposes to which the proceeds of
 690 the bonds, then or thereafter to be issued, or of any loan or
 691 grant by the United States or the state may be applied.

692 (d) The fixing, charging, establishing, and collecting of
 693 rates, fees, rentals, or other charges for use of the services
 694 and facilities of the Central Florida ~~Orlando-Orange County~~
 695 Expressway System or any part thereof.

696 (e) The setting aside of reserves or sinking funds or
 697 repair and replacement funds and the regulation and disposition
 698 thereof.

699 (f) Limitations on the issuance of additional bonds.

700 (g) The terms and provisions of any lease-purchase
 701 agreement, deed of trust, or indenture securing the bonds, or
 702 under which the same may be issued.

703 (h) Any other or additional agreements with the holders of
 704 the bonds which the authority may deem desirable and proper.

705 (3) The authority may employ fiscal agents as provided by
 706 this part or the State Board of Administration of Florida may,
 707 upon request of the authority, act as fiscal agent for the
 708 authority in the issuance of any bonds that ~~which~~ may be issued
 709 pursuant to this part, and the State Board of Administration
 710 may, upon request of the authority, take over the management,
 711 control, administration, custody, and payment of any ~~or all~~ debt
 712 services or funds or assets now or hereafter available for any
 713 bonds issued pursuant to this part. The authority may enter into
 714 any deeds of trust, indentures or other agreements with its
 715 fiscal agent, or with any bank or trust company within or
 716 without the state, as security for such bonds, and may, under
 717 such agreements, sign and pledge ~~all or~~ any of the revenues,
 718 rates, fees, rentals or other charges or receipts of the
 719 authority, including ~~all or~~ any portion of the Orange County
 720 gasoline tax funds received by the authority pursuant to the
 721 terms of any lease-purchase agreement between the authority and
 722 the department, ~~thereunder~~. Such deed of trust, indenture, or
 723 other agreement may contain such provisions as are customary in
 724 such instruments, ~~or~~ as the authority may authorize, including,
 725 ~~but~~ without limitation, provisions as to:

726 (a) The completion, improvement, operation, extension,
 727 maintenance, repair, and lease of, or lease-purchase agreement
 728 relating to, the Central Florida ~~Orlando-Orange County~~

CS/HB 311

2014

729 Expressway System, and the duties of the authority and others,
 730 including the department, with reference thereto.

731 (b) The application of funds and the safeguarding of funds
 732 on hand or on deposit.

733 (c) The rights and remedies of the trustee and the holders
 734 of the bonds.

735 (d) The terms and provisions of the bonds or the
 736 resolutions authorizing the issuance of the bonds ~~same~~.

737 Section 11. Subsections (3) and (4) of section 348.756,
 738 Florida Statutes, are amended to read:

739 348.756 Remedies of the bondholders.—

740 (3) When a ~~Any~~ trustee is ~~when~~ appointed pursuant to
 741 subsection (1) as aforesaid, or is acting under a deed of trust,
 742 indenture, or other agreement, regardless of ~~and~~ whether ~~or not~~
 743 all bonds have been declared due and payable, the trustee is
 744 ~~shall be~~ entitled ~~as of right~~ to the appointment of a receiver.
 745 The receiver, ~~who~~ may enter upon and take possession of the
 746 Central Florida Orlando-Orange County Expressway System or the
 747 facilities or any part of the system or facilities and ~~or parts~~
 748 ~~thereof,~~ the rates, fees, rentals, or other revenues, charges,
 749 or receipts that from which are, or may be, applicable to the
 750 payment of the bonds so in default, and, subject to and in
 751 compliance with ~~the provisions of~~ any lease-purchase agreement
 752 between the authority and the department, may operate and
 753 maintain the same, for and on behalf of and in the name of, the
 754 authority, the department, and the bondholders, and may collect

CS/HB 311

2014

755 and receive all rates, fees, rentals, and other charges or
 756 receipts or revenues arising therefrom in the same manner as the
 757 authority or the department might do, and shall deposit all such
 758 moneys in a separate account and apply the same in such manner
 759 as the court directs ~~shall direct~~. In any suit, action, or
 760 proceeding by the trustee, the fees, counsel fees, and expenses
 761 of the trustee, and the ~~said~~ receiver, if any, and all costs and
 762 disbursements allowed by the court must ~~shall~~ be a first charge
 763 on any rates, fees, rentals, or other charges, revenues, or
 764 receipts, derived from the Central Florida ~~Orlando-Orange County~~
 765 Expressway System, or the facilities or services or any part of
 766 the system or facilities ~~or parts thereof~~, including payments
 767 under any such lease-purchase agreement, ~~as aforesaid~~ which ~~said~~
 768 rates, fees, rentals, or other charges, revenues, or receipts
 769 ~~shall or~~ may be applicable to the payment of the bonds that are
 770 ~~so~~ in default. The ~~Such~~ trustee has ~~shall~~, ~~in addition to the~~
 771 ~~foregoing, have and possess~~ all of the powers necessary or
 772 appropriate for the exercise of any functions specifically set
 773 forth in this section ~~herein~~ or incident to the representation
 774 of the bondholders in the enforcement and protection of their
 775 rights.

776 (4) ~~Nothing in This section or any other section of this~~
 777 ~~part~~ does not ~~shall~~ authorize any receiver appointed pursuant
 778 ~~hereto~~ for the purpose, subject to and in compliance with ~~the~~
 779 ~~provisions of~~ any lease-purchase agreement between the authority
 780 and the department, of operating and maintaining the Central

781 Florida Orlando-Orange County Expressway System or any
 782 facilities or part of the system or facilities ~~or parts thereof,~~
 783 to sell, assign, mortgage, or otherwise dispose of any of the
 784 assets of whatever kind and character belonging to the
 785 authority. ~~It is the intention of this part to limit~~ The powers
 786 of the ~~such~~ receiver, subject to and in compliance with ~~the~~
 787 ~~provisions of~~ any lease-purchase agreement between the authority
 788 and the department, are limited to the operation and maintenance
 789 of the Central Florida Orlando-Orange County Expressway System,
 790 or any facility, or part of the system or facility ~~or parts~~
 791 ~~thereof,~~ as the court may direct, in the name and for and on
 792 behalf of the authority, the department, and the bondholders. A
 793 receiver may not, and, in any suit, action, or proceeding at law
 794 or in equity, a bondholder or trustee may not compel nor may a
 795 court no holder of bonds on the authority nor any trustee, shall
 796 ~~ever have the right in any suit, action or proceeding at law or~~
 797 ~~in equity, to compel a receiver, nor shall any receiver be~~
 798 ~~authorized or any court be empowered to~~ direct the receiver to
 799 sell, assign, mortgage, or otherwise dispose of any assets ~~of~~
 800 ~~whatever kind or character~~ belonging to the authority.

801 Section 12. Subsections (1) through (7) of section
 802 348.757, Florida Statutes, are amended to read:

803 348.757 Lease-purchase agreement.—

804 (1) ~~In order to effectuate the purposes of this part and~~
 805 ~~as authorized by this part,~~ The authority may enter into a
 806 lease-purchase agreement with the department relating to and

CS/HB 311

2014

807 covering the former Orlando-Orange County Expressway System.

808 (2) The ~~Such~~ lease-purchase agreement must ~~shall~~ provide
 809 for the leasing of the former Orlando-Orange County Expressway
 810 System, by the authority, as lessor, to the department, as
 811 lessee, must ~~shall~~ prescribe the term of such lease and the
 812 rentals to be paid, ~~thereunder~~ and must ~~shall~~ provide that upon
 813 the completion of the faithful performance ~~thereunder~~ and the
 814 termination of the ~~such~~ lease-purchase agreement, title in fee
 815 simple absolute to the former Orlando-Orange County Expressway
 816 System as then constituted shall be transferred in accordance
 817 with law by the authority, to the state and the authority shall
 818 deliver to the department such deeds and conveyances as shall be
 819 necessary or convenient to vest title in fee simple absolute in
 820 the state.

821 (3) The ~~Such~~ lease-purchase agreement may include ~~such~~
 822 other provisions, agreements, and covenants that ~~as~~ the
 823 authority and the department deem advisable or required,
 824 including, but not limited to, provisions as to the bonds to be
 825 issued under, and for the purposes of, this part, the
 826 completion, extension, improvement, operation, and maintenance
 827 of the former Orlando-Orange County Expressway System and the
 828 expenses and the cost of operation of the ~~said~~ authority, the
 829 charging and collection of tolls, rates, fees, and other charges
 830 for the use of the services and facilities of the system
 831 ~~thereof~~, the application of federal or state grants or aid that
 832 ~~which~~ may be made or given to assist the authority in the

CS/HB 311

2014

833 completion, extension, improvement, operation, and maintenance
 834 of the former Orlando-Orange County ~~Orlando~~ Expressway System,
 835 which the authority is ~~hereby~~ authorized to accept and apply to
 836 such purposes, the enforcement of payment and collection of
 837 rentals, and any other terms, provisions, or covenants
 838 necessary, incidental, or appurtenant to the making of and full
 839 performance under the ~~such~~ lease-purchase agreement.

840 (4) The department as lessee under the ~~such~~ lease-purchase
 841 agreement ~~may, is hereby authorized to~~ pay as rentals under the
 842 agreement ~~thereunder~~ any rates, fees, charges, funds, moneys,
 843 receipts, or income accruing to the department from the
 844 operation of the former Orlando-Orange County Expressway System
 845 and the Orange County gasoline tax funds and may also pay as
 846 rentals any appropriations received by the department pursuant
 847 to any act of the Legislature of the state heretofore or
 848 hereafter enacted; ~~provided,~~ however, this part or the ~~that~~
 849 ~~nothing herein nor in such~~ lease-purchase agreement is not
 850 intended to and does not ~~nor shall this part or such lease-~~
 851 ~~purchase agreement~~ require the making or continuance of such
 852 appropriations, and ~~nor shall~~ any holder of bonds issued
 853 pursuant to this part does not ~~ever~~ have any right to compel the
 854 making or continuance of such appropriations.

855 (5) A ~~No~~ pledge of the ~~said~~ Orange County gasoline tax
 856 funds as rentals under a ~~such~~ lease-purchase agreement may not
 857 ~~shall~~ be made without the consent of Orange ~~the~~ County ~~of Orange~~
 858 evidenced by a resolution duly adopted by the board of county

859 commissioners of Orange ~~said~~ County at a public hearing held
 860 pursuant to due notice thereof published at least once a week
 861 for 3 consecutive weeks before the hearing in a newspaper of
 862 general circulation in Orange County. The ~~Said~~ resolution, among
 863 other things, must ~~shall~~ provide that any excess of the ~~said~~
 864 pledged gasoline tax funds which is not required for debt
 865 service or reserves for the ~~such~~ debt service for any bonds
 866 issued by the ~~said~~ authority shall be returned annually to the
 867 department for distribution to Orange County as provided by law.
 868 Before making any application for a a ~~such~~ pledge of gasoline tax
 869 funds, the authority shall present the plan of its proposed
 870 project to the Orange County planning and zoning commission for
 871 its comments and recommendations.

872 (6) The ~~Said~~ department may ~~shall have power to~~ covenant
 873 in any lease-purchase agreement that it will pay all or any part
 874 of the cost of the operation, maintenance, repair, renewal, and
 875 replacement of the ~~said~~ system, and any part of the cost of
 876 completing the ~~said~~ system to the extent that the proceeds of
 877 bonds issued ~~therefor~~ are insufficient, from sources other than
 878 the revenues derived from the operation of the ~~said~~ system and
 879 the ~~said~~ Orange County gasoline tax funds. The ~~said~~ department
 880 may also agree to make such other payments from any moneys
 881 available to the ~~said~~ commission, the ~~said~~ county, or the ~~said~~
 882 city in connection with the construction or completion of the
 883 ~~said~~ system as shall be deemed by the ~~said~~ department to be fair
 884 and proper under any ~~such~~ covenants heretofore or hereafter

885 entered into.

886 (7) The ~~said~~ system must ~~shall~~ be a part of the state road
 887 system, and the ~~said~~ department may ~~is hereby authorized~~, upon
 888 the request of the authority, ~~to~~ expend out of any funds
 889 available for such ~~the~~ purpose the ~~such~~ moneys, and ~~to~~ use such
 890 ~~of~~ its engineering and other forces, as may be necessary and
 891 ~~desirable in the judgment of said department~~, for the operation
 892 of the ~~said~~ authority and for traffic surveys, borings, surveys,
 893 preparation of plans and specifications, estimates of cost, and
 894 other preliminary engineering and other studies; ~~provided~~,
 895 however, ~~that~~ the aggregate amount of moneys expended for such
 896 ~~said~~ purposes by the ~~said~~ department may ~~shall~~ not exceed the
 897 ~~sum of~~ \$375,000.

898 Section 13. Section 348.758, Florida Statutes, is amended
 899 to read:

900 348.758 Appointment of department as ~~may be appointed~~
 901 agent of authority for construction.—The department may be
 902 appointed by the ~~said~~ authority as its agent for the purpose of
 903 constructing improvements and extensions to the Central Florida
 904 ~~Orlando-Orange County~~ Expressway System and for its ~~the~~
 905 completion ~~thereof~~. In such event, the authority shall provide
 906 the department with complete copies of all documents,
 907 agreements, resolutions, contracts, and instruments relating
 908 thereto; ~~and~~ shall request the department to do such
 909 construction work, including the planning, surveying, and actual
 910 construction of the completion, extensions, and improvements to

CS/HB 311

2014

911 the Central Florida ~~Orlando-Orange County~~ Expressway System; and
 912 shall transfer to the credit of an account of the department in
 913 the State Treasury ~~of the state~~ the necessary funds, ~~therefor~~
 914 and The department may then ~~shall thereupon be authorized,~~
 915 ~~empowered and directed to~~ proceed with such construction and ~~to~~
 916 use the ~~said~~ funds for such purpose in the same manner that it
 917 is ~~now~~ authorized to use the funds ~~otherwise provided by law~~ for
 918 the ~~its use in~~ construction of roads and bridges.

919 Section 14. Section 348.759, Florida Statutes, is amended
 920 to read:

921 348.759 Acquisition of lands and property.—

922 (1) For the purposes of this part, the Central Florida
 923 ~~Orlando-Orange County~~ Expressway Authority may acquire private
 924 or public property and property rights, including rights of
 925 access, air, view, and light, by gift, devise, purchase, or
 926 condemnation by eminent domain proceedings, ~~as the authority~~
 927 deems ~~may deem~~ necessary for any of the purposes of this part,
 928 including, but not limited to, any lands reasonably necessary
 929 for securing applicable permits, areas necessary for management
 930 of access, borrow pits, drainage ditches, water retention areas,
 931 rest areas, replacement access for landowners whose access is
 932 impaired due to the construction of a facility, and replacement
 933 rights-of-way for relocated rail and utility facilities; for
 934 existing, proposed, or anticipated transportation facilities on
 935 the Central Florida ~~Orlando-Orange County~~ Expressway System or
 936 in a transportation corridor designated by the authority; or for

CS/HB 311

2014

937 the purposes of screening, relocation, removal, or disposal of
 938 junkyards and scrap metal processing facilities. The authority
 939 ~~may shall also have the power to~~ condemn any material and
 940 property necessary for such purposes.

941 (2) The ~~right of eminent domain herein conferred shall be~~
 942 ~~exercised by the authority~~ shall exercise the right of eminent
 943 domain in the manner provided by law.

944 (3) When the authority acquires property for a
 945 transportation facility or in a transportation corridor, it is
 946 not subject to any liability imposed by chapter 376 or chapter
 947 403 for preexisting soil or groundwater contamination due solely
 948 to its ownership. This section does not affect the rights or
 949 liabilities of any past or future owners of the acquired
 950 property and ~~nor~~ does not ~~it~~ affect the liability of any
 951 governmental entity for the results of its actions which create
 952 or exacerbate a pollution source. The authority and the
 953 Department of Environmental Protection may enter into
 954 interagency agreements for the performance, funding, and
 955 reimbursement of the investigative and remedial acts necessary
 956 for property acquired by the authority.

957 Section 15. Section 348.760, Florida Statutes, is amended
 958 to read:

959 348.760 Cooperation with other units, boards, agencies,
 960 and individuals. ~~A Express authority and power is hereby given~~
 961 ~~and granted any~~ county, municipality, drainage district, road
 962 and bridge district, school district or any other political

CS/HB 311

2014

963 subdivision, board, commission, or individual in, or of, the
 964 state may ~~to~~ make and enter into with the authority, contracts,
 965 leases, conveyances, partnerships, or other agreements pursuant
 966 to ~~within the provisions and purposes of~~ this part. The
 967 authority may ~~is hereby expressly authorized to~~ make and enter
 968 into contracts, leases, conveyances, partnerships, and other
 969 agreements with any political subdivision, agency, or
 970 instrumentality of the state and any ~~and all~~ federal agency,
 971 corporation, or individual agencies, corporations, and
 972 ~~individuals,~~ for the purpose of carrying out ~~the provisions of~~
 973 this part ~~or with the consent of the Seminole County Expressway~~
 974 ~~Authority, for the purpose of carrying out and implementing part~~
 975 ~~VIII of this chapter.~~

976 Section 16. Section 348.761, Florida Statutes, is amended
 977 to read:

978 348.761 Covenant of the state.—The state pledges ~~does~~
 979 ~~hereby pledge~~ to, and agrees, with any person, firm, or
 980 corporation, or federal or state agency subscribing to, or
 981 acquiring the bonds to be issued by the authority for the
 982 purposes of this part that the state will not limit or alter the
 983 rights that are hereby vested in the authority and the
 984 department until all issued bonds and interest ~~at any time~~
 985 ~~issued, together with the interest thereon,~~ are fully paid and
 986 discharged insofar as the pledge ~~same~~ affects the rights of the
 987 holders of bonds issued pursuant to this part ~~hereunder~~. The
 988 state does further pledge to, and agree, with the United States

CS/HB 311

2014

989 that in the event any federal agency constructs or contributes
 990 ~~shall construct or contribute~~ any funds for the completion,
 991 extension, or improvement of the Central Florida ~~Orlando-Orange~~
 992 ~~County~~ Expressway System, or any part or portion of the system
 993 ~~thereof~~, the state will not alter or limit the rights and powers
 994 of the authority and the department in any manner that ~~which~~
 995 would be inconsistent with the continued maintenance and
 996 operation of the Central Florida ~~Orlando-Orange County~~
 997 Expressway System or the completion, extension, or improvement
 998 of the system ~~thereof~~, or that ~~which~~ would be inconsistent with
 999 the due performance of any agreements between the authority and
 1000 any such federal agency, and the authority and the department
 1001 shall continue to have and may exercise all powers ~~herein~~
 1002 granted in this part, so long as the powers are ~~same shall be~~
 1003 necessary or desirable for the carrying out of the purposes of
 1004 this part and the purposes of the United States in the
 1005 completion, extension, or improvement of the Central Florida
 1006 ~~Orlando-Orange County~~ Expressway System, or any part of the
 1007 system ~~or portion thereof~~.

1008 Section 17. Section 348.765, Florida Statutes, is amended
 1009 to read:

1010 348.765 This part complete and additional authority.—

1011 (1) The powers conferred by this part are ~~shall be~~ in
 1012 addition and supplemental to the existing powers of the said
 1013 board and the department, and this part may ~~shall~~ not be
 1014 construed as repealing any of the provisions, of any other law,

CS/HB 311

2014

1015 general, special, or local, but to supersede such other laws in
 1016 the exercise of the powers provided in this part, and to provide
 1017 a complete method for the exercise of the powers granted in this
 1018 part. The extension and improvement of the Central Florida ~~said~~
 1019 ~~Orlando-Orange County~~ Expressway System, and the issuance of
 1020 bonds pursuant to this part ~~hereunder~~ to finance all or part of
 1021 the cost of the system ~~thereof~~, may be accomplished upon
 1022 compliance with ~~the provisions of~~ this part without regard to or
 1023 necessity for compliance with the provisions, limitations, or
 1024 restrictions contained in any other general, special, or local
 1025 law, including, but not limited to, s. 215.821, and no approval
 1026 of any bonds issued under this part by the qualified electors or
 1027 qualified electors who are freeholders in the state or in Orange
 1028 ~~said County of Orange~~, the ~~or in said~~ City of Orlando, or ~~in~~ any
 1029 other political subdivision of the state is, ~~shall be~~ required
 1030 for the issuance of such bonds pursuant to this part.

1031 (2) This part does ~~shall~~ not be deemed to repeal, rescind,
 1032 or modify any other law ~~or laws~~ relating to the ~~said~~ State Board
 1033 of Administration, the ~~said~~ Department of Transportation, or the
 1034 Division of Bond Finance of the State Board of Administration,
 1035 but supersedes any ~~shall be deemed to and shall supersede such~~
 1036 ~~other~~ law that is ~~or laws as are~~ inconsistent with ~~the~~
 1037 ~~provisions of~~ this part, including, but not limited to, s.
 1038 215.821.

1039 Section 18. Subsections (6) and (7) of section 369.317,
 1040 Florida Statutes, are amended to read:

CS/HB 311

2014

1041 369.317 Wekiva Parkway.—
 1042 (6) The Central Florida ~~Orlando-Orange County~~ Expressway
 1043 Authority may ~~is hereby granted the authority to~~ act as a third-
 1044 party acquisition agent, pursuant to s. 259.041 on behalf of the
 1045 Board of Trustees or chapter 373 on behalf of the governing
 1046 board of the St. Johns River Water Management District, for the
 1047 acquisition of all necessary lands, property, and ~~all~~ interests
 1048 in property identified herein, including fee simple or less-
 1049 than-fee simple interests. The lands subject to this authority
 1050 are identified in paragraph 10.a., State of Florida, Office of
 1051 the Governor, Executive Order 03-112 of July 1, 2003, and in
 1052 Recommendation 16 of the Wekiva Basin Area Task Force created by
 1053 Executive Order 2002-259, such lands otherwise known as
 1054 Neighborhood Lakes, a 1,587+/-acre parcel located in Orange and
 1055 Lake Counties within Sections 27, 28, 33, and 34 of Township 19
 1056 South, Range 28 East, and Sections 3, 4, 5, and 9 of Township 20
 1057 South, Range 28 East; Seminole Woods/Swamp, a 5,353+/-acre
 1058 parcel located in Lake County within Section 37, Township 19
 1059 South, Range 28 East; New Garden Coal; a 1,605+/-acre parcel in
 1060 Lake County within Sections 23, 25, 26, 35, and 36, Township 19
 1061 South, Range 28 East; Pine Plantation, a 617+/-acre tract
 1062 consisting of eight individual parcels within the Apopka City
 1063 limits. The Department of Transportation, the Department of
 1064 Environmental Protection, the St. Johns River Water Management
 1065 District, and other land acquisition entities shall participate
 1066 and cooperate in providing information and support to the third-

CS/HB 311

2014

1067 party acquisition agent. The land acquisition process authorized
 1068 by this subsection ~~paragraph~~ shall begin no later than December
 1069 31, 2004. Acquisition of the properties identified as
 1070 Neighborhood Lakes, Pine Plantation, and New Garden Coal, or
 1071 approval as a mitigation bank shall be concluded no later than
 1072 December 31, 2010. Department of Transportation and Central
 1073 Florida ~~Orlando-Orange County~~ Expressway Authority funds
 1074 expended to purchase an interest in those lands identified in
 1075 this subsection shall be eligible as environmental mitigation
 1076 for road-construction-related ~~road-construction-related~~ impacts
 1077 in the Wekiva Study Area. If any of the lands identified in this
 1078 subsection are used as environmental mitigation for road-
 1079 construction-related impacts incurred by the Department of
 1080 Transportation or the Central Florida ~~Orlando-Orange County~~
 1081 Expressway Authority, or for other impacts incurred by other
 1082 entities, within the Wekiva Study Area or within the Wekiva
 1083 parkway alignment corridor, and if the mitigation offsets these
 1084 impacts, the St. Johns River Water Management District and the
 1085 Department of Environmental Protection shall consider the
 1086 activity regulated under part IV of chapter 373 to meet the
 1087 cumulative impact requirements of s. 373.414(8)(a).

1088 (a) Acquisition of the land described in this section is
 1089 required to provide right-of-way for the Wekiva Parkway, a
 1090 limited access roadway linking State Road 429 to Interstate 4,
 1091 an essential component in meeting regional transportation needs
 1092 to provide regional connectivity, improve safety, accommodate

CS/HB 311

2014

1093 projected population and economic growth, and satisfy critical
 1094 transportation requirements caused by increased traffic volume
 1095 growth and travel demands.

1096 (b) Acquisition of the lands described in this section is
 1097 also required to protect the surface water and groundwater
 1098 resources of Lake, Orange, and Seminole Counties, otherwise
 1099 known as the Wekiva Study Area, including recharge within the
 1100 springshed that provides for the Wekiva River system. Protection
 1101 of this area is crucial to the long-term ~~long-term~~ viability of
 1102 the Wekiva River and springs and the central Florida region's
 1103 water supply. Acquisition of the lands described in this section
 1104 is also necessary to alleviate pressure from growth and
 1105 development affecting the surface and groundwater resources
 1106 within the recharge area.

1107 (c) Lands acquired pursuant to this section that are
 1108 needed for transportation facilities for the Wekiva Parkway
 1109 shall be determined not necessary for conservation purposes
 1110 pursuant to ss. 253.034(6) and 373.089(5) and shall be
 1111 transferred to or retained by the Central Florida ~~Orlando-Orange~~
 1112 ~~County~~ Expressway Authority or the Department of Transportation
 1113 upon reimbursement of the full purchase price and acquisition
 1114 costs.

1115 (7) The Department of Transportation, the Department of
 1116 Environmental Protection, the St. Johns River Water Management
 1117 District, the Central Florida ~~Orlando-Orange County~~ Expressway
 1118 Authority, and other land acquisition entities shall cooperate

CS/HB 311

2014

1119 | and establish funding responsibilities and partnerships by
 1120 | agreement to the extent funds are available to the various
 1121 | entities. Properties acquired with Florida Forever funds shall
 1122 | be in accordance with s. 259.041 or chapter 373. The Central
 1123 | Florida ~~Orlando-Orange County~~ Expressway Authority shall acquire
 1124 | land in accordance with this section ~~of law~~ to the extent funds
 1125 | are available from the various funding partners, but shall not
 1126 | be required or ~~not~~ assumed to fund the land acquisition beyond
 1127 | the agreement and funding provided by the various land
 1128 | acquisition entities.

1129 | Section 19. Subsection (1) of section 369.324, Florida
 1130 | Statutes, is amended to read:

1131 | 369.324 Wekiva River Basin Commission.—

1132 | (1) The Wekiva River Basin Commission is created to
 1133 | monitor and ensure the implementation of the recommendations of
 1134 | the Wekiva River Basin Coordinating Committee for the Wekiva
 1135 | Study Area. The East Central Florida Regional Planning Council
 1136 | shall provide staff support to the commission with funding
 1137 | assistance from the Department of Economic Opportunity. The
 1138 | commission shall be comprised of a total of 18 ~~19~~ members
 1139 | appointed by the Governor, 9 of whom shall be voting members and
 1140 | 9 of whom ~~10~~ shall be ad hoc nonvoting members.

1141 | (a) The voting members shall include:

1142 | 1. ~~(a)~~ One member of each of the Boards of County
 1143 | Commissioners for Lake, Orange, and Seminole Counties.

1144 | 2. ~~(b)~~ One municipal elected official to serve as a

1145 representative of the municipalities located within the Wekiva
 1146 Study Area of Lake County.

1147 ~~3.(e)~~ One municipal elected official to serve as a
 1148 representative of the municipalities located within the Wekiva
 1149 Study Area of Orange County.

1150 ~~4.(d)~~ One municipal elected official to serve as a
 1151 representative of the municipalities located within the Wekiva
 1152 Study Area of Seminole County.

1153 ~~5.(e)~~ One citizen representing an environmental or
 1154 conservation organization, one citizen representing a local
 1155 property owner, a land developer, or an agricultural entity, and
 1156 one at-large citizen who shall serve as chair of the council.

1157 ~~(b)(f)~~ The ad hoc nonvoting members shall include one
 1158 representative from each of the following entities:

- 1159 1. St. Johns River Management District.
- 1160 2. Department of Economic Opportunity.
- 1161 3. Department of Environmental Protection.
- 1162 4. Department of Health.
- 1163 5. Department of Agriculture and Consumer Services.
- 1164 6. Fish and Wildlife Conservation Commission.
- 1165 7. Department of Transportation.
- 1166 8. MetroPlan Orlando.
- 1167 9. Central Florida ~~Orlando-Orange County~~ Expressway
 1168 Authority.
- 1169 ~~10. Seminole County Expressway Authority.~~

1170 Section 20. (1) Effective upon the completion of

1171 construction of the Poinciana Parkway, a limited access facility
 1172 of approximately 9 miles in length in Osceola County with its
 1173 northwestern terminus at the intersection of County Road 54 and
 1174 U.S. 17/U.S. 92 and its southeastern terminus at the current
 1175 intersection of Rhododendron and Cypress Parkway, described in
 1176 the Osceola County Expressway Authority May 8, 2012, Master
 1177 Plan, all powers, governance, and control of the Osceola County
 1178 Expressway System, created pursuant to part V of chapter 348,
 1179 Florida Statutes, is transferred to the Central Florida
 1180 Expressway Authority, and the assets, liabilities, facilities,
 1181 tangible and intangible property and any rights in the property,
 1182 and any other legal rights of the Osceola County Expressway
 1183 Authority are transferred to the Central Florida Expressway
 1184 Authority. The effective date of such transfer shall be extended
 1185 until completion of construction of such portions of the
 1186 Southport Connector Expressway, the Northeast Connector
 1187 Expressway, such portions of the Poinciana Parkway to connect to
 1188 State Road 429, and the Osceola Parkway Extension, as each is
 1189 described in the Osceola County Expressway Authority May 8,
 1190 2012, Master Plan, which are included in any design contract
 1191 executed by the Osceola County Expressway Authority before July
 1192 1, 2020. Part V of chapter 348, Florida Statutes, consisting of
 1193 ss. 348.9950-348.9961, Florida Statutes, is repealed on the same
 1194 date that the Osceola County Expressway System is transferred to
 1195 the Central Florida Expressway Authority.

1196 (2) The Central Florida Expressway Authority shall

CS/HB 311

2014

1197 reimburse any and all obligations of any other governmental
 1198 entities with respect to the Osceola County Expressway System,
 1199 including any obligations of Osceola County with respect to
 1200 operations and maintenance of the Osceola County Expressway
 1201 System and any loan repayment obligations, including repayment
 1202 obligations with respect to state infrastructure bank loans.
 1203 Such reimbursement shall be made from revenues available for
 1204 such purpose after payment of all amounts required:
 1205 (a) Otherwise by law;
 1206 (b) By the terms of any resolution authorizing the
 1207 issuance of bonds by the authority, the Orlando-Orange County
 1208 Expressway Authority, or the Osceola County Expressway
 1209 Authority;
 1210 (c) By the terms of any resolution under which bonds are
 1211 issued by Osceola County for the purpose of constructing
 1212 improvements to the Osceola County Expressway System; and
 1213 (d) By the terms of the memorandum of understanding
 1214 between the Orlando-Orange County Expressway Authority and the
 1215 Department of Transportation as ratified by the board of the
 1216 Orlando-Orange County Expressway Authority on February 22, 2012.
 1217 Section 21. This act shall take effect July 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 607 Comprehensive Everglades Restoration Plan
SPONSOR(S): Harrell and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Dougherty	SOD Rojas <i>gll</i>
2) State Affairs Committee			

SUMMARY ANALYSIS

Florida has been involved in Everglades restoration efforts since 1948 when the Legislature enacted the Central and South Florida Project (C&SF Project), which provides for flood control, water level control, water supply, conservation, prevention of salt water intrusion, and preservation of fish and wildlife. However, the C&SF Project had unforeseen adverse effects on the Everglades ecosystems. Due to these problems, the C&SF Project is now being modified under the Comprehensive Everglades Restoration Plan (CERP).

CERP provides a framework to restore, protect, and preserve the water resources by phased projects implemented through an equal state-federal partnership. Each phase requires federal authorization and funding before it may begin.

All previously authorized CERP projects are underway and Florida is prepared to start the next phase. However, congressional authorization is required before the state can continue.

This memorial urges Congress to authorize the next phase of CERP projects.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

History of South Florida Water Resources Development¹

Early Drainage Efforts

In 1847 U.S. Senator J.D. Westcott made the first known proposal to drain the overflowed lands of the lower peninsula. A report to the United States Senate in June 1848 asserted the Everglades could be reclaimed by a sensible system of canaling and by deepening the various streams that flowed both east and west to the coasts. It was believed that drainage would insure the growth of a new agricultural empire in south Florida.

Congress passed the "Swamp and Overflowed Lands Act of 1850", which conveyed the whole of federally held swamp and overflowed lands to state ownership. To plan for the development of this huge area, the State Legislature created the Board of Internal Improvements in 1851 to manage the Internal Improvement Fund. However, little progress was made and the Fund fell into debt during the Civil War. Private investment in 1881 began the first drainage projects. The first project was to give Lake Okeechobee an outlet to the Gulf through the Caloosahatchee River. Other large-scale, central and southern Florida drainage projects followed, major parts of which are still functioning today. These projects did not accomplish all that was expected and, in some cases, led to overdrainage.

In 1905, the newly-created Board of Drainage Commissioners received the lands acquired by the Swamp and Overflowed Lands Act from the Legislature. This board was vested with the authority "to establish a system of canals, levees, drains, dikes, and reservoirs...to drain and reclaim the swamp and overflowed lands within the State of Florida." Accordingly, the Trustees of the Internal Improvement Fund and the Drainage Commissioners purchased and operated dredges.² The system of canals and locks provided the groundwork for draining the northern and eastern parts of the Everglades. Although 440 miles of canals had been completed and \$18,000,000 expended by 1927, only the Caloosahatchee and St. Lucie Canals provided satisfactory outlets from Lake Okeechobee to the sea. In addition, efforts were so widely scattered that, on the whole, there was little return for the money spent.

Disasters Exacerbated by Drainage Efforts

It became apparent that canals alone did not afford sufficient protection from overflow during unusual weather. The hurricanes of 1926³ and 1928⁴ created wind tides on Lake Okeechobee which overflowed the surrounding areas with disastrous results. These hurricanes marked the start of the federal interest in water control through the Corps of Engineers (Corps).

¹ Development of the Central & South Florida (C&SF) Project, The Everglades Plan, available at http://www.evergladesplan.org/about/restudy_csf_devel.aspx, citing Central and Southern Florida Flood Control Project, Eight Years of Progress, 1948-57 Report, published by the Central and Southern Florida Flood Control District, 1957.

² Between 1906 and 1913, 225.4 miles of drainage canals were dug, including the Miami, North New River, and South New River Canals by the Everglades Drainage District. During the period 1913 to 1927, six large drainage canals and numerous smaller canals, totaling 440 miles; 47 miles of levees; and 16 locks and dams were constructed. The five major canals originated at Lake Okeechobee and flowed easterly toward the Atlantic.

³ The hurricane which struck Miami and the Lake Okeechobee region in 1926 caused over 200 deaths and great financial loss.

⁴ The hurricane of 1928 swept in through the Palm Beach area toward the Lake. Wind-driven water of Lake Okeechobee, augmented by the torrential rains, overflowed the lake shore and drowned approximately 2,400 people near Moore Haven, in addition to destroying a vast amount of property.

To prevent a recurrence of these disasters, the Legislature created the Okeechobee Flood Control District in 1929, which was authorized to cooperate with the Corps in flood control undertakings: floodway channels, control gates, major levees along Lake Okeechobee's shores, and the Herbert Hoover Dike.

During 15 years of successive, extreme dry spells, it became apparent that water conservation was a necessary function of any drainage plan. The dry years resulted in lowered groundwater levels; the threat of serious saltwater intrusion into the municipal wells of coastal cities; and drying, shrinking, and burning of land which regularly flooded in the past. Structures designed to drain certain areas while protecting them in time of flood, were also depriving them of necessary moisture during other periods. There was an important relationship between the areas around Lake Okeechobee and the other water resources of the region which had been overlooked in earlier efforts to drain the interior.

In 1947, a massive flood ended the drought with 90 percent of southeastern Florida, from Orlando to the Keys, underwater. The total damage of this disaster was estimated by the Corps at more than \$59,000,000. This flood, coupled with the experiences of the drought and saltwater intrusion, made it imperative that immediate corrective action be started to prevent further loss of life and property damage and to conserve water for periods of drought.

Policy Reversal: The Need for a Conservation Plan

Concerned with flood control and water conservation, the Corps concluded that the problems were too large and complex for the capabilities of either the state or local agencies acting alone. A comprehensive plan for flood control and water conservation – which would encompass the entire area, satisfy the agencies' major needs, and be beneficial to the largest area – clearly required federal and local cooperation.

The Central and Southern Florida Project (C&SF Project)

Congress approved the C&SF Project as part of the Flood Control Act of 1948. The C&SF Project provides for flood control, water level control, water supply, water conservation, prevention of salt water intrusion, and preservation of fish and wildlife. The primary system includes about 1,000 miles of levees, 720 miles of canals, and almost 200 water control structures.

The following year, the Legislature formed the Central and Southern Florida Flood Control District, later to become the South Florida Water Management District (SFWMD), to act as a single local agency to cooperate with the federal government.

C&SF Project Authorizing Acts

The first C&SF Project phase was authorized by the Flood Control Act of June 30, 1948 for the purposes of flood control, water level control, water conservation, prevention of salt water intrusion, and preservation of fish and wildlife.⁵ In June 1970, Congress authorized appropriations for the Corps to accelerate canal and pumping station construction.⁶ Section 104 of the Everglades National Park

⁵ The first phase of the C&SF Project consisted of flood protection works for the agricultural development south of Lake Okeechobee and to the highly developed southeast coast. The second phase, consisting of all remaining works of the original Comprehensive Plan, was authorized by the Flood Control Act of September 3, 1954. Subsequent improvements include the following: Hendry County and Nicodemus Slough (Flood Control Acts of July 3, 1958, and July 14, 1960, respectively); Boggy Creek, Cutler Drain Area, Shingle Creek, South Dade County, and West Palm Beach Canal (Flood Control Act of October 23, 1962); Southwest Dade County and Hendry County modification (Flood Control Act of October 27, 1965); increased water storage and conservation, improved distribution, recreation as a project purpose, Martin County flood control, and increased delivery of water to Everglades National Park (Flood Control Act of 1968).

⁶ Section 2 of Public Law 91-282. Specifically, this funded "construction of borrow canal L-70, canal C-308, canal C-119W, and pumping station S-326, together with such other works in the plan of improvement as the Director of the National Park Service and

Protection and Expansion Act of 1989 directed the Corps: "to construct modifications to the Central and Southern Florida Project to improve water deliveries into the park and shall, to the extent practicable, take steps to restore the natural hydrological conditions within the park."⁷ The Water Resources Development Act of 1992 authorized modifications to the C&SF Project for ecosystem restoration of the Kissimmee River.

These authorizing acts require that local interests provide all lands, easements, and rights-of-way; pay for relocations of highways (with certain exceptions), highway bridges, and public utilities which may be required for construction of project works; hold and save the United States free from damages resulting from construction and operation of the works; maintain and operate all works (except certain major regulating structures) after completion and make a cash contribution for each part of the work prior to its initiation.

Authorized project facilities include 30 pumping stations, 212 control and diversion structures, 990 miles of levees, 978 miles of canals, 25 navigation locks, and 56 railroad relocations (bridges). Construction was begun in January 1950.

C&SF Project Outcome

The C&SF Project has performed its authorized functions well since 1948 and continues to provide water supply, flood protection, water management, and other benefits to south Florida. The current C&SF Project includes 1,000 miles of canals, 720 miles of levees, and several hundred water control structures. However, the project has had unintended adverse effects on the diverse environments of the south Florida ecosystems, including the Everglades and Florida Bay.

Due to these adverse effects the C&SF Project is now being modified under the Comprehensive Everglades Restoration Plan.

The Comprehensive Everglades Restoration Plan (CERP)

CERP provides a framework and guide to restore, protect, and preserve the water resources of central and southern Florida, including the Everglades. The federal Water Resources Development Act (WRDA) of 2000 approved CERP, which was developed in partnership with local, regional, state, federal, Tribal, and numerous stakeholders. The plan is the world's largest ecosystem restoration effort, including more than 60 major components and a 30-year construction timeline. The plan encompasses 16 counties over an 18,000-square-mile area and centers on an update of the C&SF Project, known as the Restudy.

The goal of CERP is to capture unused, fresh water flowing to the ocean and the gulf and redirect it to areas that need it most. The majority of the water is devoted to environmental restoration, reviving a dying ecosystem. The remaining water will benefit cities and farmers by enhancing water supplies for the south Florida economy. These goals are divided into various phases containing discreet, defined projects. Each phase requires authorization and funding before it may begin.

CERP is implemented through an equal state-federal partnership. In 2000, the Legislature passed the Everglades Restoration Investment Act to fund the state's 50 percent of its cost-share through The Save Our Everglades Trust Fund. The SFWMD, as local sponsor, is required to match state appropriations. To date, Florida has invested over \$2 billion toward implementing the \$13.5 billion plan.

the Chief of Engineers agree are necessary to meet the water requirements of the Everglades National Park: Provided further, That as soon as practicable and in any event upon completion of the works specified in the preceding proviso, delivery of water from the central and southern Florida project to the Everglades National Park shall be not less than 315,000 acre-feet annually, prorated according to the monthly schedule set forth in the National Park Service letter of October 20, 1967, to the Office of the Chief of Engineers, or 16.5 per centum of total deliveries from the project for all purposes including the park, whichever is less."

⁷ Public Law 101-229.

The next phase of CERP includes the Broward County Water Preserve Area,⁸ the C-111 Spreader Canal,⁹ the Caloosahatchee River C-43 West Basin Storage Reservoir,¹⁰ the Biscayne Bay Coastal Wetlands,¹¹ and the Central Everglades Planning Project.¹²

Water Resources Development Acts (WRDA)

Water Resources Development Acts refer to federal public laws that deal with various aspects of water resources, including environmental, structural, navigational, and flood protection. WRDA often authorize the U.S. Army Corps of Engineers to study water resource problems, construct projects, and make major modifications to projects. The provisions and contents of WRDA legislation are cumulative so that new legislation does not supersede or replace previous legislation. Instead, new WRDA add to the original language and often amend provisions of previous acts.

A WRDA is the legislative vehicle that authorizes federal agencies to implement the CERP. While Congress has authorized CERP in general, the implementing regulations require that a Project Implementation Report (PIR) be developed for each project to be submitted to Congress for project-specific authorization.

WRDA Authorizing CERP Projects

All CERP projects authorized by the last WRDA, which as passed in 2007, are under construction; therefore, implementation of the next CERP phase requires congressional authorization by another WRDA.

WRDA legislation is currently underway in Congress. The U.S. Senate passed S. 601 in May 2013 and the U.S. House passed H.R. 3080 in October 2013. The legislation has been in conference committee since November 2013 to reconcile the Senate and House Bills. A reconciled version of the bill is expected early 2014.

Currently, four projects of the next phase are eligible for authorization: the Broward County Water Preserve Area, the C-111 Spreader Canal, the Caloosahatchee River C-43 West Basin Storage Reservoir, and the Biscayne Bay Coastal Wetlands. The fifth, the Central Everglades Planning Project, may also be eligible if contingency language is added in conference that allows additional projects to be authorized.

Effect of Proposed Changes

HM 607 urges Congress to enact a Water Resources Development Act authorizing the next phase of Everglades restoration. This should include the Biscayne Bay Coastal Wetlands, the C-111 Spreader Canal, the Broward County Water Preserve Area, the Caloosahatchee River C-43 West Basin Storage Reservoir, and the Central Everglades Planning Project.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

⁸ For more information, see http://www.evergladesplan.org/pm/projects/proj_45_broward_wpa.aspx.

⁹ For more information, see http://www.evergladesplan.org/pm/projects/proj_29_c111.aspx.

¹⁰ For more information, see http://www.evergladesplan.org/pm/projects/proj_04_c43_basin_1.aspx.

¹¹ For more information, see http://www.evergladesplan.org/pm/projects/proj_28_biscayne_bay.aspx.

¹² For more information, see http://www.evergladesplan.org/pm/projects/proj_51_cepp.aspx.

B. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

House Memorial

A memorial to the Congress of the United States, urging Congress to enact before adjournment a Water Resources Development Act authorizing the next phase of Everglades restoration that includes the Biscayne Bay Coastal Wetlands, the C-111 Spreader Canal, the Broward County Water Preserve Area, the Caloosahatchee River C-43 West Basin Storage Reservoir, and the Central Everglades Planning Project.

WHEREAS, a Water Resources Development Act is the legislative vehicle to allow federal agencies to implement the historic Comprehensive Everglades Restoration Plan (CERP) partnership between the State of Florida and the Federal Government, and

WHEREAS, all CERP projects authorized in previous acts are under construction, including the restoration of Picayune Strand and the Indian River Lagoon South, and

WHEREAS, Congressional authorization is needed for the next phase of Everglades restoration, which consists of five key "shovel-ready" CERP components, including the Broward County Water Preserve Area, the C-111 Spreader Canal, the Caloosahatchee River C-43 West Basin Storage Reservoir, the Biscayne Bay Coastal Wetlands, and the Central Everglades Planning Project, and

HM 607

2014

26 WHEREAS, the Caloosahatchee River C-43 West Basin Storage
 27 Reservoir project and the Central Everglades Planning Project
 28 are vital to providing storage and capacity to flow water south
 29 to the Everglades National Park and thereby reduce harmful,
 30 polluted discharges from Lake Okeechobee, which are currently
 31 devastating the St. Lucie and Caloosahatchee Rivers, damaging
 32 property values and the local economy, and threatening public
 33 health, and

34 WHEREAS, it is the hope and desire of the Legislature of
 35 the State of Florida that the United States Congress will
 36 authorize and appropriate the necessary federal funds to
 37 continue the restoration process of America's Everglades, NOW,
 38 THEREFORE,

39

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

41

42 That the Congress of the United States is urged to enact
 43 before adjournment a Water Resources Development Act authorizing
 44 the next phase of Everglades restoration that includes the
 45 Biscayne Bay Coastal Wetlands, the C-111 Spreader Canal, the
 46 Broward County Water Preserve Area, the Caloosahatchee River C-
 47 43 West Basin Storage Reservoir, and the Central Everglades
 48 Planning Project.

49 BE IT FURTHER RESOLVED that copies of this memorial be
 50 dispatched to the President of the United States, to the

HM 607

2014

51 | President of the United States Senate, to the Speaker of the
52 | United States House of Representatives, and to each member of
53 | the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 683 Hillsborough County
SPONSOR(S): Young
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Flegiel MF	Rojas <i>gh</i>
2) State Affairs Committee			

SUMMARY ANALYSIS

The Hillsborough County Civil Service Act (Act) provides for the uniform administration of the employment of all classified service employees in Hillsborough County based on merit principles. The Act was created in 1951 and recodified in 2000. The Act applies to all agencies and authorities of Hillsborough County except for the judiciary, the district school board and municipalities in the county. Overall, the Act applies to approximately 9,300 classified employees working for 22 agencies of Hillsborough County.

The Hillsborough County Civil Service Board (Board) administers the Act and provides human resource services, such as recruitment, hiring, performance evaluation, discipline and record keeping, to all agencies subject to the provisions of the act. Non-exempt agencies must use the Board for all human resource services required for classified employees. The county commission must fund the Board at a rate of 0.65 percent of the county payroll for classified employees from the previous fiscal year.

HB 683 allows non-exempt agencies to opt-in or opt-out of all provisions of the Act except for those related to suspension, demotions, dismissals and appeals. The bill provides election periods during which agencies may opt-in or opt-out of the Act. Agencies that elect to opt-out may contract with the Board to provide the same human resource services in a non-regulatory capacity. The bill revises the Board's funding formula to account for when agencies opt-in, opt-out, or contract for additional services with the Board.

The fiscal impact of this bill is indeterminate.

This bill will take effect on July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Civil Service Act

The Hillsborough County Civil Service Act was created in 1951¹ and recodified in 2000 as the "Civil Service Act of 2000."² The Act applies to all agencies and authorities of Hillsborough County except for the judiciary, the district school board and municipalities in the county. A classified employee is defined as a person whose position is subject to the rights contained in the Act and in the rules adopted by the board.³ Non-exempt County agencies employ approximately 10,000 people, approximately 9,300 of which are classified employees.⁴

The purpose of the Act is to ensure the uniform administration of the classified service based on merit principles. The Act contains detailed requirements for executing personnel functions, including:

- creating and abolishing positions,
- filling vacancies,
- probationary employment,
- suspensions, demotions and dismissals,
- appeals, and
- recommendation and adoption of pay plans.

The Civil Service Board

The Civil Service Board is a seven member board responsible for the administration of the Act.⁵ The Board employs approximately 29 individuals to carry out its duties.⁶ Board duties include: determining the qualifications necessary for classified positions, recruiting personnel for all classified positions, establishing a performance evaluation system, enforcing provisions of the act, making provisions for employee leave, hearing appeals from disciplinary actions, establishing provisions for employee grievances, keeping records and performing any act which may be necessary to carry out the Act.

Application

A classified employee is an employee whose position is subject to the rights contained in the Act and the rules adopted by the Board. Exempt employees, interchangeably called unclassified employees, are subject to the rights provided by their appointing authority and are not subject to the rights provided by the Act. Exempt employees include: elected officials and those appointed by the Governor; members of any board, authority or commission; physicians and attorneys-at-law; executive managers; temporary, part-time and substitute employees; and secretaries and administrative aides to the county attorney, chief executive officer of any board, authority, or commission, and each elected official.

¹Ch. 1951, 27601, L.O.F.

²Ch. 2000-445, L.O.F.

³S. 5, Ch. 2000-445, L.O.F.

⁴November 20, 2013 Civil Service Board Meeting Minutes. Supplement 2, Section 3.

⁵S. 7, Ch. 2000-445, L.O.F.

⁶<http://www.hillsboroughcounty.org/index.aspx?NID=1076> Retrieved March 8, 2014.

The Act applies to all classified personnel employed by the following agencies or authorities within Hillsborough County:

- County Commission
- County Administrator
- Clerk of the Circuit Court
- Supervisor of Elections
- Property Appraiser
- Tax Collector
- Sheriff
- Environmental Protection Commission
- Aviation Authority
- Port Authority
- Planning Commission
- Public Transportation Commission
- Expressway Authority
- Law Library
- Legislative Delegation
- Soil and Water Conservation District
- Civil Service Board
- Sports Authority
- Children's Board
- County Attorney
- Arts Council
- Victim's Assistance

The district school board, the judiciary, and municipalities of the county are explicitly exempt from the provisions of the Act. However, positions within the Administrative Office of the Courts which were classified as of January 1, 1998 and which are funded by the county are subject to hearings to review actions of dismissal, demotion or suspension.

Funding

The county is required to fund the Board at the rate of 0.65 percent of the total classified employee payroll from the prior fiscal year.⁷ For example, an agency with an annual classified employee payroll of \$1,000,000 would require the county to budget \$6,500 in funding to the Board for the upcoming fiscal year. In FY 2011-2012, the total classified payroll for all Hillsborough County agencies was \$498.3 million, meaning the county must appropriate \$3.238 million to the Board in FY 2013-2014.⁸ In FY 2012-2013, the Board had an actual budget of \$2.359 million.⁹

Effect of Proposed Changes

Application

HB 683 gives county agencies the ability to opt-in or opt-out of sections 1 – 10 and 13 – 20 of the Act. Participation in the provisions pertaining to suspension, demotions, dismissals and appeals, remains mandatory for all agencies.

Personnel functions subject to the opt-in opt-out election include: employee recruitment, selection and hiring, creation and adoption of classification plans, benefit plans and pay plans, promotions, abolition and creation of new positions, filling vacancies, performance review and evaluation systems, reductions in force and methods of reemployment, guidelines for leave, determination of classified status and tenure, and any other human resource functions.

The bill allows an agency to opt-out of portions of the act without opting out of the entire act. It also allows an agency to make separate elections for different classes of employees. For example, an agency could elect to opt-out of the Act for half its employees, opt-out of portions of the Act for a quarter of its employees, and opt-out of none of the Act for the other quarter of its employees.

⁷ S. 15, Ch. 2000-445, L.O.F.

⁸ Letter from Clerk of Circuit Court, 13th Circuit, County Finance Dept. to Hillsborough County Civil Service Board. Jan. 15, 2013.

⁹ Hillsborough County Recommended Biennial Budget, FY 14 – FY 15, p. 340.

<http://www.hillsboroughcounty.org/index.aspx?nid=3440> Retrieved March 8, 2014.

Agencies must make the opt-in or opt-out election during specified periods of time. An agency may make an election within one month of the bill becoming law (in July 2014) or during the month of December every year thereafter. Agencies that make no election shall continue to be subject to all provisions of the Act they were previously subject to. Agencies that opt-out may contract with the Board to continue providing human resource services in a non-regulatory capacity.

Funding

HB 683 changes the Board's funding equation, requiring the county commission to fund the board at a rate of 0.65 percent, less the cost saved from services that agencies have opted out of, plus the cost of services agencies have contracted for the board to provide.

B. SECTION DIRECTORY:

Section 1 Amends sections 4 and 15 of ch. 2000-445, L.O.F., "The Civil Service Act of 2000," allowing Hillsborough County agencies to opt-in or opt-out of certain provisions of the Civil Service Act; amends the Board's funding equation.

Section 2 Provides that the act shall take effect on July 1, 2014.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 17, 2013

WHERE? *The Tampa Tribune*, a daily newspaper published in Tampa, Hillsborough County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? n/a

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Rep Young
HB 663

The Tampa Tribune

Published Daily

Tampa, Hillsborough County, Floric

NOTICE OF LEGISLATION

TO WHOM IT MAY CONCERN: Notice is hereby given of intent to apply to the 2014 Session of the Florida Legislature for passage of an act relating to Hillsborough County; Amending Chapter 2000-445, Laws of Florida, relating to the Civil Service Act; providing an agency or authority with the ability to opt out or in to any provisions that regulate personnel functions contained in the act; providing procedures for notification of intent to opt out or in to the act; permitting an agency or authority that has elected to opt out of certain personnel functions to contract with the civil service board to provide the same personnel functions in a non-regulatory capacity; providing for an appropriation to the civil service board necessary to carry out the purposes of the act taking into consideration the level of services provided by the civil service board to the participating agencies or authorities; providing an effective date.

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 advertising being a

Legal Ads IN THE Tampa Tribune

In the matter of Legal Notices

was published in said newspaper in the issues of

12/17/2013

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.

BOARD OF COUNTY COMMISSIONERS
Hillsborough County, Florida
#4285

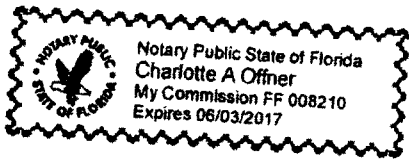
12/17/13

C. Pugh

Sworn to and subscribed by me, this 17 day
of Dec, A.D. 2013

Personally Known or Produced Identification
Type of Identification Produced _____

Charlotte A. Offner



**HOUSE OF REPRESENTATIVES
2014 LOCAL BILL CERTIFICATION FORM**

BILL #: HB 683
SPONSOR(S): Rep. Dana Young
RELATING TO: Hillsborough County
[Indicate Area Affected (City, County, or Special District) and Subject]
NAME OF DELEGATION: Hillsborough County Legislative Delegation
CONTACT PERSON: Sydney Ridley
PHONE NO.: (813) 407-0691 **E-Mail:** sydney.ridley@gmail.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 Local & Federal Affairs Committee 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: December 2nd, 2013

Location: University of South Florida, Tampa Campus, Marshall Student Center
Ballroom A+B

(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 December 17th, 2013

Where? Tampa Tribune 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 []

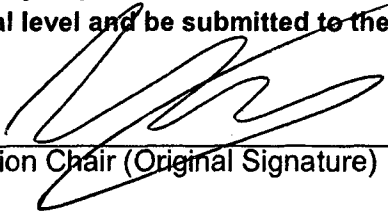
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

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 Local & Federal Affairs Committee.

x 
Delegation Chair (Original Signature)

2/28/14
Date

Senator John Legg
Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES
2014 ECONOMIC IMPACT STATEMENT FORM

Read all instructions carefully.

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, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: HB 683
SPONSOR(S): Representative Dana Young
RELATING TO: Hillsborough County
[Indicate Area Affected (City, County or Special District) and Subject]

I. REVENUES:

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill:	\$ <u>None</u>	\$ <u>None</u>
Revenue increase due to bill:	\$ <u>None</u>	\$ <u>None</u>

II. COST:

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY14-15</u>	<u>FY 15-16</u>
	\$ <u>None</u>	\$ <u>None</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

Indeterminate at the current time, but presumed neutral or even a net positive benefit to the individual agencies in FY 13-14, FY 14-15, and beyond.
Each agency currently mandated by the state to operate under the Civil Service Act would have the flexibility to opt in or out of various services (except the appeal of terminations, suspensions, and demotions) should this local bill be enacted. Today, Hillsborough County Civil Service is funded per employee. Should an

Economic Impact Statement
PAGE 2

agency choose to conduct a service(s) on its own, the existing cost will be assumed by that agency but at levels that are expected to be neutral relative to the costs currently charged to the agency by Civil Service. More than likely, the agency will realize a net positive benefit in taking on duties currently carried out by Civil Service as a result of implementing potential process improvements, consolidations, outsourcing services, and/or other operating efficiencies.

Hillsborough County Civil Service would continue to be funded by all agencies for the appeal of terminations, suspensions, and demotions, along with any additional services they would provide at the election of an agency.

III. FUNDING SOURCE(S):

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local: Funding would continue to come from the individual local agencies to Civil Service for the appeal of terminations, suspensions, and demotions for each employee, and for services to be provided by Civil Service at the election of the individual agency.	\$ <u>N/A</u>	\$ <u>N/A</u>
State:	\$ <u>N/A</u>	\$ <u>N/A</u>
Federal:	\$ <u>N/A</u>	\$ <u>N/A</u>

III. ECONOMIC IMPACT:

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: N/A

2. Advantages to Businesses: N/A

3. Advantages to Government: Increased flexibility and the opportunity to develop a competitive service model by which services currently provided by Civil Service as a top-down, state mandate could be competitively offered (with the exception of the appeal of terminations, suspensions, and demotions.) Alternatively, individual agencies may experience a positive economic impact by electing to provide a service internally by enacting potential process improvements, consolidations, and/or other efficiencies.

Employees may benefit through the potential development of more appropriate job classifications by the individual agencies that choose

to do so with competitive compensation.

Civil Service will continue to be funded per employee for the mandated appeal of terminations, suspensions, and demotions, and per service at the election of the individual agency.

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

- 1. Disadvantages to Individuals: None

- 2. Disadvantages to Businesses: None

- 3. Disadvantages to Government: None

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

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

1. Impact on Competition:

Competition and the open market for employment may be greatly increased with the removal of the state mandated, top-down approach of service delivery by Civil Service, and implementation of an optional, a la carte service model. Individual agencies would have the flexibility, or Civil Service in an elective service model, to create positions that best suit current agency operational needs and competitively compensate the employees. This will open market for potential employees, and stimulate competition for for quality positions.

2. Impact on the Open Market for Employment:

The proposed legislation will increase access by local agencies to the open market for employment.

V. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

Data was provided by individual agencies and their human resource departments.

PREPARED BY:



[Must be signed by Preparer]

Print preparer's name:

Chip Fletcher

2/10/14

Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

County Attorney

REPRESENTING:

Hillsborough County Government

PHONE:

(813) 272-5670

E-MAIL ADDRESS:

fletcherc@hillsboroughcounty.org

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

A bill to be entitled
An act relating to Hillsborough County; amending
chapter 2000-445, Laws of Florida, relating to the
Civil Service Act; providing an agency or authority
with the ability to opt out of or opt into provisions
of the act that regulate personnel functions;
authorizing an agency or authority that has elected to
opt out of certain personnel functions to contract
with the Civil Service Board to provide the same
personnel functions in a nonregulatory capacity;
providing for an appropriation to the Civil Service
Board to carry out the purposes of the act; requiring
the commission to consider the level of services
provided by the Civil Service Board to the
participating agencies or authorities; providing an
effective date.

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

Section 1. Sections 4 and 15 of chapter 2000-445, Laws of
Florida, are amended to read:

Section 4. Application.—

(1) The provisions of this act apply to all classified
personnel employed by the following agencies or authorities
within the county: the commission, the county administrator,
clerk of the circuit court, supervisor of elections, property

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

27 appraiser, tax collector, sheriff, environmental protection
 28 commission, aviation authority, port authority, planning
 29 commission, public transportation commission, expressway
 30 authority, law library, legislative delegation, soil and water
 31 conservation district, civil service board, sports authority,
 32 children's board, county attorney, arts council, victim
 33 assistance, and any other agency or authority not expressly
 34 exempt from this act. Each municipality in the county, the
 35 judiciary, and the District School Board of the county are
 36 expressly exempt from this act until and unless each executes an
 37 interlocal agreement with the board pursuant to general law.
 38 Positions within the Administrative Office of the Courts which
 39 were classified as of January 1, 1998, and which are funded by
 40 the county are subject to section 13 of this act.

41 (2) Each agency or authority listed in this section that
 42 is not expressly exempt from this act remains subject to
 43 sections 11 and 12. With respect to the remaining provisions of
 44 this act, each agency or authority has the option to either opt
 45 out of or opt into any provision that relates to personnel
 46 functions by providing notice to the board during the election
 47 period as provided in this subsection. Personnel functions
 48 subject to the opt-out or opt-in election include, but are not
 49 limited to, employee recruitment; selection and hiring process;
 50 creation and adoption of classification plans, benefit plans,
 51 and pay plans; promotions; abolition and creation of positions;
 52 filling vacancies; performance review and evaluation systems;

53 reductions in force and methods of reemployment; guidelines for
 54 leave; determination of classified service status and tenure;
 55 and any other human resources functions. The agency or authority
 56 that has elected to opt out of or opt into any provision of this
 57 act has the exclusive authority to determine which corresponding
 58 Civil Service Rules shall apply to that specific agency or
 59 authority.

60 (a) The notice shall cite the specific provision of this
 61 act that the agency or authority has elected to either opt out
 62 of or opt into, and identify the group of employees subject to
 63 the opt-out or opt-in election, including designations based on
 64 job classifications, divisions, dates of employment, or any
 65 other delineated group of employees as determined by the agency
 66 or authority. The notice shall also identify the personnel
 67 functions that are covered by the opt-out or opt-in election.

68 (b) For the initial election period, the agency or
 69 authority shall provide notice of its opt-out or opt-in election
 70 on or after July 1, 2014, but not later than July 31, 2014, with
 71 an implementation date for the election to be October 1, 2014.
 72 For each election period thereafter, the agency or authority
 73 shall provide notice of its opt-out or opt-in election on or
 74 after December 1 but not later than December 31 of that year,
 75 with an implementation date for the election to be the first day
 76 of the next fiscal year.

77 (c) If an agency or authority does not submit notice of
 78 its opt-out or opt-in election to the board during any



79 designated election period, the provisions of this act
 80 applicable to the agency or authority before the election period
 81 shall remain in effect. An agency or authority that elects to
 82 opt out of any personnel function regulated by this act may, at
 83 its discretion, contract with the board to continue to provide
 84 the same personnel functions in a nonregulatory capacity.

85 Section 15. Appropriation for the board.—The commission
 86 shall appropriate to the board annually a sum of money equal to
 87 not less than sixty-five hundredths of 1 percent of the
 88 classified personnel payroll of the fiscal year just ended, less
 89 the cost of providing any personnel functions that an agency or
 90 authority has chosen to opt out of, in order to enable the board
 91 to properly carry out the purposes of this act. In determining
 92 the annual appropriation of funds, the commission shall also
 93 consider the cost of personnel functions provided to agencies or
 94 authorities that have contracted with the board for some or all
 95 of the personnel functions of which it has opted out, and any
 96 additional personnel functions that the board has contracted
 97 with an agency or authority to provide. It is the duty of the
 98 authorities having charge of the public buildings of such county
 99 to allow the reasonable use of public buildings and rooms for
 100 the holding of any activity of the board provided for by this
 101 act and to provide quarters for the use of the board.

102 Section 2. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 793 Community Development Districts
SPONSOR(S): Roberson
TIED BILLS: IDEN./SIM. BILLS: SB 802

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Miller 	Rojas 
2) State Affairs Committee			

SUMMARY ANALYSIS

Community Development Districts (CDDs) are a specific type of independent special district authorized to provide an alternative method to manage and finance basic services for community development. CDDs containing more than 1,000 acres are created by administrative rule adopted by the Governor and Cabinet sitting as the Florida Land and Water Adjudicatory Commission. CDDs of less than 1,000 acres typically are created by ordinance of the county in which the majority of the land is located; however, if the area of such a CDD lies completely within a single municipality, the ordinance creating the CDD is adopted by that municipality.

A CDD remains in existence unless the district is merged with another district, all the community development services the CDD was authorized to perform are transferred to a general-purpose unit of local government, or the district is dissolved as provided in statute. The statute provides three alternatives for dissolution of a CDD:

1. Automatic dissolution. By operation of the statute, if no landowner in the CDD obtains a development permit for any part of the land within 5 years of the creation of the CDD.
2. CDD declared inactive under the general Special District laws (Ch. 189, F.S.). If the Department of Economic Opportunity declares the CDD inactive, the creating authority must take legal action to dissolve the district.
3. Petition for Dissolution. If the CDD has no outstanding financial obligations and no operating or maintenance responsibilities, the district's board of supervisors may petition the creating authority to dissolve the district.

This bill proposes a fourth method, authorizing dissolution of a CDD on a majority vote of the landowners in the district. The general Florida Election Code would have appeared to apply as the original bill provided no specific procedures for calling or conducting that vote. The original bill also did not provide when the dissolution took effect or the legal resolution of the rule or ordinance creating the CDD.

Amendment 1 proposed in the Local & Federal Affairs Committee provides procedures for calling, conducting, and recording the vote of the landowners. If a majority votes for dissolution, the amendment provides an effective date, requires written notice of the dissolution within a time certain to the authority adopting the rule or ordinance creating the CDD, and requires the adopting authority to publish the notice of dissolution. The amendment clarifies the dissolution of a CDD by this procedure is not within the discretion of the adopting authority.

The bill provides an effective date of July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation¹

Chapter 190, F.S., the Uniform Community Development District Act of 1980,² states the exclusive and uniform procedures for establishing and operating a community development district (CDD).³ This type of independent special district⁴ is an alternative method to manage and finance basic services for community development.⁵ There are currently 573 active CDDs in Florida.⁶

A CDD must act within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general purpose government.⁷ CDDs have certain general powers, including the authority to assess and impose ad valorem taxes upon lands in the CDD, sue and be sued, participate in the state retirement system, contract for services, borrow money, accept gifts, adopt rules and orders pursuant to the APA, maintain an office, lease, issue bonds, raise money by user charges or fees, and levy and enforce special assessments.⁸

The statute also authorizes additional special powers pertaining to public improvements and facilities, such as systems for water management, water supply, sewer, and wastewater management, as well as roads, bridges, culverts, street lights, buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, signage, environmental contamination, conservation areas, mitigation areas, and wildlife habitat.⁹ With the consent of the applicable local general-purpose government with jurisdiction over the affected area, a CDD may plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for improvements such as parks and recreational areas, fire prevention and control, school buildings and related structures; security; control and elimination of mosquitoes and other arthropods of public health importance; waste collection and disposal.¹⁰

Establishing a CDD

1. *Petition for Rulemaking by the Florida Land and Water Adjudicatory Commission*

¹ Portions of this analysis are drawn from staff analysis h0533b.lgv.doc prepared by staff of the House Local Government & Veteran's Affairs Committee (March 7, 2004).

² Section 190.001, F.S.

³ Sections 190.004 & 190.005, F.S.

⁴ A "special district" is "a local unit of special purpose...government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet." Section 189.403(1), F.S. An "independent special district" is characterized by having a governing body the members of which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Section 189.403(3), F.S.

⁵ Section 190.003(6), F.S.

⁶ Florida Department of Economic Opportunity, Division of Community Development, Special District Information Program (DEO), *The Official List of Special Districts Online, Create Your Own Report*, at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/createspreadsheet.cfm> (accessed 2/17/2014). While the general powers of a CDD include the authority to issue bonds, s. 190.011(9), F.S., one CDD listed by DEO has no such authority.

⁷ Section 190.004(3), F.S.

⁸ Section 190.011, F.S.

⁹ Section 190.012(1), F.S. The rule or ordinance establishing the CDD may restrict the special powers authorized in this subsection. Section 190.005(1)(f), (2)(d), F.S.

¹⁰ Section 190.012(2), F.S.

The method for establishing a CDD depends upon its size. CDDs of 1,000 acres or more are established by petitioning the Florida Land and Water Adjudicatory Commission (FLWAC)¹¹ to adopt an administrative rule creating the district.¹² The statute requires each petition to contain specific information, including the written consent to establishing the CDD by all landowners¹³ of real property to be included in the district.¹⁴ Prior to filing the petitioner must submit copies of the petition and pay separate filing fees of \$15,000 each to the county or municipality in which the proposed CDD will be located and also to each municipality contiguous with or containing a portion of the land proposed for inclusion in the district.¹⁵ The counties and municipalities required to receive copies of the petition may conduct public hearings and express support or objection to the proposed district by resolution and by stating their position before the FLWAC.¹⁶ Additionally, a public hearing on notice must be held in the county where the CDD will be located; these hearings are conducted under the requirements of the Administrative Procedure Act¹⁷ before an administrative law judge.¹⁸ Once the hearing process is complete, the entire record is submitted to the FLWAC, reviewed by staff, and placed on the FLWAC meeting agenda for final consideration with the petition.¹⁹ If the petition is approved, staff of the FLWAC initiates proceedings to adopt the rule creating the CDD.

2. APA Rulemaking Requirements

A rule creating a CDD may not expand, modify, or delete any of the statutory requirements for a CDD charter except for inclusion or exclusion of special powers as provided in s. 190.012, F.S.²⁰ Rulemaking begins with publication of a notice of rule development.²¹ Once the final form of the rule is developed the agency must publish a notice of the proposed rule before it may be adopted.²² The publication of this notice triggers certain deadlines for the rulemaking process.²³ The notice must include the full text of the proposed rule, other additional information, and the procedure to request a hearing on the proposed rule.²⁴ Once the statutory rulemaking requirements are met the FLWAC may file the rule with the Department of State for final adoption and the rule typically goes into effect 20 days from this filing unless the notice of proposed rule provides a later date.²⁵

¹¹ Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least 2 Cabinet members.

¹² Section 190.005(1), F.S.

¹³“Landowner” means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. Landowner shall also mean the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.” Section 190.003(14), F.S.

¹⁴ Section 190.005(1)(a), F.S.

¹⁵ Section 190.005(1)(b), F.S.

¹⁶ Section 190.005(1)(c), F.S.

¹⁷ Ch. 120, F.S. The general hearing requirements are stated in ss. 120.569 and 120.57(1), F.S.

¹⁸ Section 190.005(1)(d), F.S.; Rules 42-1.009 & 42-1.012, F.A.C. Chapter 42-1, F.A.C., the procedural rules of the FLWAC, remains substantially unchanged since its adoption in 1982.

¹⁹ A similar process is followed when the FLWAC considers a proposed merger of existing CDDs. See, FLWAC Agenda Item 1 and attachments (8/16/2011), at <http://www.myflorida.com/myflorida/cabinet/agenda11/0816/index.html> (accessed 2/21/2014).

²⁰ Section 190.005(1)(g), F.S. The statute permits the rule to contain only the metes and bounds description of the real property included in the CDD, the names of the 5 members of the original board of supervisors for the CDD, and the name of the CDD.

²¹ Section 120.54(2), F.S.

²² Section 120.54(3)(a)1., F.S.

²³ Persons affected by the proposed rule have 21 days from the date of publication to request a hearing on the proposed rule. Section 120.54(3)(c), F.S. Those wanting to submit a lower cost regulatory alternative to the proposed rule have the same 21 day time limit. Sections 120.54(3)(a)1., 120.54(1)(a), F.S. The agency must wait at least 28 days from the date of publication before filing the proposed rule for final adoption. Section 120.54(3)(a)2., (3)(e)1., F.S.

²⁴ Section 120.54(3)(a)1., F.S.

²⁵ Section 120.54(3)(e)6., F.S. If the rule itself increases regulatory costs in excess of \$1 million over the first 5 years from implementation the rule cannot go into effect until ratified by the Legislature. Section 120.54(3), F.S.

3. *Petition for Ordinance Creating a CDD*

CDDs of less than 1,000 acres are established by ordinance²⁶ of the county having jurisdiction over the majority of land in the area in which the CDD is to be located, with certain exceptions.²⁷ A petition to establish a CDD is filed with the county commission.²⁸ After conducting a local public hearing before an administrative law judge²⁹ the commission may adopt an ordinance creating the CDD.³⁰ If any of the land proposed for inclusion in the CDD lies within the area of a municipality the county cannot create the district without approval of the affected municipality.³¹

If all the land proposed for inclusion in the CDD lies within the territorial jurisdiction of a municipality, the petition is filed with that municipality which then exercises the duties performed by the county commission.³² The CDD would be created by municipal ordinance. Within 90 days of receiving the petition, the county commission (or municipality, as applicable) may transfer the petition to the FLWAC.³³ Finally, if all the land of the proposed CDD lies within the territorial jurisdiction of two or more municipalities, the petition must be filed with the FLWAC even if the total area is less than 1,000 acres.³⁴

Requirements for Notice, Meeting, and Vote of Landowners in a CDD

The powers authorized to a CDD are exercised by the board of supervisors elected by the landowners of the district.³⁵ The statute provides for direct voting by the landowners at noticed meetings³⁶ and by all qualified electors of the district in certain circumstances.³⁷

The initial members of the board are designated in the original petition to create the CDD and serve until new members are elected after the district is established.³⁸ The statute³⁹ requires:

- The landowners in the district must meet to elect the board members within 90 days from the effective date of the rule or ordinance creating the CDD.
- Notice of the meeting must be published once a week for 2 consecutive weeks in a general circulation newspaper. The last date of publication must "be not fewer than 14 days or more than 28 days before the date of the election."
- Each landowner may cast one vote per acre of land owned by him or her in the district for each person to be elected.⁴⁰

²⁶ County commissions are authorized to enact ordinances consistent with general law. Art. VIII, s. 1, Fla. Const.; s. 125.01(1)(t), F.S.

²⁷ Section 190.005(2), F.S.

²⁸ Section 190.005(2), F.S. The petition must contain the same information as required for submission to the FLWAC. Section 190.005(2)(a), F.S.

²⁹ Section 190.005(2)(b), F.S. The hearing must follow the same notice and procedural requirements as the local hearing for petitions before the FLWAC.

³⁰ Section 190.005(2)(d), F.S.

³¹ Section 190.005(2)(e), F.S.

³² Section 190.005(2)(e), F.S.

³³ Section 190.005(2)(f), F.S.

³⁴ Section 190.005(2)(e), F.S.

³⁵ Section 190.006(1), F.S.

³⁶ Section 190.006(2)(a), F.S.

³⁷ If the district board proposes to use authorized *ad valorem* taxing powers (s. 190.006(3)(a)1., F.S.), or once 6 years elapse from the initial appointment of board members (10 years for districts exceeding 5,000 acres or are compact, urban, or mixed-use) (s. 190.006(3)(a)2.a., F.S.). For CDDs with less than certain minimum numbers of qualified electors after 6 or 10 years, as applicable, the district landowners shall continue to elect the board members (s. 190.006(3)(a)2.a., F.S.) until the number of qualified electors in the district exceeds the statutory minimum (s. 190.006(3)(a)2.b., F.S.).

³⁸ Sections 190.005(1)(a)3., 190.005(2)(a), F.S.

³⁹ Section 190.006(2)(a), F.S.

⁴⁰ Section 190.006(2)(b), F.S. In this initial election the two candidates receiving the most votes are elected to serve 4 year terms and the three candidates receiving the next largest number of votes are elected to 2 year terms.

The second election by landowners is held on the first Tuesday in November and subsequent elections held every two years at a landowners meeting held in November as noticed by the board.⁴¹ Once the statutory requirements are met for election of one or more board member by all qualified electors in the district, such elections are nonpartisan general elections conducted by the supervisor of elections.⁴²

Dissolution of a CDD

1. 3 Statutory Alternatives

A CDD remains in existence unless the district is merged with another district, "all of the specific community development services that it is authorized to perform have been transferred to a general-purpose unit of local government," or the district is dissolved as provided in statute.⁴³ The statute lists three different circumstances:

- Automatic dissolution. A CDD is dissolved by operation of the statute if a landowner does not receive a development permit for some part of the area covered by the district within 5 years from the effective date of the rule or ordinance establishing the district.⁴⁴
- CDD becomes inactive under s. 189.4044, F.S. The Department of Economic Opportunity (DEO) must declare a special district inactive if DEO documents a) the special district meets one of five specified statutory conditions, b) notice was provided to the designated representative of the special district (if any) and published in the local area where the special district is located, and c) no administrative appeal to the proposed declaration of inactivity was filed within 21 days from the publication date.⁴⁵ If the CDD is declared inactive under s. 189.4044, F.S., the applicable county or city commission must be informed and must take "appropriate action."⁴⁶
- Petition for Dissolution. A district with no outstanding financial obligations and no operating or maintenance responsibilities may petition the applicable adopting authority for dissolution by appropriate action. If created by rule of the FLWAC, the petition would request repeal of that rule. If created by local ordinance, the petition would seek an ordinance dissolving the CDD.⁴⁷

2. Dissolution by the FLWAC under S. 190.046(9), F.S.

⁴¹ Section 190.006(2)(b), F.S. The board must announce date for the election at least 90 days prior to the landowners' meeting. This announcement is made at a board meeting, along with instructions on how landowners may participate and providing sample proxy forms.

⁴² Section 190.006(2)(b), (c), (d), F.S. The statute does not specify which supervisor of elections conducts the board election if the district encompasses property in more than one county.

⁴³ Section 190.046(2), F.S.

⁴⁴ Section 190.046(7), F.S. This subsection also requires a "judge of the circuit shall cause a statement (of dissolution) to be filed in the public records." No guidance is provided as to whether a party must ask the court for the statement, who is authorized to ask, or the procedure to bring the matter before the court.

⁴⁵ Section 189.4044(1), F.S.

⁴⁶ Section 190.046(8), F.S. If a special district is declared inactive under s. 189.4044, the creating entity must dissolve the district "by repealing its enabling laws or other appropriate means." Section 189.4044(4), F.S. This provision appears to control the "appropriate action" required for dissolving a CDD under s. 190.046(8), F.S., because "(a)ll special districts, regardless of the existence of other, more specific provisions of applicable law, shall comply with the ...dissolution...requirements..." of Chapter 189, F.S. Section 189.4031(1), F.S. However, the application of this requirement to the dissolution of CDDs appears limited to those conducted under s. 190.046(8), F.S., because the procedures in Ch. 189, F.S., for all but inactive districts, do not apply to CDDs created under Ch. 190, F.S. Section 189.4042(7), F.S.

⁴⁷ Section 190.046(9), F.S. This provision was added by Ch. 2004-345, s. 34, LOF. According to the March 7, 2004, House analysis for CS/HB 533, supra, this provision resulted in part after the Department of Community Affairs reported to the Senate Committee on Comprehensive Planning "the process for declaring a district inactive is expensive, time-consuming, and frustrating to the property owners within the CD (*sic*) and recommends that the entity creating the CDD be authorized to dissolve it under limited circumstances." House Analysis for CS/HB 533 (2004), supra, pg. 5, n. 25.

Recent requests under s. 190.046(9), F.S., for the FLWAC to dissolve a CDD by repealing the rule creating the district have submitted a statement or petition and supporting documents verifying the district's inactivity, the consent of the landowners, and the notice provided to the affected local governments.

In 2009 the Board of Supervisors for the Huntington Hammocks CDD passed Resolution 2009-1 adopting a plan of dissolution and approving a petition for the FLWAC to repeal the rule creating the CDD.⁴⁸ The FLWAC considered and approved the petition on September 14, 2010,⁴⁹ and the rule was repealed effective on October 21, 2010, dissolving the CDD.⁵⁰

On April 24, 2012, the FLWAC considered a petition to dissolve the Twin Creeks CDD.⁵¹ The petition was initiated and filed by the majority landowner because the CDD had not had any meetings, held any elections, and no longer had a governing board.⁵² The petition stated the manner for publishing notice of the proposed dissolution and notice already provided to the affected local government. When the petition was filed the petitioner had not received consents to the proposed dissolution from all landowners within the district and so recited the steps taken to inform these landowners of the proposal, requesting they provide consent or an objection within a set time; the petition asserted the lack of any action by these remaining landowners should be assumed as a lack of any objection.⁵³ The FLWAC approved the request⁵⁴ and the rule was repealed effective on June 26, 2012.⁵⁵

On January 23, 2013, the FLWAC considered and approved⁵⁶ a petition to dissolve the Tuscany CDD,⁵⁷ the establishing rule for which subsequently was repealed effective on April 8, 2013.⁵⁸

Effect of Proposed Changes

The bill amends s. 190.046(9), F.S., authorizing the dissolution of a CDD with no outstanding financial obligations and no operating or maintenance responsibilities by a majority vote of the landowners in the district. The original bill does not specify the timing or procedure for conducting the vote. Unless otherwise specifically authorized by statute, the conduct of a public referendum would be conducted under the Florida Election Code.⁵⁹

The expenses for holding a referendum for the dissolution of the CDD would be paid out of the district's funds.⁶⁰ Voting in the CDD referendum may be limited to freeholders in the district⁶¹ but such voters must be qualified voters and freeholders.⁶²

⁴⁸ Petition to Repeal Ch. 42LLL-1, F.A.C., Exhibit 1, ¶3, at http://www.myflorida.com/myflorida/cabinet/flwac/20100914_index.html (accessed 2/19/2014).

⁴⁹ Transcript of Cabinet Meeting (9/14/2010), p. 9, at <http://www.myflorida.com/myflorida/cabinet/agenda10/0914/trans.html> (accessed 2/19/2014).

⁵⁰ At <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=42LLL-1> (accessed 2/19/2014).

⁵¹ At <http://www.myflorida.com/myflorida/cabinet/agenda12/0424/index.html> (accessed 2/24/2014).

⁵² "Rule Repeal for the Twin Creeks Community Development District," ¶3 (Jan. 3, 2012), at http://www.myflorida.com/myflorida/cabinet/flwac/20120424_index.html (accessed 2/24/2014).

⁵³ "Rule Repeal for ... Twin Creeks," supra at ¶8.

⁵⁴ Transcript of Cabinet Meeting (4/24/2012), p. 58-60, at http://www.myflorida.com/myflorida/cabinet/flwac/20120424_index.html (accessed 2/19/2014). The issue of landowner consents became moot when the FLWAC received signed statements of no objection to the proposed dissolution from the remaining landowners on April 19 and 20, 2012, respectively. Agenda Items 2-A and 2-B, at http://www.myflorida.com/myflorida/cabinet/flwac/20120424_index.html (accessed 2/24/2014).

⁵⁵ At <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=42DDD-1> (accessed 2/19/2014).

⁵⁶ Transcript of Cabinet Meeting (1/23/2013), p. 13-15, at <http://www.myflorida.com/myflorida/cabinet/agenda13/index.html> (accessed 2/18/2014).

⁵⁷ At http://www.myflorida.com/myflorida/cabinet/flwac/20130123_index.html (accessed 2/18/2014).

⁵⁸ At <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=42GG-1> (accessed 2/18/2014).

⁵⁹ Section 97.0115, F.S. The elections procedures specifically provided for independent special districts are not applicable to CDDs. Section 100.011(4)(c), F.S.

⁶⁰ Sections 100.011(4)(a), 100.241(4), F.S.

⁶¹ Section 100.241(1), F.S.

The definition of "freeholder" for purposes of the election law is not synonymous with that of "landowners" in a CDD. Under the Florida Election Code,⁶³ a freeholder is a qualified elector registered in the district who holds in their name property within the district "which is not wholly exempt from taxation."⁶⁴ In contrast, the definition of "landowner" for purposes of a CDD also includes a trustee, private corporation, owner of a condominium unit, or the owner of a ground lease from a governmental entity with a remaining term exceeding 50 years; the definition is not restricted by the taxable or tax-exempt status of the property.⁶⁵ Relying solely on the Election Code to conduct a referendum for a majority vote of the landowners may result in the exclusion of certain entities with property interests in the district sufficient to meet the definition of a "landowner."

If a majority of those entitled to vote approve the referendum question to dissolve the CDD, the bill does not address the implementation of that majority decision. The bill does not state when the dissolution of the district takes effect, whether the rule or ordinance creating the district must be repealed or set aside before the dissolution is effective, whether the creating authority must take any action to repeal the rule or replace the ordinance creating the district, whether there is any duty to notify the creating authority about the referendum or the result, or whether public notice of the outcome is required.

B. SECTION DIRECTORY:

Section 1: Amends s. 190.046(9), F.S., providing for approval of the dissolution of a CDD by vote of a majority of landowners in the district under certain circumstances.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None
2. Expenditures: None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None
2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Authorizes the landowners of a community development district to dissolve the district directly by their majority vote without relying on the board of supervisors to petition the FLWAC or local government (as applicable) to dissolve the district by necessary legal action.

D. FISCAL COMMENTS:

⁶² Section 100.241(2), F.S. One voting in a freeholder referendum who is not both a freeholder and a qualified elector commits a first degree misdemeanor. Section 100.241(5), F.S.

⁶³ Chapters 97 – 106, F.S. Section 97.011, F.S.

⁶⁴ Section 100.241(2), (3), F.S.

⁶⁵ Section 190.003(14), F.S. See n. 13, supra.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

The original bill impliedly relied on the Florida Election Code to conduct the referendum of landowners. Reliance on the Code would appear to satisfy the requirements for conducting an election under article VI, s. 6, of the Florida Constitution.

B. RULE-MAKING AUTHORITY: The bill provides no additional rulemaking authority to the FLWAC.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Amendment 1 for consideration by the Local & Federal Affairs Committee amends s. 190.046(9), F.S., to specify procedures for calling and conducting a vote of the landowners on the issue of dissolution. Calling and conducting the vote at a meeting of landowners, including notice and meeting procedures, are drawn from the present statutory process for landowner elections to the board of supervisors.

- A meeting of the landowners on whether to dissolve the CDD may be called either pursuant to a resolution of the board or a written petition by the landowners filed with the board.
- A written petition by the landowners to conduct a vote on whether to dissolve the CDD must be signed either by landowners representing a majority of the acreage in the district or 25 percent of the total number of landowners in the district. If by the acreage method, the interest of each landowner would be calculated according to the method provided in the present statute.⁶⁶
- If there is no existing board for the CDD the petitioning landowners will publish the signed petition as part of the required notice for the landowners' meeting.
- Notice of the meeting would be published in the same manner as presently required for landowner elections to the board. The notice shall state the date, time, location in the district for the meeting, and the purpose is to vote on dissolving the CDD. The notice must include a sample proxy. Publication must be in a newspaper of general circulation in the district, for 2 consecutive weeks, and the last publication must be no fewer than 14 days nor more than 28 days before the meeting.
- The meeting shall be chaired by the chair of the board. If there is no board, the landowners in attendance shall choose a chair at the beginning of the meeting. The chair is responsible for:
 - Presiding at the meeting;
 - Retaining a record of all landowners attending the meeting;
 - Retaining all proxies submitted at the meeting;
 - Recording an accurate tally of the votes in order to provide required written notice to the creating authority if the landowners approve dissolution of the CDD; and
 - If a majority votes to dissolve the district, within 5 days of the meeting the chair must provide written notice to the creating authority.
- The written notice served by the chair of the meeting must include:

⁶⁶ Section 190.006(2)(b), F.S. Under the acreage method, a fraction of an acre is treated as one acre for voting purposes. Platted lots are counted individually and rounded up to the nearest whole acre. The acreage of platted lots is not aggregated to determine the number of units held by a landowner or landowner's proxy.

- Copies of the board resolution or landowners' written petition calling for dissolution of the CDD;
 - The published notice of the meeting;
 - The record of landowners attending at the meeting;
 - All proxies submitted at the meeting; and
 - The tally of final votes on the question of dissolving the CDD.
- If the majority vote approves dissolution, the CDD would stand dissolved on the adjournment of the meeting.
 - On receiving the written notice of dissolution, the creating authority must publish notice of the dissolution of the CDD.
 - If the CDD was created by FLWAC rule, the FLWAC must publish the notice of dissolution in the Florida Administrative Register.
 - In lieu of the requirements under s. 120.54, F.S., for repealing a rule under the regular process provided in the Administrative Procedure Act, the administrative rule creating the CDD would be repealed automatically when the notice of dissolution was published.
 - If the adopting authority was a county or municipality, the notice of dissolution must be published in the same manner as notice of the adoption of an ordinance. The local government must then file its published notice with the Department of State within 10 days of publication.⁶⁷
 - Publication of the notice of dissolution is expressly denominated as a "ministerial" act to indicate the dissolution of a CDD by the method provided in the bill is not at the discretion of the authority adopting the rule ordinance creating the CDD.⁶⁸ Accordingly, failure to publish the notice of dissolution as required would not affect the legal dissolution of the CDD and the publication requirement could be enforced by a petition for writ of mandamus.⁶⁹

⁶⁷ A county or a municipality must publish notice of intent to adopt an ordinance at least 10 days prior to adoption. Sections 125.66(2)(a), 166.041(3)(a), F.S. A county must file certified copies of ordinances adopted in the regular manner with the Department of State within 10 days of enactment. Section 125.066(2)(b), F.S. Although municipalities normally are not required to file copies of their ordinances with the Department of State in order for the ordinance to go into effect, s. 166.041(4), (5), F.S., those municipalities acting in lieu of a county to create a CDD are required to follow the same process as a county when acting on a required notice of dissolution. Sections 190.005(2)(e), 190.046(9), F.S.

⁶⁸ *Wells v. Castro*, 117 So. 3d 1233, 1236 (Fla. 3d DCA 2014).

⁶⁹ *Wells v. Castro*, supra at 1237-1238.

1 A bill to be entitled
2 An act relating to community development districts;
3 amending s. 190.046, F.S.; providing that certain
4 community development districts may be dissolved by a
5 majority vote of the district landowners; providing an
6 effective date.

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

9
10 Section 1. Subsection (9) of section 190.046, Florida
11 Statutes, is amended to read:

12 190.046 Termination, contraction, or expansion of
13 district.-

14 (9) If a district has no outstanding financial obligations
15 and no operating or maintenance responsibilities;7

16 (a) Upon the petition of the district, the district may be
17 dissolved by a nonemergency ordinance of the general-purpose
18 local governmental entity that established the district or, if
19 the district was established by rule of the Florida Land and
20 Water Adjudicatory Commission, the district may be dissolved by
21 repeal of such rule of the commission; or

22 (b) The district may be dissolved by a majority vote of
23 the district landowners.

24 Section 2. This act shall take effect July 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 793 (2014)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Local & Federal Affairs
2 Committee

3 Representative Roberson, K. offered the following:

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

6 Remove lines 22-23 and insert:

7 (b) The district may be dissolved by a majority vote of the
8 district landowners, as follows:

9 1. A meeting of the landowners of the district shall be
10 called for the purpose voting on whether to dissolve the
11 district if:

12 a. The board adopts a resolution approving the dissolution
13 of the district; or

14 b. A written petition for the dissolution of the district
15 signed by landowners representing a majority of the acres of
16 real property within the district, as calculated pursuant to s.
17 190.006(2)(b), or by 25 percent of the total number of

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 793 (2014)

Amendment No.

18 landowners within the district, is filed with the board. If
19 there is no board, the petitioning landowners shall publish the
20 petition as part of the notice required in this paragraph.

21 2. Notice of the landowners' meeting shall be published
22 once a week for 2 consecutive weeks in a newspaper which is in
23 general circulation in the area of the district, the last day of
24 such publication to be not fewer than 14 days or more than 28
25 days before the date of the election. The notice shall state the
26 date, time, and location within the district of the meeting,
27 shall state the purpose of the meeting is to vote on dissolution
28 of the district, and shall include a sample proxy.

29 3. The chair of the board shall chair the meeting of
30 landowners under this paragraph. If there is no board, at the
31 beginning of the meeting the landowners in attendance shall
32 elect a chair who shall preside at the meeting. The chair
33 presiding at the meeting shall comply with the requirements of
34 sub-paragraph (b)5. Each landowner shall be entitled to cast a
35 vote on the issue of dissolution and may vote in person or by
36 proxy in writing. The chair shall retain a record of all
37 landowners attending in person, all written proxies submitted at
38 the meeting, and the final tally of votes approving dissolution
39 and votes opposing dissolution.

40 4. If a majority of landowners voting approves the
41 dissolution, the district shall be dissolved effective as of the
42 adjournment of the landowners' meeting.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 793 (2014)

Amendment No.

43 5. No later than 5 days from the date of the meeting the
44 chair presiding at the meeting shall provide written notice of
45 the dissolution to the authority that originally created the
46 district. The written notice shall include copies of the
47 resolution of the board or the written petition for dissolution,
48 the published notice of the landowners' meeting, the record of
49 all landowners attending in person, all proxies submitted at the
50 meeting, and the tally of final votes.

51 6. Upon receiving the notice and documents submitted
52 pursuant to sub-paragraph (b)4., the authority creating the
53 district shall publish notice of the dissolution of the
54 district.

55 a. If the Florida Land and Water Adjudicatory Commission is
56 the adopting authority, the notice shall be published in the
57 Florida Administrative Register. Notwithstanding s. 120.54, the
58 rule or rules creating the district are repealed effective as of
59 the date the notice is published pursuant to this sub-sub-
60 paragraph (b)6.a.

61 b. If a county or municipality is the adopting authority,
62 the notice shall be published in the same manner as a notice of
63 intent to adopt an ordinance and shall be filed with the
64 Department of State within 10 days of such publication.

65 c. Publication by the adopting authority is deemed a
66 ministerial act for purposes of this paragraph.

67
68

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 793 (2014)

Amendment No.

69
70
71
72
73
74
75
76
77
78
79
80

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

Remove line 5 and insert:

majority vote of the district landowners; providing procedures
for calling and conducting the vote; providing when the
dissolution of a district by majority vote of the landowners is
effective; requiring notice of dissolution to be published by
the authority that created the district; providing an exception
to s. 120.54, F.S.; providing such publication is a ministerial
act; providing an

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 809 Manatee County
SPONSOR(S): Boyd
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Kelly KK	Rojas JR
2) Economic Affairs Committee			

SUMMARY ANALYSIS

HB 809 would repeal the Manatee Law Library Special Act (Act), including ch. 30957 (1955), 1961-2455, 1963-1581, 1969-1283, 1972-615, 1979-506, 1980-535, 1991-395, and 1996-511, L.O.F. Manatee County (County) states the Act's provisions for a law library are no longer in use. The County identifies this is largely due to changes in the Florida Constitution and general law which make the Act no longer legally necessary or effective.

HB 809 will take effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Manatee Law Library Special Act

The Legislature created the Manatee Law Library Special Act (Act) in 1955.¹ The Act provides for the establishment and maintenance of a county law library in the court house at the county seat of Manatee County, Florida (County). The Act also provides for the purchase and maintenance of legal materials in the County law library, as well as the employment of staff to maintain these legal materials.²

In 1961, the Legislature enacted ch.1961-2455, L.O.F., which further amended the Act to include for the establishment and maintenance of a county law library. Under the Act, the funds for the library would be generated from an occupational license tax on members of the Florida Bar residing, practicing, or maintaining a law office in the County. The County's Tax Collector would then collect and distribute these fees to the Clerk of the Court, who would keep these fees in the County Law Library Fund (Fund).³ In addition, the Act creates a Manatee County Law Library Committee to act as the advisory body to the maintenance of the library, including the creation of a librarian position to be hired and paid from the Fund. Finally, the Act establishes that the Clerk of the Court can collect certain cost and fees on civil cases commenced in circuit and county court.⁴ These cost and fees will also be held in the Fund to be used under this Act.⁵

Between the years of 1963 to 1996, the Legislature amended the Act to increase the amount of the occupational license tax as well as the costs and fees for civil cases commenced in circuit and county court.⁶ Also within these years, the Legislature clarified the composition of the Manatee County Law Library Committee to include circuit judges, county judges, and three practicing attorneys who were to be members of the Manatee County Bar Association (MBCA). In 1971, the Legislature amended the Act to include the establishment, maintenance, and operation of a legal aid program in the County in which the MBCA would administer. Finally, the Act established that the MBCA would be responsible for hiring one or more law librarians for the library.

Florida Statutes and Other Law

Currently s. 29.008(1), F.S.,⁷ and the Florida Constitution⁸ require counties to fund facilities for trial courts. These facilities include all necessary building infrastructures for the housing of legal materials for general public use.⁹ Further, current law provides that the state budget must pay for judicial reference resources and basic legal materials accessible to the public.¹⁰ While the Florida Statutes are

¹ Chapter 30957 (1955), L.O.F.

² *Id.*

³ The Fund is also established in the Act. *See* ch.1961-2455, L.O.F.

⁴ These fees includes costs for commencing a civil case in circuit court, costs for commencing a civil case in county court, costs incurred in county court, and costs or fees for issuance of documents. *See* ch. 1961-2455, L.O.F.

⁵ *Id.*

⁶ Chapters 1961-2455, 1963-1581, 1969-1283, 1972-615, 1979-506, 1980-535, 1991-395, and 1996-511, L.O.F.

⁷ "Counties are required by s. 14, Art. V of the State Constitution to fund the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, and the offices of the clerks of the circuit and county courts performing court-related functions."

⁸ FLA. CONST. art. V, s. 14.

⁹ Section 29.008(1)(a), F.S.

¹⁰ Section 29.004(7), (12), F.S.

silent on providing for a librarian for these facilities, the Manatee County Commission adopted Manatee County Code s. 2-4-4.5(2), which provides County funds to hire personnel and legal materials for the local libraries.¹¹

There is no current provision for a law library advisory committee in the Florida Statutes or the Manatee County Code.

Effect of Proposed Changes

HB 809 would repeal the Manatee Law Library Special Act, including ch. 30957 (1955), 1961-2455, 1963-1581, 1969-1283, 1972-615, 1979-506, 1980-535, 1991-395, and 1996-511, L.O.F.

The County has followed and satisfied general law by designing a law library in the County's new judicial center. Additionally, the state funds all judicial reference resources and the County pays for the employment of library personnel.

As for the advisory committee provision in the Act, the County states the MBCA has given full support to repeal this Act, so long as the County continues to fund the library personnel.¹² In addition, the MCBA has committed to begin forming a Law Library Committee to take place of the current committee set up in the Act.

Finally, the County states the repeal of the Act will allow the County to be more efficient with its use of technology, especially with replacing physical legal sources with sources that can be found through legal online services. This will bring about nominal cost savings to the County, and no cost increase to the public.

HB 809 bill will take effect upon becoming law.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 30957 (1955), 1961-2455, 1963-1581, 1969-1283, 1972-615, 1979-506, 1980-535, 1991-395, and 1996-511, L.O.F.

Section 2: Provides for an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 31, 2013

WHERE? *Bradenton Herald*, a daily newspaper of general circulation, published in Manatee County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Not applicable.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

¹¹ Manatee County Code s. 2-4-4.5(2) allocates 25 percent of the \$65 added criminal conviction fines to fund local libraries.

¹² Manatee County Code s. 2-2-4.5(2).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Rep Boyd
HB 809


BRADENTON HERALD

WWW.BRADENTON.COM
P.O. Box 921
Bradenton, FL 34206-0921
102 Manatee Avenue West
Bradenton, FL 34205-8894
941-745-7077

Bradenton Herald
Published Daily
Bradenton, Manatee County, Florida

STATE OF FLORIDA COUNTY OF MANATEE

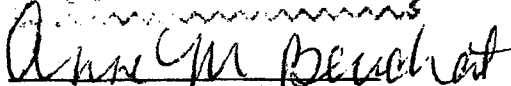
Before the undersigned authority personally appeared Flo Konesko, who, on oath, says that she is a Legal Advertising Representative of The Bradenton Herald a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copies of the advertisement, being a Legal Advertisement in the matter of **NOTICE OF LOCAL LEGISLATION** in said newspaper in the 12/31/2013. Affidavit further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee 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, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



(Signature of Affiant)

Sworn to and subscribed before me this
31 Day of Dec, 2013

Notary Public State of Florida
Ann M. Beuchat
My Commission EE051438
Expires 02/03/2015


SEAL & Notary Public

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

DECEMBER 31, 2013

LEGAL NOTICE

**MANATEE COUNTY LAW
LIBRARY
AND COUNTY LEGAL AID
OFFICE**

NO. _____
**NOTICE OF LOCAL
LEGISLATION**

TO WHOM IT MAY CONCERN:
Notice is hereby given of
Manatee County Board of
County Commissioners' intent
to apply to the 2014 Session of
the Florida Legislature for pas-
sage of:

An act relating to Manatee
County, repealing chapter 61-
2455, Laws of Florida, as
amended by chapters 69-1581,
69-1283, 72-615, 79-506, 80-
535, 91-395, and 96-511, Laws
of Florida, relating to the
Manatee County Law Library
and the Manatee County Legal
Aid Office; providing an effec-
tive date.

Manatee Board of
County Commissioners
P. O. Box 1000, Bradenton,
FL 34206-1000
1112 Manatee Avenue
West, Bradenton, FL 34205
12/31/2013

**HOUSE OF REPRESENTATIVES
2014 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 Local & Federal Affairs Committee staff prior to consideration. An Amendment Form is not required for technical amendments.

BILL NUMBER: HB 809

SPONSOR(S): Rep. Jim Boyd

RELATING TO: Manatee County Law Library
[Indicate Area Affected (City, County or Special District) and Subject]

SPONSOR OF AMENDMENT: _____

CONTACT PERSON: Nicholas Azzara

PHONE NO: (941) 745-3771 **E-MAIL:** nicholas.azzara@mymanatee.org

REVIEWED BY STAFF OF THE LOCAL & FEDERAL AFFAIRS COMMITTEE **[]**
Must Be Checked

I. BRIEF DESCRIPTION OF AMENDMENT: Manatee County seeks to repeal Chapter
(Attach additional page(s) if necessary) 61-2455, Laws of Florida, relating to
Manatee County Law Library and the
Manatee County Legal Aid Office.

II. REASON/NEED FOR AMENDMENT:
(Attach additional page(s) if necessary)
The need for a special act to create a law library and its funding is no longer necessary. The act is inconsistent with general law. The County will continue to maintain a law library pursuant to general law.

III. NOTICE REQUIREMENTS

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

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 Local & Federal Affairs Committee 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]



Delegation Chair (Original Signature)

Date

Jim Boyd

Print Name of Delegation Chair

HOUSE OF REPRESENTATIVES
2014 ECONOMIC IMPACT STATEMENT FORM

Read all instructions carefully.

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, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: HB 809
SPONSOR(S): Rep. Jim Boyd
RELATING TO: Manatee County Law Library
[Indicate Area Affected (City, County or Special District) and Subject]

I. REVENUES:

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill:	\$ <u>N/A</u>	\$ <u>N/A</u>
Revenue increase due to bill:	\$ <u>N/A</u>	\$ <u>N/A</u>

II. COST:

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY14-15</u>	<u>FY 15-16</u>
	\$ <u>N/A</u>	\$ <u>N/A</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

There are no costs associated with this request.

III. FUNDING SOURCE(S):

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local:	\$ <u>N/A</u>	\$ <u>N/A</u>
State:	\$ <u>N/A</u>	\$ <u>N/A</u>
Federal:	\$ <u>N/A</u>	\$ <u>N/A</u>

III. ECONOMIC IMPACT:

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: None.

2. Advantages to Businesses: None.

3. Advantages to Government: Because the requested change will merely bring about greater efficiencies and use of technology, Manatee County anticipates nominal cost savings to County Government and no cost increases to individuals/the public.

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

1. Disadvantages to Individuals: None.

2. Disadvantages to Businesses: None.

3. Disadvantages to Government: None.

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

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

1. Impact on Competition:

None.

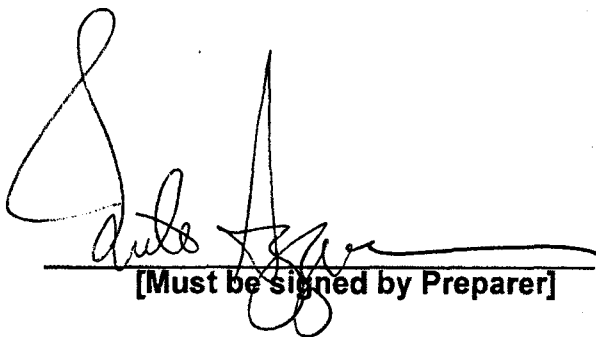
2. Impact on the Open Market for Employment:

None.

V. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

PREPARED BY:



[Must be signed by Preparer]

Print preparer's name:

Nicholas Azzara

Feb. 3, 2014

Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Information Outreach Manager

REPRESENTING:

Manatee County Government

PHONE:

(941) 745-3771

E-MAIL ADDRESS:

nicholas.azzara@mymanatee.org

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

A bill to be entitled
 An act relating to Manatee County; repealing chapters
 30957 (1955), 61-2455, 63-1581, 69-1283, 72-615, 79-
 506, 80-535, 91-395, and 96-511, Laws of Florida,
 relating to the Manatee County Law Library, certain
 license and court fees collected for use by the
 library, the Manatee County Law Library Committee, and
 the law librarian; providing an effective date.

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

Section 1. Chapters 30957 (1955), 61-2455, 63-1581, 69-
 1283, 72-615, 79-506, 80-535, 91-395, and 96-511, Laws of
 Florida, are repealed.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 817 City of Cocoa, Brevard County
SPONSOR(S): Workman
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Dougherty <i>DD</i>	Rojas <i>JR</i>
2) State Affairs Committee			

SUMMARY ANALYSIS

The Pinecrest Cemetery (Pinecrest) and the Evergreen Memorial Park (Evergreen) are abandoned cemeteries contiguous with the municipal boundaries of the City of Cocoa and in unincorporated Brevard County. The recorded owners are defunct corporations and the grounds are in disrepair. Cocoa residents complain that the cemeteries are becoming a public nuisance.

In the interests of the public health, safety, and welfare, the city would like to provide maintenance and security for the cemeteries. However, the city does not have authority to enter the unincorporated properties and must annex the properties before taking stewardship measures. Statutory annexation provisions require action from the owners of the property to be annexed. As such owners are unascertainable, the city seeks legislative annexation in order to maintain and secure the cemeteries.

Annual maintenance and security costs are estimated to be approximately \$7,000.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Pinecrest Cemetery and the Evergreen Memorial Park

The Pinecrest Cemetery and the Evergreen Memorial Park (cemeteries) are old, unmanaged memorial grounds located in unincorporated Brevard County contiguous to the existing boundaries of Cocoa. As they are contiguous to the municipal boundaries, their dilapidated condition impacts the health, safety, and welfare of Cocoa's citizens. Citizens have expressed concerns that these properties need regular maintenance and security to avoid becoming a further public nuisance.

The cemeteries appear to be abandoned. To the best of Cocoa's knowledge, the last recorded owners of these cemeteries are now defunct. The last recorded owner of Pinecrest was "The Pinecrest Cemetery Co." in 1929. This was an unrecorded incorporation with no record of formation or dissolution. The cemetery was platted and annexed by the city in 1929, but was omitted from the city's boundary description in 1959. The last recorded owner of Evergreen is "Evergreen Memorial Park, Inc.," which has been a dissolved and inactive Florida corporation since 1970.

Without proper maintenance, the cemeteries have fallen into disrepair. Volunteers formed the Pinecrest Cemetery Association in the 1980s to maintain the graves, but most of the approximately 50 remaining members are too old to perform the necessary maintenance. Brevard County has reportedly mowed the cemeteries before some military holidays in the past few years. No other meaningful upkeep efforts have been made.

Historical Significance

Pinecrest is historically significant Cocoa. Several Cocoa dignitaries have been laid to rest at Pinecrest, including former city elected officials and Emory L. Bennett, a Congressional Medal of Honor Recipient of the Korean War. Therefore, the City Council of Cocoa claims that the preservation of Pinecrest promotes historical interests.

Annexation Measures

The city is authorized to take necessary and appropriate action to provide for the maintenance and security of any abandoned cemetery within its municipal jurisdiction.¹ Since the cemeteries are located outside the city's boundaries, the city does not have authority to enter and maintain the properties. However, annexing the cemeteries would allow the city to manage them.

The statutory provisions for voluntary annexation of an unincorporated area of a county contiguous to a municipality require that the owners petition the municipality. As the known owners are dissolved and defunct, and no new owners are ascertainable, voluntary annexation is not possible.

The city maintains that the best alternative to ensure the proper care for the cemeteries is by legislatively annexing them into Cocoa's municipal boundaries so that the city may exercise jurisdictional authority.² To that end, the City Council adopted a resolution³ outlining their intent and terms of the undertaking.

¹ Section 497.284, F.S.

² Section 497.284, F.S.

³ Resolution 2013-119, City of Cocoa, Florida, November 12, 2013.

The city intends to maintain and secure the cemeteries and the city's public works director estimated that the city will spend approximately \$7,000 annually to provide maintenance and security. Additionally, some capital improvements – such as paving the failing roadways within the cemeteries – may eventually be required. The repaving is estimated to cost \$20,000.

Terms of the Resolution

The resolution provides, in pertinent part, the following:

- The city invokes the statutory authority⁴ to provide maintenance and security of the cemeteries.
- The city shall use public funds for such maintenance and security.
- The city shall maintain and secure the cemeteries to the extent necessary to reasonably maintain the health, safety, and welfare of the community.
- Maintenance works to be undertaken by the city include, but are not limited to, lawn care, landscaping, lights and maintenance of all roads, sidewalks, fences, private plots, and monuments and other markers, which are not otherwise properly maintained.
- There is no ongoing duty or obligation created on behalf of the city to provide these services in perpetuity.⁵
- The city shall incur no civil liability or penalties of any type for damages to property at the cemeteries.⁶

All of these terms are dependent upon the successful annexation of the cemeteries into the municipal jurisdictional limits of the city by the Legislature during the 2014 Legislative Session.

Municipal Annexation Law in Florida

The Florida Constitution provides that “[m]unicipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.”⁷ This provision authorizes the Legislature to annex unincorporated property into a municipality by special act. It also authorizes the Legislature to establish procedures in general law for the annexation of property.

Statutory Annexation

Pursuant to this authority, the Legislature established local annexation procedures by general law in 1974, with the enactment of the “Municipal Annexation or Contraction Act.”⁸ This Act provides for involuntary and voluntary annexation measures that can be undertaken by cities without passage of a special act. Involuntary annexation procedures require, *inter alia*, consent of the owners of 50 percent of the land to be annexed.⁹ Voluntary annexation procedures require, *inter alia*, that the owners of the unincorporated real property to be annexed petition for annexation.¹⁰

Special Act Annexation

The Florida Constitution also authorizes the Legislature to annex unincorporated property into a municipality by special act. There are no additional requirements placed on legislative annexations. As the owners of the property to be annexed are unascertainable, neither the involuntary nor voluntary annexation statutory procedures are workable options for the city to acquire the cemeteries. Therefore, annexation by special act is the only remaining method for the city to pursue.

⁴ Section 497.284, F.S.

⁵ Section 497.284(1), F.S.

⁶ Section 497.284(2), F.S.

⁷ Article VIII, section 2(c), Florida Constitution.

⁸ Chapter 171, F. S.

⁹ Section 171.0413, F.S.

¹⁰ Section 171.044, F.S.

The Florida Funeral, Cemetery, and Consumer Services Act

With respect to cemeteries, "care and maintenance" are defined as "the perpetual process of keeping a cemetery and its lots, graves, grounds, landscaping, roads, paths, parking lots, fences, mausoleums, columbaria, vaults, crypts, utilities, and other improvements, structures, and embellishments in a well-cared-for and dignified condition, so that the cemetery does not become a nuisance or place of reproach and desolation in the community." This process may include, but is not limited to, "mowing the grass at reasonable intervals; raking and cleaning the grave spaces and adjacent areas; pruning of shrubs and trees; suppression of weeds and exotic flora; and maintenance, upkeep, and repair of drains, water lines, roads, buildings, and other improvements." Specifically not included are new grave construction and development and the public sale of interment structures.¹¹

A municipality or county may maintain and secure abandoned cemeteries within its jurisdictional boundaries, by public funds or solicited private funds, without incurring any ongoing obligation or duty to provide for the continuous security and maintenance of the cemetery.¹² A liability shield protects the municipality or county from civil liability for property damage occurring to such cemeteries by good faith maintenance or security measures.¹³

Effect of Proposed Changes

HB 817 annexes the Pinecrest Cemetery and the Evergreen Memorial Park to the City of Cocoa and provides that the city has all municipal powers and authority over these properties as provided by law.

B. SECTION DIRECTORY:

- Section 1: Provides the legal descriptions of the Pinecrest Cemetery and the Evergreen Memorial Park.
- Section 2: Provides for the annexation of the Pinecrest Cemetery and the Evergreen Memorial Park by the City of Cocoa.
- Section 3: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 5, 2014

WHERE? The *Florida Today*, a daily newspaper published in Brevard County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? N/A

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

¹¹ Section 497.005(9), F.S.

¹² Section 497.284(1), F.S.

¹³ Section 497.284(2), F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

Rep. Workman
HB 817

Mailed to:

City of Cocoa
Attn: Carie Shealy
65 Stone St.
Cocoa, FL 32922

A daily publication by:



STATE OF FLORIDA
COUNTY OF BREVARD

Before the undersigned authority personally appeared **KATHY CICALA**, who on oath says that she is **LEGAL ADVERTISING SPECIALIST** of the **FLORIDA TODAY**, a newspaper published in Brevard County, Florida; that the attached copy of advertising being a

LEGAL NOTICE

Ad # (321633	N/C	the matter of:
Acct. # (6CI200)	CITY OF COCOA
the	Court	NOTICE OF PROPOSED LEGISLATION	

AD#371633.01/05/2014

NOTICE OF PROPOSED LEGISLATION
NOTICE IS HEREBY GIVEN of intent to apply to the 2014 Regular, Extended or Special Sessions of the Florida Legislature for the passage of an act relating to the City of Cocoa, Brevard County, providing for the municipal annexation of the Pinecrest Cemetery and Evergreen Memorial Park; providing boundaries; and providing and effective date.
A copy of the draft local annexation bill is available for public review in the Office of the City Clerk, 65 Stone Street, Cocoa, Florida, from 8:00 a.m. to 5:00 p.m., Monday through Friday, holidays excepted. Questions regarding the bill may be directed to the City Clerk at 321-433-8488.
Dated this 4th day
Of January, 2014
/s/ Joan Clark
Joan Clark, MMC,
City Clerk City of Cocoa, Florida

as published in the **FLORIDA TODAY** in the issue(s) of:

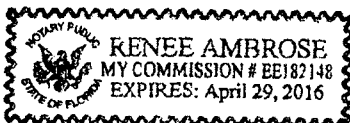
January 5, 2014

Affiant further says that the said **FLORIDA TODAY** is a newspaper in said Brevard County, Florida, and that the said newspaper has heretofore been continuously published in said Brevard County, Florida, regularly as stated above, and has been entered as periodicals matter at the post office in **MELBOURNE** in said Brevard 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, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in said newspaper.

Kathy Cicala
(Signature of Affiant)

Sworn to and subscribed before this:

5th day of January 2014
Renee Ambrose
(Signature of Notary Public)



Renee Ambrose
(Name of Notary Typed, Printed or Stamped)

Personally Known X or Produced Identification _____
Type Identification Produced: _____

HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #: HB 817

SPONSOR(S): Representative Bitch Workman

RELATING TO: City of Cocoa
(Indicate Area Affected (City, County, or Special District) and Subject)

NAME OF DELEGATION: Brevard County

CONTACT PERSON: Bethany Iliff

PHONE NO.: (321) 757-7019 E-Mail: bethany.iliff@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 Local & Federal Affairs Committee 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: 11/12/13

Location: Brevard County Gov. Center

(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 1/5/14

Where? Florida Today County Brevard

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 [X] NOT APPLICABLE []

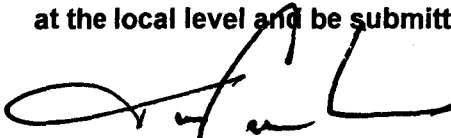
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

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 []

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



Delegation Chair (Original Signature)

2-12-14
Date

Tom Goodson
Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES
2014 ECONOMIC IMPACT STATEMENT FORM

Read all instructions carefully.

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, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: HB 817
SPONSOR(S): Rep. Workman
RELATING TO: LOCAL Bill - Annexation of Pinecrest/EVERGREEN Memorial Cemeteries
[Indicate Area Affected (City, County or Special District) and Subject]
↳ City of COCOA

I. REVENUES:

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill:	\$ <u>N/A</u>	\$ <u>N/A</u>
Revenue increase due to bill:	\$ <u>N/A</u>	\$ <u>N/A</u>

II. COST:

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

<u>FY14-15</u>	<u>FY 15-16</u>
\$ <u>7,000.⁰⁰</u>	\$ <u>7,000.⁰⁰</u>

* Small CAPITAL improvements may also be necessary such as road paving - est. Cost \$20,000.⁰⁰

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

The City of COCOA's public works director estimated that the city will expend approximately \$7,000 per year providing maintenance and security to the cemeteries. In addition, he indicated that the small roadways within the cemeteries will need to eventually be repaved because they are fraying. He estimated the repaving costs at approximately \$20,000.⁰⁰

III. FUNDING SOURCE(S):

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	FY 14-15	FY 15-16
Local:	\$ <u>2,000.00</u>	\$ <u>2,000.00</u>
State:	\$ <u>N/A</u>	\$ <u>N/A</u>
Federal:	\$ <u>N/A</u>	\$ <u>N/A</u>

III. ECONOMIC IMPACT:

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: the community and affected families continue to pay respects to the deceased buried at the cemeteries. they will benefit from the city assuming a maintenance and security role at the cemeteries.

2. Advantages to Businesses: N/A

3. Advantages to Government: ① By City Resolution # 2013-119, the city of Cocoa has expressed a desire to maintain Pinecrest and Evergreen Memorial Cemeteries, which have unascertainable owners and are abandoned. Annexation of the cemeteries into Cocoa will authorize the city of Cocoa to exercise statutory powers under Section 497.289, Florida Statutes.

- ② more regular maintenance and security of the cemeteries, upon Annexation, will help ensure the public health, safety and welfare of the community incl. the citizens of Cocoa.
- ③ Permits city to honor and pay respects to local dignitaries buried at the cemeteries.

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

- 1. Disadvantages to Individuals: Unknown at this time

- 2. Disadvantages to Businesses: _____

- 3. Disadvantages to Government: _____

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

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

1. Impact on Competition:

None. Annexation of the property into Cocoa has no bearing on market competition. Further, if the city proceeds with maintenance and security of the cemeteries, upon annexation, the city's efforts likewise have no bearing on competition because the cemeteries are abandoned and do not receive regular maintenance/security.

2. Impact on the Open Market for Employment:

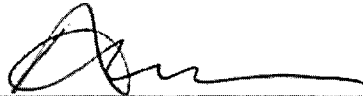
None (See above)

V. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

Real Property title Searches by old Republic National title Company
Cost estimates by City's Public Works Director
Internet - Find a Grave to identify some of the deceased buried at cemeteries

PREPARED BY:



[Must be signed by Preparer]

Print preparer's name:

Anthony A. Garganese, City Attorney
of Cocoa

Date

3/4/14

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

REPRESENTING:

City of Cocoa

PHONE:

407-425-9566

E-MAIL ADDRESS:

AGARGANESE@ORLANDO.LAW.NET

HB 817

2014

1 A bill to be entitled
 2 An act relating to the City of Cocoa, Brevard County;
 3 providing for the municipal annexation of the
 4 Pinecrest Cemetery and Evergreen Memorial Park;
 5 providing boundaries; providing an effective date.

6
 7 WHEREAS, Pinecrest Cemetery and Evergreen Memorial Park are
 8 situated in unincorporated Brevard County contiguous to the
 9 existing boundaries of the City of Cocoa, and

10 WHEREAS, the City of Cocoa has determined that the
 11 cemeteries have historical significance to the city due to their
 12 age and the fact that several Cocoa dignitaries have been laid
 13 to rest within the cemeteries, including former City of Cocoa
 14 elected officials and Emory L. Bennett, a Congressional Medal of
 15 Honor recipient of the Korean War, and

16 WHEREAS, the City of Cocoa has also determined that the
 17 owners of the cemeteries are unascertainable and the cemeteries
 18 appear to be abandoned and in need of regular maintenance and
 19 security to not only honor those who have been laid to rest
 20 within the cemeteries but also to prevent a public nuisance, and

21 WHEREAS, because of the historical significance and
 22 unascertainable ownership of the cemeteries, the City of Cocoa
 23 has petitioned, pursuant to City Council Resolution No. 2013-
 24 119, that the Legislature annex the cemeteries into the
 25 municipal limits of the city so the city can exercise the
 26 authority pursuant to s. 497.284, Florida Statutes, which

HB 817

2014

27 | permits cities to maintain and secure abandoned and unreasonably
28 | maintained cemeteries located within their territorial limits,
29 | NOW, THEREFORE,

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

33 | Section 1. The legal descriptions of the Pinecrest
34 | Cemetery and Evergreen Memorial Park are as follows:

35 | PARCEL 1 (Pinecrest Cemetery):
36 | PART OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF
37 | SECTION 30, TOWNSHIP 24 SOUTH, RANGE 36 EAST, CITY OF
38 | COCOA, BREVARD COUNTY, FLORIDA: BEGIN ON THE EAST LINE
39 | OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION
40 | 30, TOWNSHIP 24 SOUTH, RANGE 36 EAST AT A POINT WHICH
41 | IS 290.00 FEET NORTH OF THE SOUTHEAST CORNER THEREOF;
42 | THENCE DUE WEST 660.00 FEET TO A POINT; THENCE DUE
43 | NORTH 400.00 FEET TO A POINT; THENCE DUE EAST 660.00
44 | FEET TO A POINT ON SAID EAST LINE OF SAID SOUTHEAST
45 | 1/4 OF THE NORTHEAST 1/4 OF SECTION 30; THENCE DUE
46 | SOUTH ALONG SAID EAST LINE OF SAID SOUTHEAST 1/4 OF
47 | THE NORTHEAST 1/4 OF SECTION 30, 400.00 FEET TO THE
48 | POINT OF BEGINNING. LESS AND EXCEPT LAND DESCRIBED IN
49 | OFFICIAL RECORDS BOOK 421, PAGE 589 AND OFFICIAL
50 | RECORDS BOOK 2038, PAGE 543, OF THE PUBLIC RECORDS OF
51 | BREVARD COUNTY, FLORIDA.

53 TOGETHER WITH:
54 PARCEL 2 (Evergreen Memorial Park):
55 THE SOUTH FIFTEEN (15) ACRES OF THE SOUTH THIRTY (30)
56 ACRES OF THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF
57 SECTION 29, TOWNSHIP 24 SOUTH, RANGE 36 EAST, BREVARD
58 COUNTY, FLORIDA. LESS AND EXCEPT LAND RECORDED IN DEED
59 BOOK 265, PAGE 564 AND DEED BOOK 351, PAGES 547 AND
60 549, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

61 Section 2. The real property described in section 1 shall
62 be annexed to and shall be deemed a part of the City of Cocoa
63 upon this act becoming a law. On that date, the property shall
64 be subject to the municipal jurisdiction and laws of the City of
65 Cocoa. The city shall be embodied with all municipal powers and
66 authority over the property as provided by law.

67 Section 3. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 885 Manatee County
SPONSOR(S): Steube
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Kelly <i>kk</i>	Rojas <i>RL</i>
2) Judiciary Committee			

SUMMARY ANALYSIS

HB 885 would repeal ch. 30961 (1955), L.O.F. (Act), which would remove from state law the requirement for the inclusion of a reversion clause in a lease or conveyance of land between Manatee County (County) and a non-profit organization.

The County states that under current law the requirement for a reversion clause harms the value of the County property and harms a non-profit organization's ability to use the property as collateral on bank loans. As such, these problems hurt the County's ability to do better business with non-profit organizations. Repealing this Act will remedy these problems, giving advantage to both businesses and the local government.

HB 885 will take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Chapter 30961 (1955), L.O.F.

The Florida Legislature enacted ch. 30961 (1955), L.O.F. (Act), in 1955. Section 1 of the Act authorizes the Manatee Board of County Commissioners to lease or convey County lands to any non-profit including charitable, educational, religious, scientific, character building, or patriotic organizations, associations, corporations, or trustees.¹ In turn, the leased or conveyed land must be used for educational, religious, scientific, character building, or patriotic purposes. The Act includes the ability to build and improve a current building on the land for non-profit purposes.

Section 2 of the Act authorizes the Manatee Board of County Commissioners to execute all written instruments necessary to complete the non-profit lease or conveyance of property. Section 3 restates the lease or conveyance of County property under the Act shall be only for charitable, educational, religious, scientific, character building, or patriotic uses. This Section also requires a lease or conveyance to include a reversion clause. Thus, if the lease or conveyance does not fall under one of the non-profit categories or the lease or conveyance is no longer in use by the non-profit entity, the County has the right to re-enter and repossesses the land.²

Currently, Manatee County Code codifies provisions of the Act.³ Therefore, under its home rule power, the County may lease or convey County land to a non-profit organization.⁴ Likewise, this lease or conveyance must include a reversion clause to the County if the land is no longer being used for a non-profit organization or a non-profit organization ceases to use the land for a qualifying purpose.

Effect of Proposed Changes

HB 885 would repeal the Act, which would remove the inclusion of the reversion clause if the County chooses to lease or convey County land to a non-profit organization.

The language in the Act will still be codified in the County's Code. However, by removing this language from state law, the County can more efficiently amend its Code to tailor this language to invoke a reversion clause as the County finds appropriate.

HB 885 will take effect upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Repeals ch. 30961 (1955), L.O.F.

Section 2: Provides for an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

¹ Chapter 30961 (1955), L.O.F.

² *Id.*

³ Manatee County Local Laws, Ch. 1-1, Art. II, Div. 3, Sec. 1-1-48.

⁴ *Id.*

IF YES, WHEN? December 31, 2013

WHERE? *Bradenton Herald*, a daily newspaper of general circulation, published in Bradenton, Manatee County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Not applicable.

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

BRADENTON HERALD

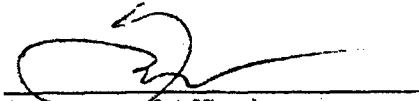
WWW.BRADENTON.COM
P.O. Box 921
Bradenton, FL 34206-0921
102 Manatee Avenue West
Bradenton, FL 34205-8894
941-745-7077

Bradenton Herald
Published Daily
Bradenton, Manatee County, Florida

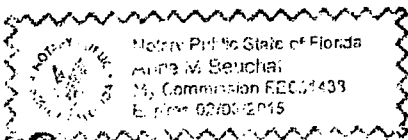
Rep. Steube
HB 885

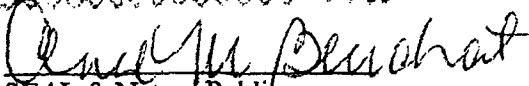
STATE OF FLORIDA COUNTY OF MANATEE

Before the undersigned authority personally appeared Flo Konesko, who, on oath, says that she is a Legal Advertising Representative of The Bradenton Herald a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copies of the advertisement, being a Legal Advertisement in the matter of NOTICE OF LOCAL LEGISLATION in said newspaper in the 12/31/2013. Affidavit further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee 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, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.


(Signature of Affiant)

Sworn to and subscribed before me this
21 Day of Dec, 2013




SEAL & Notary Public

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

NON-PROFIT

NO. _____ NOTICE OF LOCAL LEGISLATION-

TO WHOM IT MAY CONCERN:

Notice is hereby given of Manatee County Board of County Commissioners' intent to apply to the 2014 Session of the Florida Legislature for passage of:

An act relating to Manatee County, repealing chapter 30961, Laws of Florida (1955), relating to mandatory nonprofit use conditions in leases and conveyances; providing an effective date.

Manatee Board of
County Commissioners
P. O. Box 1000, Bradenton,
FL 34206-1000
1112 Manatee Avenue
West, Bradenton, FL 34205
12/31/2013

HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #: HB 885 - Manatee County
SPONSOR(S): Rep. Greg Steube
RELATING TO: Manatee County Government and property conveyances
NAME OF DELEGATION: Manatee County
CONTACT PERSON: Nicholas Azzara
PHONE NO.: (941) 745-3771 E-Mail: nicholas.azzara@mymanatee.org

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 Local & Federal Affairs Committee 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: Dec. 4, 2013
Location: Selby Auditorium, USF Sarasota-Manatee campus

(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 Dec. 31, 2013

Where? Bradenton Herald County Manatee

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 []

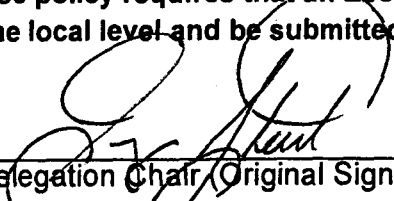
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

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 []

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



Delegation Chair (Original Signature)

3.3.14

Date

Rep. Steube

Printed Name of Delegation Chair

HOUSE OF REPRESENTATIVES
2014 ECONOMIC IMPACT STATEMENT FORM

Read all instructions carefully.

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, and has personal knowledge of the information given (for example, a chief financial officer of a particular local government). Please submit this completed, original form to the Local & Federal Affairs Committee as soon as possible after a bill is filed. Additional pages may be attached as necessary.

BILL #: HB 885
SPONSOR(S): Rep. Greg Steube
RELATING TO: Manatee County Government/Conveyance of property
[Indicate Area Affected (City, County or Special District) and Subject]

I. REVENUES:

These figures are new revenues that would not exist but for the passage of the bill. The term "revenue" contemplates, but is not limited to, taxes, fees and special assessments. For example, license plate fees may be a revenue source. If the bill will add or remove property or individuals from the tax base, include this information as well.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Revenue decrease due to bill:	\$ <u>N/A</u>	\$ <u>N/A</u>
Revenue increase due to bill:	\$ <u>N/A</u>	\$ <u>N/A</u>

II. COST:

Include all costs, both direct and indirect, including start-up costs. If the bill repeals the existence of a certain entity, state the related costs, such as satisfying liabilities and distributing assets.

Expenditures for Implementation, Administration and Enforcement:

	<u>FY14-15</u>	<u>FY 15-16</u>
	\$ <u>N/A</u>	\$ <u>N/A</u>

Please include explanations and calculations regarding how each dollar figure was determined in reaching total cost.

III. FUNDING SOURCE(S):

State the specific source from which funding will be received, for example, license plate fees, state funds, borrowed funds or special assessments.

If certain funding changes are anticipated to occur beyond the following two fiscal years, explain the change and at what rate taxes, fees or assessments will be collected in those years.

	<u>FY 14-15</u>	<u>FY 15-16</u>
Local:	\$ <u>N/A</u>	\$ <u>N/A</u>
State:	\$ <u>N/A</u>	\$ <u>N/A</u>
Federal:	\$ <u>N/A</u>	\$ <u>N/A</u>

III. ECONOMIC IMPACT:

Potential Advantages:

Include all possible outcomes linked to the bill, such as increased efficiencies, and positive or negative changes to tax revenue. If an act is being repealed or an entity dissolved, include the increased or decreased efficiencies caused thereby.

Include specific figures for anticipated job growth.

1. Advantages to Individuals: None.
2. Advantages to Businesses: This request will enhance the ability for
a 501(c)(3) organization to realize the full value
of a property it receives from the County.
3. Advantages to Government: This request will enhance the County's ability
to do business with nonprofit organizations.

Potential Disadvantages:

Include all possible outcomes linked to the bill, such as inefficiencies, shortages, or market changes anticipated.

Include reduced business opportunities, such as reduced access to capital or training.

State any decreases in tax revenue as a result of the bill.

- 1. Disadvantages to Individuals: None.

- 2. Disadvantages to Businesses: None.

- 3. Disadvantages to Government: None.

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

Include all changes for market participants, such as suppliers, employers, retailers and laborers. If the answer is "None," explain the reasons why. Also, state whether the bill may require a governmental entity to reduce the services it provides.

- 1. Impact on Competition:
None.

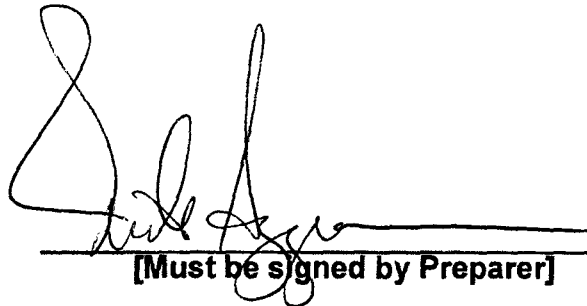
- 2. Impact on the Open Market for Employment:
None.

V. SPECIFIC DATA USED IN REACHING ESTIMATES:

Include the type(s) and source(s) of data used, percentages, dollar figures, all assumptions made, history of the industry/issue affected by the bill, and any audits.

Because property taxes are not collected on government or non-profit organizations, there are no revenue impacts associated with this request.

PREPARED BY:


[Must be signed by Preparer]

Print preparer's name:

Nicholas Azzara

Feb. 3, 2014

Date

TITLE (such as Executive Director, Actuary, Chief Accountant, or Budget Director):

Information Outreach Manager

REPRESENTING:

Manatee County Government

PHONE:

(941) 745-3771

E-MAIL ADDRESS:

Nicholas.azzara@mymanatee.org

HB 885

2014

1 A bill to be entitled
2 An act relating to Manatee County; repealing chapter
3 30961 (1955), Laws of Florida, relating to mandatory
4 nonprofit use conditions in leases and conveyances;
5 providing an effective date.

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

8
9 Section 1. Chapter 30961 (1955), Laws of Florida, is
10 repealed.

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