



LOCAL & FEDERAL AFFAIRS COMMITTEE

Meeting Packet

**Thursday, March 20, 2014
10:00 a.m.
Webster Hall (212 Knott)**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 261 Constitutional Convention/Single-Subject Requirement for Federal Legislation

SPONSOR(S): Beshears and others

TIED BILLS: **IDEN./SIM. BILLS:** SM 368

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

SUMMARY ANALYSIS

HM 261 serves as an application to Congress, pursuant to Article V of the Constitution of the United States, to call an Article V Convention of the states for the limited purpose of proposing a single subject constitutional amendments. Such an amendment would prevent Congress from considering varied and disparate subjects in a single bill.

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.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Methods of Amending the U.S. Constitution

Article V of the Constitution authorizes two methods for amending the Constitution: by Congress or by a constitutional convention.

Congressional Amendments

A constitutional amendment may be proposed by a two-thirds majority of both chambers in the form of a joint resolution. After Congress proposes an amendment, the Archivist of the United States is responsible for administering the ratification process under the provisions of 1 U.S.C. 106b. Since the President does not have a constitutional role in the amendment process, the joint resolution does not go to the White House for signature or approval. The Office of the Federal Register (OFR) assembles an information package for the states which includes copies of the joint resolution and the statutory procedure for ratification under 1 U.S.C. 106b. The Archivist submits the proposed amendment to the states for their consideration by sending a letter of notification and the OFR informational material to each Governor. The Governors then formally submit the amendment to their state legislatures.

When a state ratifies a proposed amendment, it sends the state action to the Archivist. A proposed amendment becomes part of the Constitution as soon as it is ratified by three-fourths of the states (38). The OFR verifies the 38 ratification documents and drafts a formal proclamation for the Archivist to certify that the amendment is valid and has become part of the Constitution. This certification is published in the Federal Register and U.S. Statutes at Large and serves as official notice that the amendment process has been completed.

Since 1789, Congress has proposed 33 amendments by this method, 27 of which have been adopted.

Constitutional Convention Amendments

An amendment may be proposed by a constitutional convention called for by two-thirds of the state legislatures (34). If 34 states apply, Congress must call an Article V Convention to consider and propose amendments. These proposed amendments must also be ratified by three-fourths of the states (38). This method has never been implemented; therefore, there is no precedent for the exact process and application requirements. Some of the issues concerning this process include procedures within the state legislatures; the scope and conditions of applications for a convention; steps in submitting applications to Congress; and the role of the state governors in the process.

The records of the Philadelphia Convention of 1787 demonstrate that the founders intended to balance Congress's amendatory power by providing the convention method to empower the people to propose amendments. Article V identifies these methods as equal and requires the same ratification for all proposed amendments.

Although never used in full, this method has been a useful tool to provoke congressional action. The most successful incidence of using the threat of a constitutional convention to induce change was the movement for the direct election of Senators, which prodded Congress to propose the 17th Amendment.

Single Subject Provision

A single-subject constitutional provision prohibits a legislative body from enacting a law that embraces more than one subject.

State Provisions

According to the National Conference of State Legislatures, 41 states, including Florida, have a single subject provision in their state constitutions. Florida's reads, "Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title."¹ Seven state constitutions contain no single-subject provisions, one state places the requirement in a joint rule, while one remaining state seems to imply in its constitution that that legislation should be limited to a single subject.²

Federal Provisions

Currently, there is no federal constitutional or statutory requirement that legislation be limited to a single subject. However, legislation calling for a single subject requirement was introduced in both bodies of Congress during the current 113th Congress. Entitled the "One Subject at a Time Act," the legislation provides, in part, that "Each bill or joint resolution shall embrace no more than one subject."³ The bills have each been referred to a committee but neither has been scheduled for a hearing at this time. Similar legislation died in committee in 2012.⁴

Constitutional Single Subject Amendment

The adoption of a single subject amendment to the U.S. Constitution would prevent Congress from considering bills that encompass more than one subject. Such a restriction would limit pork barrel spending, the use of riders to legislate, and the logrolling of omnibus legislation. Proponents argue that each measure before Congress should pass on its own merits without depending on legislative support for other unrelated measures to achieve the required number of votes for passage. Furthermore, they contend that a single-subject amendment will increase productivity, efficiency, and transparency in a less acrimonious Congress.

Effect of Proposed Changes

HM 261 serves as an application to Congress pursuant to Article V of the U.S. Constitution to call an Article V Convention of the states for the limited purpose of proposing a single subject amendment. This memorial provides that such an amendment should read as follows:

Congress shall pass no bill, and no bill shall become law, which embraces more than one subject, that subject to be clearly expressed in the bill's title.

HM 261 supersedes, revokes, withdraws, and nullifies all previous memorials and concurrent resolutions applying to Congress to call a Convention for the purpose of considering a single subject amendment. Additionally, the memorial provides for its own withdrawal should it be used to call a Convention that achieves any purpose other than a single subject amendment consideration.

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.

¹ Article III, s. 6, Florida Constitution.

² National Conference of State Legislatures, "*State Constitutional Provisions that Limit Bills to One Subject (Single Subject Requirement)*", on file with the House Local & Federal Affairs Committee.

³ H.R. 2113 and S. 1664. H.R. 2113 is currently pending in the Subcommittee on the Constitution and Civil Justice, see <http://beta.congress.gov/bill/113th-congress/house-bill/2113>. S. 1664 is currently pending in the Committee on Rules and Administration, see <http://beta.congress.gov/bill/113th-congress/senate-bill/1664>.

⁴ The Library of Congress website, available at <http://thomas.loc.gov/cgi-bin/bdquery/z?d112:SN03359:@@@L&summ2=m&#status>.

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.

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:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

House Memorial

A memorial to the Congress of the United States, urging Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States to provide that every law enacted by Congress shall embrace only one subject that shall be clearly expressed in its title.

WHEREAS, each measure before a legislative body should pass on its own merits without depending on legislative support for other unrelated measures to achieve the required number of votes for passage, and

WHEREAS, a single-subject constitutional provision addresses this concern by prohibiting a legislative body from enacting a law that embraces more than one subject, and

WHEREAS, 41 of the 50 states, including Florida, have a single-subject provision in their respective state constitutions, and the legislatures and citizens of these states have benefited from a single-subject requirement, and

WHEREAS, the United States Constitution is the supreme law of the United States of America, touching the lives of every citizen in the several states, but is missing this important provision, and

WHEREAS, our great country is deep in debt and Congress is currently searching for a solution, and

26 WHEREAS, a federal single-subject amendment would provide
 27 the means to limit pork barrel spending, control the phenomenon
 28 of legislating through riders, limit omnibus legislation
 29 produced by logrolling, prevent public surprise, and increase
 30 the institutional accountability of Congress and its members,
 31 and

32 WHEREAS, it is Florida's hope and desire that Congress will
 33 be able to conduct its business in a more productive, efficient,
 34 transparent, and less acrimonious way with a single-subject
 35 requirement, and

36 WHEREAS, Article V of the Constitution of the United States
 37 makes provision for amending the Constitution on the application
 38 of the legislatures of two-thirds of the several states, calling
 39 a convention for proposing amendments that shall be valid to all
 40 intents and purposes if ratified by the legislatures of three-
 41 fourths of the several states, or by conventions in three-
 42 fourths thereof, as the one or the other mode of ratification
 43 may be proposed by Congress, NOW, THEREFORE,

44
 45 Be It Resolved by the Legislature of the State of Florida:

46
 47 That the Legislature of the State of Florida, with all due
 48 respect, does hereby make application to the Congress of the
 49 United States pursuant to Article V of the Constitution of the
 50 United States to call a convention for the sole purpose of

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51 | proposing an amendment to the Constitution of the United States
 52 | to provide:

53 | Congress shall pass no bill, and no bill shall become
 54 | law, which embraces more than one subject, that
 55 | subject to be clearly expressed in the bill's title.

56 | BE IT FURTHER RESOLVED that this memorial supersedes all
 57 | previous memorials and concurrent resolutions applying to the
 58 | Congress of the United States to call a convention for the
 59 | purpose of proposing a single-subject amendment to the
 60 | Constitution of the United States and that such previous
 61 | memorials and resolutions are hereby revoked and withdrawn,
 62 | nullified, and superseded to the same effect as if they had
 63 | never been passed.

64 | BE IT FURTHER RESOLVED that this memorial is revoked and
 65 | withdrawn, nullified, and superseded to the same effect as if it
 66 | had never been passed, and retroactive to the date of passage,
 67 | if it is used for the purpose of calling a convention or used in
 68 | support of conducting a convention to amend the Constitution of
 69 | the United States for any purpose other than requiring that
 70 | every law enacted by Congress embrace only one subject which
 71 | shall be clearly expressed in the title.

72 | BE IT FURTHER RESOLVED that copies of this memorial be
 73 | dispatched to the President of the United States, to the
 74 | President of the United States Senate, to the Speaker of the
 75 | United States House of Representatives, and to each member of

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76 | the Florida delegation to the United States Congress.

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 <i>MF</i>	Rojas <i>SR</i>
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.

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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.



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 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



Amendment No. 1

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 adopted on
27 or before June 1, 2011.

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

34
35 Section 2. This act shall take effect July 1, 2014.

36
37

38

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

39
40 Remove everything before the enacting clause and insert:
41 An act relating to the regulation of public lodging
42 establishments and public food services establishments; amending
43 s. 509.032, F.S.; clarifying which local laws, ordinances and

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 307 (2014)

Amendment No. 1

44 regulations regarding vacation rentals are prohibited; providing
45 an effective date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 307 (2014)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: 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

Amendment No. 2

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 or rental of vacation rentals
25 ~~based 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.

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

34

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

36

37

38

39

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

40 Remove everything before the enacting clause and insert:
41 An act relating to the regulation of public lodging
42 establishments and public food services establishments; amending
43 s. 509.032, F.S.; clarifying which local laws, ordinances and

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 307 (2014)

Amendment No. 2

44 regulations regarding vacation rentals are prohibited; providing
45 an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 381 Article V Convention of the States
SPONSOR(S): Metz and others
TIED BILLS: IDEN./SIM. **BILLS:** SM 476

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Dougherty	ADD Rojas <i>gr</i>
2) Ethics & Elections Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

HM 381 serves as an application to Congress, pursuant to Article V of the Constitution of the United States, to call an Article V Convention of the states for the limited purpose of proposing three specific constitutional amendments. These include imposing fiscal restraints on the federal government, limiting the power and jurisdiction of the federal government, and limiting terms office for federal officials and members of Congress.

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.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Methods of Amending the U.S. Constitution

Article V of the Constitution authorizes two methods for amending the Constitution: by Congress or by a constitutional convention.

Congressional Amendments

A constitutional amendment may be proposed by a two-thirds majority of both chambers in the form of a joint resolution. After Congress proposes an amendment, the Archivist of the United States is responsible for administering the ratification process under the provisions of 1 U.S.C. 106b. Since the President does not have a constitutional role in the amendment process, the joint resolution does not go to the White House for signature or approval. The Office of the Federal Register (OFR) assembles an information package for the states which includes copies of the joint resolution and the statutory procedure for ratification under 1 U.S.C. 106b. The Archivist submits the proposed amendment to the states for their consideration by sending a letter of notification and the OFR informational material to each Governor. The Governors then formally submit the amendment to their state legislatures.

When a state ratifies a proposed amendment, it sends the state action to the Archivist. A proposed amendment becomes part of the Constitution as soon as it is ratified by three-fourths of the states (38). The OFR verifies the 38 ratification documents and drafts a formal proclamation for the Archivist to certify that the amendment is valid and has become part of the Constitution. This certification is published in the Federal Register and U.S. Statutes at Large and serves as official notice that the amendment process has been completed.

Since 1789, Congress has proposed 33 amendments by this method, 27 of which have been adopted.

Constitutional Convention Amendments

An amendment may be proposed by a constitutional convention called for by two-thirds of the state legislatures (34). If 34 states apply, Congress must call an Article V Convention to consider and propose amendments. These proposed amendments must also be ratified by three-fourths of the states (38). This method has never been implemented; therefore, there is no precedent for the exact process and application requirements. Some of the issues concerning this process include procedures within the state legislatures; the scope and conditions of applications for a convention; steps in submitting applications to Congress; and the role of the state governors in the process.

The records of the Philadelphia Convention of 1787 demonstrate that the founders intended to balance Congress's amendatory power by providing the convention method to empower the people to propose amendments. Article V identifies these methods as equal and requires the same ratification for all proposed amendments.

Although never used in full, this method has been a useful tool to provoke congressional action. The most successful incidence of using the threat of a constitutional convention to induce change was the movement for the direct election of Senators, which prodded Congress to propose the 17th Amendment.

Spending Behavior of the Federal Government

The forecasted federal spending for fiscal year 2014 is \$3.778 trillion. Mandatory spending will account for more than 60 percent (\$2.3 trillion), supporting programs such as Social Security (\$860 billion), Medicare (\$524 billion), Medicaid (\$304 billion), income support,¹ military retirement, and other congressionally established programs.² Also included in fiscal year 2014's mandatory spending is the \$223 billion interest payment on the \$17 trillion national debt.³

The remaining \$1.48 trillion of the year's expenses will go towards discretionary spending as negotiated between Congress and the President. The Bipartisan Budget Act approves \$1.012 trillion in discretionary spending, including \$520.5 billion for Defense.⁴ President Obama's budget proposal appropriates \$1.242 trillion to run the rest of the federal government, including \$618 billion for military expenditure.⁵

Before the recession in 2007, the Executive Office of Management and Budget (OMB) maintained federal spending at levels below 20 percent of GDP each year. Therefore, spending only grew as fast as the economy (about 3 percent per year). However, spending has been at higher levels since the recession, peaking at 24.3 percent of GDP in fiscal year 2012. Fiscal year 2014 spending is budgeted slightly lower at 22.4 percent of GDP. As the economy improves, the OMB forecasts that spending will drop to 21.2 percent of GDP by fiscal year 2018.⁶

Spending has increased since 2007 due to anti-recession stimulus spending; defense spending for Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn; increased Social Security spending due to changing demographics; and more entitlement program spending as poverty rose.

Balanced budget amendment

A balanced budget amendment is a constitutional prohibition on a government's spending exceeding its income. Most states have adopted balanced budget provisions, but the federal government has not. Such an amendment would make it unconstitutional for the federal government to run annual budget deficits and may solve the persistent problem of deficits and increasing debt.

Most amendment proposals include additional restrictive elements to be imposed on the federal government beyond maintaining a balanced budget. Some common examples include the following:

- a requirement that the President submit a balanced budget to the Congress;
- provisions that allow some flexibility in times of war or economic recession provided that a congressional supermajority support the waiver;
- a provision requiring a supermajority vote of both houses to raise the debt ceiling;
- a cap on total spending unless waived by a supermajority of both houses;
- a limit on the total level of revenues unless waived by a supermajority of both houses;

¹ Food Stamps, Unemployment Compensation, Child Nutrition, Child Tax Credits, Supplemental Security for the blind and disabled, and Student Loans

² The amount for Mandatory programs is increasing thanks to the huge number of Baby Boomers who are reaching retirement age. The two major senior programs, Social Security and Medicare, went from 28% of the budget in FY 1988 to 37% of the budget in FY 2014. By FY 2023, the OMB projects that these two programs alone will rise to 40% of total spending.

³ By 2023, interest payments on the national debt are expected to quadruple to \$763 billion, making it the third largest budget item, after Social Security (\$1.424 trillion) and Medicare (\$867 billion). See Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf

⁴ See Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf and <http://politicalticker.blogs.cnn.com/2013/12/10/the-budget-deal-in-plain-english/>.

⁵ Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf.

⁶ See http://useconomy.about.com/od/fiscalpolicy/p/Budget_Spending.htm

- a provision to prevent the courts from enforcing the amendment through tax increases;
- a provision assigning congressional responsibility to enforce the amendment through legislation.⁷

Proponents argue that as the legislative and executive branches are unwilling or unable to address the debt crisis through normal legislative procedures, only a constitutional constraint will be strong enough to lessen lawmakers' fiscally irresponsible over-spending. A constitutional requirement would impose needed accountability for fiscal policy. A 2005 national survey quantifying public support for possible constitutional amendments found that 76 percent of respondents favored a balanced budget amendment.⁸

Opponents argue that such an amendment could limit the ability of future policymakers to use fiscal policy to counteract recessions or respond to national emergencies. They view lack of political will as the cause of our fiscal imbalances and so a procedural change will not adequately resolve the issue. Furthermore, they fear that the political pressure could lead to budget gimmicks that meet only the letter, not the spirit, of the law.

A balanced budget amendment converges on the federal government's financial bottom line, which is the result of complex accounting rules covering the multi-faceted legislative process and priorities. Policy differences and lack of political consensus often contribute to fiscal irresponsibility, overspending, and increasing debt. Although a constitutional balanced budget amendment may rein in our national deficits and debt, it cannot resolve the underlying political disparities that caused them.

Line item veto

A line-item veto is the executive power to remove specific provisions from a bill without vetoing the entire bill. Nearly all state governors have this authority, but the U.S. President does not. In an effort to control pork barrel spending, Congress attempted to grant the President line-item veto power with the Line Item Veto Act of 1996. However, the Supreme Court found it to be a unilateral amendment violative of the Presentment Clause and overruled it as unconstitutional in 1998.⁹ Therefore, without a significant self-reversal by the Court, the only way to grant the Present line-item veto power is through a constitutional amendment.

Expansion of Federal Government Power and Jurisdiction: the Commerce Clause

The structure of the federal system protects the states by limiting the federal government to enumerated powers and reserving any non-enumerated powers for the states.¹⁰ This system views state sovereignty as inherent (subject to constitutional limits) while federal sovereignty comes from the Constitution, a compact with the people.

The Commerce Clause grants Congress the power "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes."¹¹ As it is an explicit grant of federal regulatory authority, this provision is considered a restriction on the states. Congress often relies on the Commerce Clause to justify regulating states' and citizens' activities. This provision has been the source of ongoing controversy regarding the balance of power between the federal government and the states, as Congress has often relied on it to justify regulating matters that seemingly do not involve interstate commerce. However, the Constitution does not define "commerce," which has led to a significant and ongoing debate as the interpretation defines the division of federal and state powers.

⁷ See <http://pgpf.org/Issues/Fiscal-Outlook/2012/06/062112-Balanced-Budget-Explainer>.

⁸ Arthur H. Taylor, Fear of an Article V Convention, 20 *BYU J. PUB. L.* 101, 124-31 (2006).

⁹ *Clinton v. City of New York*, 524 U.S. 417 (1998).

¹⁰ Tenth amendment.

¹¹ Article 1, Section 8, Clause 3 of the U.S. Constitution.

The Supreme Court historically expanded the applicability of the Commerce Clause by changing their interpretation of "commerce" and the tests applied to various legislative measures. In the 1819 case of *McCullock v. Maryland*, the Court held that the federal government does not need an explicit right to act, but can implement an enumerated power in any legitimate manner.¹² The Commerce Clause was examined and federal powers again broadened in the 1824 case *Gibbins v. Ogden*, when the Court held that Congress can regulate any interstate activity if the motivation is affecting commercial intercourse between the states or any other enumerated power.¹³ Furthermore, "regulation" was determined to be any means appropriate for the desired effect. Here, that meant that power to regulate interstate commerce encompassed the power to regulate interstate navigation.

During what is known as the Lochner Era (1897-1937), the Supreme Court's ruled unpredictably on the commerce clause, using one of four tests selectively applied to give their desired result. This "court flopping" repeatedly changed the boundary of state power with each new case. In 1905, the Court ruled that the Commerce Clause authorized Congress to regulate a local Chicago meat market under the Sherman Anti-Trust Act.¹⁴ It held that a purely local business could become part of a continuous commerce "current" of interstate movement of goods and services. Other examples of tightening federal Commerce Clause authority include the invalidation of federal statutes regulating child labor¹⁵ and miners' wages, hours, and working conditions.¹⁶

Despite these decisions, the Commerce Clause could still effectively be used to limit the federal government's power in the early years of the New Deal. By 1932, political momentum and Franklin D. Roosevelt led to progressive legislation. Under the New Deal, congressional Commerce Clause powers ballooned into areas never before considered "commerce."¹⁷

Initially unwilling to allow Congress to expand its regulatory authority to the detriment of states' rights, the Supreme Court overturned many New Deal legislative measures.¹⁸ In response to the Court's hostility toward his legislation, President Roosevelt proposed the "Court-packing plan" in 1937, which would have expanded the size of the Supreme Court from nine to fifteen justices. Although the plan failed, the proposal is largely credited with changing the Court's view on New Deal legislation.

Beginning that same year with the landmark case *Jones & Laughlin Steel*, the Court recognized broader grounds upon which the Commerce Clause could be used to regulate state activity—most importantly, that activity was commerce if it had a "substantial economic effect" on interstate commerce or if the "cumulative effect" of one act could have an effect on such commerce.¹⁹ In *Jones & Laughlin Steel*, that included labor relations for industries whose strife might be a national concern. In 1941 the Court found a plenary power by applying the bootstrap principle of allowing congressional regulation of intrastate commerce activities if necessary in order to regulate interstate commerce.²⁰ The next year, the Court again expanded congressional regulatory powers to any activity whose aggregate would substantively affect the national market for the good involved.²¹

By 1964, the Court allowed Congress to determine if legislation's effect on interstate commerce was sufficient enough to justify their regulation of it. The Court applied the weakest of its tests - looking only for a rational basis to conclude that a regulated activity affected interstate commerce. The Commerce

¹² 17 U.S. 316 (1819).

¹³ *Gibbons v. Ogden*, 22 U.S. 1 (1824).

¹⁴ *Swift & Company v. United States*, 196 U.S. 375 (1905).

¹⁵ *Hammer v. Dagenhart*, 247 U.S. 251, 269, 276–77 (1918).

¹⁶ *Carter v. Carter Coal Co.*, 298 U.S. 238, 309–10 (1936).

¹⁷ These included the regulation of in-state industrial production, worker hours, and wages.

¹⁸ It found that the National Industrial Recovery Act was unconstitutional as applied to a poultry seller who bought and sold chicken only within the state of New York. *Schechter Poultry Corp. v. US*, 295 U.S. 495 (1935). The Court also found the Bituminous Coal Conservation Act unconstitutional. *Carter v. Carter Coal Corp.*, 298 U.S. 238 (1936).

¹⁹ *NLRB v. Jones & Laughlin Steel Corp.*, 301 U.S. 1 (1937).

²⁰ *United States v. Darby*, 312 U.S. 100 (1941).

²¹ *Wickard v. Filburn*, 317 U.S. 111 (1942).

Clause was used to pass the Civil Rights Act of 1964 so that the federal government could charge non-state actors with Equal Protection violations, previously impossible due to the Fourteenth Amendment's limited application to state actors. The same year, the Supreme Court found that Congress had regulatory authority over a business serving mostly interstate travelers.²² It also ruled that the federal civil rights legislation could regulate a family-owned restaurant with local customers because, the restaurant served food which had previously crossed state lines.²³

It wasn't until 1995 that the Supreme Court rediscovered limits on the Commerce Clause. Realizing that a line must be drawn to give meaning to the enumeration of federal powers, the Court found that congressional regulatory powers only apply to the channels of commerce, the instrumentalities of commerce, and action that substantially affects interstate commerce.²⁴ Federal regulatory authority was further circumscribed in 2000 when the Court held that the Commerce Clause could not be relied upon to make domestic violence a federal crime.²⁵ The *Lopez* and *Morrison* jurisprudence shows that the Court is still willing to broadly interpret the Commerce Clause, but if it does not find activity substantial enough to constitute interstate commerce it will not accept Congress's stated reason for federal regulation.

Congressional Term Limits

The United States Constitution governs congressional membership.²⁶ It specifies that members of the U.S. House of Representatives serve two-year terms and members of the U.S. Senate serve six-year terms.²⁷ The Constitution does not limit the number of terms or years a member of Congress may serve.²⁸ The only check or limit on the length of congressional membership is the possibility of not being reelected.²⁹

Supporters of congressional term limits find this check inadequate. They argue that given the ease at which incumbents are often reelected, members of Congress can become too insulated and isolated from the interests of their constituents.³⁰ In particular, these supporters claim that so called "career politicians" tend to become too consumed with the perks of their jobs and too indebted to lobbyists and special interests that they lose sight of their duty as representatives.

Conversely, opponents to congressional term limits argue that the ability to vote a member of Congress out of office is a sufficient check on their performance as lawmakers.³¹ Opponents argue further that term limits would produce a more novice congressional membership and would not reduce the power of lobbyists and special interests.³² Some argue that term limits would increase the power of special interests.³³

²² *Heart of Atlanta Motel v. United States*, 379 U.S. 241 (1964).

²³ *Katzenbach v. McClung*, 379 U.S. 274 (1964).

²⁴ *Lopez v. United States*, 514 U.S. 549 (1995). The defendant was charged with violating the federal Gun Free School Zones Act of 1990 by bringing a handgun onto school grounds. The government claimed regulatory authority over firearms in local schools under the Commerce Clause, arguing that a firearm on campus would lead to violent crime and therefore affect general economic conditions.

²⁵ *Morrison v. United States*, 529 U.S. 598 (2000).

²⁶ U.S. Const. art. I, § 2, cl. 2; U.S. Const. art. I, § 3, cl. 3.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *See, id.*

³⁰ <http://www.termlimits.com/>; <http://termlimits.org/>; <http://www.cnn.com/2010/POLITICS/07/19/term.limits/index.html>

³¹ <http://www.cnn.com/2010/POLITICS/07/19/term.limits/index.html>; *See also*

http://www.cleveland.com/opinion/index.ssf/2012/07/the_case_against_legislative_t.html

³² *Id.*

³³ *Id.*

Background on the Term Limit Debate

This debate stems back to the late 18th Century;³⁴ however, it took many years to develop into its present form. Until the 1900s, support for term limits was essentially deemed irrelevant because it was uncommon for members of Congress to serve for more than a few terms.³⁵ As time progressed through the 20th Century and reelection rates for congressional incumbents began to increase,³⁶ the push for term limits also grew but never with much success.³⁷ Proponents of term limits did not gain any significant or measurable support until the early 1990s when 23 states, including Florida, passed laws imposing term limits on their respective federal legislators.³⁸ However, the Supreme Court rendered these efforts void in the 1995 case of *U.S. Term Limits, Inc. v. Thornton* by holding the following:

- 1) state-imposed candidacy limitations on federal legislative office violates the U.S. Constitution's "qualifications clauses;" and
- 2) term limits on federal legislators may only be imposed by amendment to the Constitution.³⁹

Accordingly, since the *Thornton* decision, proponents for term limits have focused their lobbying efforts on amending the Constitution. To successfully amend the U.S. Constitution both houses of Congress must approve a proposal for amendment by a two-thirds majority (67 votes in the Senate and 290 votes in the House of Representatives).⁴⁰ Then, three-fourths (38 count) of the states have to ratify the proposal.⁴¹ Since 1995, congressional members have filed about 70 bills proposing an amendment to limit their terms, but none have been successful.⁴²

Effect of Proposed Changes

HM 381 serves as an application to Congress pursuant to Article V of the U.S. Constitution to call an Article V Convention of the states for the limited purpose of proposing three specific amendments to the U.S. Constitution - namely, the imposition of fiscal restraints, a limit on federal power and jurisdiction, and congressional term limits.

The memorial does not specify what restraints or limits should be imposed, as those details would be left to the convention of the states. Instead, HM 381 only serves as a constitutionally required application to Congress to call such a convention to propose amendments related to these specified topics. As this procedure for amending the Constitution has never been exercised and many procedural questions still remain, this memorial also provides for the severability of the proposed amendment categories. In this manner, the memorial intends to be tallied toward the required two-thirds of the states calling for a particular topic for all three topics. Additionally, the memorial provides for its own withdrawal should it be used to call a Convention that achieves any purpose outside the scope of these three topics.

³⁴ The Framers debated the issue before drafting the final version of the U.S. Constitution as there were term limits for delegates to the Continental Congress under the Articles of Confederation.

³⁵ H0083z.FAS.DOCX March 15, 2012, citing Tiffanie Kovacevich, *Constitutionality of Term Limits: Can States Limit the Terms of Members of Congress?*, 23 Pac. L.J. 1677, 1680 (1992).

³⁶ For data on re-election rates since 1964, see <http://www.opensecrets.org/bigpicture/reelect.php>.

³⁷ For example, discussion of congressional term limits came about during the debate before the 1951 ratification of the 22nd amendment, which imposed a two-term limit on the office of the President. Former Senator O'Daniel, a Democrat from Texas, sought a proposal for congressional term limits, but he only received one vote.

³⁸ U.S. Congressional Research Service. *Term Limits for Members of Congress: State Activity* (No. 96-152 GOV; Nov. 22, 1996) by Sula P. Richardson. Available at: <http://digital.library.unt.edu/ark:/67531/metacrs582/m1/>; accessed January 14, 2014. States that passed some form of congressional term limits include the following: AK, AR, AZ, CA, CO, FL, ID, ME, MA, MI, MO, MT, NE, NH, NV, ND, OH, OK, OR, SD, UT, WA, WY.

³⁹ *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779, 881 (1995).

⁴⁰ U.S. Const., art V.

⁴¹ *Id.*

⁴² See the online library of Congress at www.thomas.gov.

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.

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.

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:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

House Memorial

A memorial to the Congress of the United States, applying to Congress to call a convention for the sole purpose of proposing amendments to the Constitution of the United States which impose fiscal restraints on the Federal Government, limit the power and jurisdiction of the Federal Government, and limit the terms of office for federal officials and members of Congress.

WHEREAS, the Founders of the United States of America provided in the Constitution of the United States for a limited Federal Government of express enumerated powers, and

WHEREAS, the Tenth Amendment to the Constitution specifically provides that all powers not delegated to the Federal Government nor prohibited by the Constitution to the states are reserved to the states, respectively, or to the people, and

WHEREAS, for many decades, this balance of power was generally respected and followed by those occupying positions of authority in the Federal Government, and

WHEREAS, as federal power has expanded over the past decades, federal spending has exponentially increased to the extent that it is now decidedly out of balance in relation to actual revenues or when comparing the ratio of accumulated

HM 381

2014

26 public debt to the nation's gross domestic product, and
 27 WHEREAS, in 2013, the Federal Government's accumulated
 28 public debt exceeded \$17 trillion, which is more than double
 29 that in 2006, and

30 WHEREAS, projections of federal deficit spending in the
 31 coming decades demonstrate that this power shift and its fiscal
 32 impacts are continuing and pose serious threats to the freedom
 33 and financial security of the American people and future
 34 generations, and

35 WHEREAS, the Founders of the United States of America
 36 provided a procedure in Article V of the Constitution to amend
 37 the Constitution on application of two-thirds of the several
 38 states, calling a convention for proposing amendments that will
 39 be valid to all intents and purposes if ratified by the
 40 legislatures of three-fourths of the several states, or by
 41 conventions in three-fourths thereof, as one or the other mode
 42 of ratification may be proposed by Congress, and

43 WHEREAS, it is a fundamental duty of state legislatures to
 44 support, protect, and defend the liberty of the American people,
 45 including generations yet to come, by asserting their solemn
 46 duty and responsibility under the Constitution to call for a
 47 convention under Article V for proposing amendments to the
 48 Constitution to reverse and correct the ominous path that the
 49 country is now on and to restrain future expansions and abuses
 50 of federal power, NOW, THEREFORE,

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

(1) That the Legislature of the State of Florida does hereby make application to Congress pursuant to Article V of the Constitution of the United States to call an Article V convention for the sole purpose of proposing amendments to the Constitution of the United States which:

(a) Impose fiscal restraints on the Federal Government.

(b) Limit the power and jurisdiction of the Federal Government.

(c) Limit the terms of office for federal officials and members of Congress.

(2) That these three proposed amendment categories are severable from one another and may be counted individually toward the required two-thirds number of applications made by the state legislatures for the calling of an Article V convention.

(3) That this memorial is revoked and withdrawn, nullified, and superseded to the same effect as if it had never been passed, and retroactive to the date of passage, if it is used for the purpose of calling a convention or used in support of conducting a convention to amend the Constitution of the United States for any purpose other than imposing fiscal restraints on the Federal Government, limiting the power and

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2014

76 jurisdiction of the Federal Government, or limiting the terms of
77 office for federal officials and members of Congress.

78 (4) That this application constitutes a continuing
79 application in accordance with Article V of the Constitution of
80 the United States until the legislatures of at least two-thirds
81 of the several states have made applications on one or more of
82 the three proposed amendment categories listed above.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 625 Balanced Federal Budget
SPONSOR(S): Wood and others
TIED BILLS: IDEN./SIM. BILLS: SM 658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee		Dougherty	ADD Rojas <i>RL</i>
2) Appropriations Committee			

SUMMARY ANALYSIS

HM 625 serves as an application to Congress, pursuant to Article V of the U.S. Constitution, to call an Article V Convention of the states for the limited purpose of proposing a balanced budget amendment. This amendment would require that, in the absence of a national emergency, the total of all federal appropriations for any fiscal year would not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints.

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.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Methods of Amending the U.S. Constitution

Article V of the Constitution authorizes two methods for amending the Constitution: by Congress or by a constitutional convention.

Congressional Amendments

A constitutional amendment may be proposed by a two-thirds majority of both chambers in the form of a joint resolution. After Congress proposes an amendment, the Archivist of the United States is responsible for administering the ratification process under the provisions of 1 U.S.C. 106b. Since the President does not have a constitutional role in the amendment process, the joint resolution does not go to the White House for signature or approval. The Office of the Federal Register (OFR) assembles an information package for the states which includes copies of the joint resolution and the statutory procedure for ratification under 1 U.S.C. 106b. The Archivist submits the proposed amendment to the states for their consideration by sending a letter of notification and the OFR informational material to each Governor. The Governors then formally submit the amendment to their state legislatures.

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The records of the Philadelphia Convention of 1787 demonstrate that the founders intended to balance Congress's amendatory power by providing the convention method to empower the people to propose amendments. Article V identifies these methods as equal and requires the same ratification for all proposed amendments.

Although never used in full, this method has been a useful tool to provoke congressional action. The most successful incidence of using the threat of a constitutional convention to induce change was the movement for the direct election of Senators, which prodded Congress to propose the 17th Amendment.

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The forecasted federal spending for fiscal year 2014 is \$3.778 trillion. Mandatory spending will account for more than 60 percent (\$2.3 trillion), supporting programs such as Social Security (\$860 billion), Medicare (\$524 billion), Medicaid (\$304 billion), income support,¹ military retirement, and other congressionally established programs.² Also included in fiscal year 2014's mandatory spending is the \$223 billion interest payment on the \$17 trillion national debt.³

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Spending has increased since 2007 due to anti-recession stimulus spending; defense spending for Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn; increased Social Security spending due to changing demographics; and more entitlement program spending as poverty rose.

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- a provision requiring a supermajority vote of both houses to raise the debt ceiling;
- a cap on total spending unless waived by a supermajority of both houses;
- a limit on the total level of revenues unless waived by a supermajority of both houses;

¹ Food Stamps, Unemployment Compensation, Child Nutrition, Child Tax Credits, Supplemental Security for the blind and disabled, and Student Loans

² The amount for Mandatory programs is increasing thanks to the huge number of Baby Boomers who are reaching retirement age. The two major senior programs, Social Security and Medicare, went from 28% of the budget in FY 1988 to 37% of the budget in FY 2014. By FY 2023, the OMB projects that these two programs alone will rise to 40% of total spending.

³ By 2023, interest payments on the national debt are expected to quadruple to \$763 billion, making it the third largest budget item, after Social Security (\$1.424 trillion) and Medicare (\$867 billion). See Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf

⁴ See Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf and <http://politicalticker.blogs.cnn.com/2013/12/10/the-budget-deal-in-plain-english/>.

⁵ Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf.

⁶ See http://useconomy.about.com/od/fiscalpolicy/p/Budget_Spending.htm

- a provision to prevent the courts from enforcing the amendment through tax increases;
- a provision assigning congressional responsibility to enforce the amendment through legislation.⁷

Proponents argue that as the legislative and executive branches are unwilling or unable to address the debt crisis through normal legislative procedures, only a constitutional constraint will be strong enough to lessen lawmakers' fiscally irresponsible over-spending. A constitutional requirement would impose needed accountability for fiscal policy. A 2005 national survey quantifying public support for possible constitutional amendments found that 76 percent of respondents favored a balanced budget amendment.⁸

Opponents argue that such an amendment could limit the ability of future policymakers to use fiscal policy to counteract recessions or respond to national emergencies. They view lack of political will as the cause of our fiscal imbalances and so a procedural change will not adequately resolve the issue. Furthermore, they fear that the political pressure could lead to budget gimmicks that meet only the letter, not the spirit, of the law.

A balanced budget amendment converges on the federal government's financial bottom line, which is the result of complex accounting rules covering the multi-faceted legislative process and priorities. Policy differences and lack of political consensus often contribute to fiscal irresponsibility, overspending, and increasing debt. Although a constitutional balanced budget amendment may rein in our national deficits and debt, it cannot resolve the underlying political disparities that caused them.

Effect of Proposed Changes

HM 625 serves as an application to Congress pursuant to Article V of the U.S. Constitution to call an Article V Convention of the states for the limited purpose of proposing a balanced budget amendment to the U.S. Constitution. This amendment would require that, in the absence of a national emergency, the total of all federal appropriations for any fiscal year would not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints.

The memorial provides that its subject matter is to be considered the same as that of all presently outstanding balanced budget applications from other states. It is to be aggregated with those applications and tallied toward the required two-thirds of the states calling for a balanced budget amendment convention, but it should not be aggregated with any convention applications on any other subject.

Furthermore, the memorial constitutes a continuing application until at least two-thirds of the states apply for a balanced budget convention. HM 261 supersedes all previous Florida applications on the subject.

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.

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.

B. SECTION DIRECTORY:

Not applicable.

⁷ See <http://pgpf.org/Issues/Fiscal-Outlook/2012/06/062112-Balanced-Budget-Explainer>.

⁸ Arthur H. Taylor, Fear of an Article V Convention, 20 BYU J. PUB. L. 101, 124-31 (2006).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

House Memorial

A memorial to the Congress of the United States, applying to Congress to call a convention for the sole purpose of proposing an amendment to the Constitution of the United States that requires a balanced federal budget.

WHEREAS, the Legislature of the State of Florida passed Senate Concurrent Resolution 10 on April, 21, 2010, and

WHEREAS, Senate Concurrent Resolution 10 made application to Congress to call a convention for proposing amendments pursuant to Article V of the Constitution of the United States for two purposes: to achieve and maintain a balanced federal budget and control the ability of Congress and federal executive agencies to dictate to states requirements for the expenditure of federal funds, and

WHEREAS, the Legislature of the State of Florida desires to conform to the single subject applications from Alabama, Alaska, Arkansas, Colorado, Delaware, Indiana, Iowa, Kansas, Maryland, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Pennsylvania, and Texas and limit its application to Congress for the sole purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget, NOW, THEREFORE,

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

27

28 (1) That the Legislature of the State of Florida hereby
 29 applies to Congress, under the provisions of Article V of the
 30 Constitution of the United States, to call a convention limited
 31 to the purpose of proposing an amendment to the Constitution
 32 requiring that, in the absence of a national emergency, the
 33 total of all federal appropriations made by the Congress for any
 34 fiscal year may not exceed the total of all estimated federal
 35 revenues for that fiscal year, together with any related and
 36 appropriate fiscal restraints.

37 (2) That this application is to be considered as covering
 38 the same subject matter as the presently outstanding balanced
 39 budget applications from other states and is to be aggregated
 40 with the applications from those states for the purpose of
 41 attaining the two-thirds number of states necessary to require
 42 the calling of a convention, but shall not be aggregated with
 43 any applications on any other subject calling for a
 44 constitutional convention under Article V of the United States
 45 Constitution.

46 (3) That this application constitutes a continuing
 47 application in accordance with Article V until the legislatures
 48 of at least two-thirds of the states have made applications on
 49 the same subject and supersedes all previous applications by
 50 this legislature on the same subject.

HM 625

2014

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 931 West Palm Beach Firefighters Pension Fund
SPONSOR(S): Kerner
TIED BILLS: IDEN./SIM. BILLS:

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

SUMMARY ANALYSIS

The West Palm Beach Firefighters Pension Fund was created by the Florida Legislature in 1947. Each firefighter employed by the Fire Department of the City of West Palm Beach is a pension fund participant.

The bill amends the fund's special act to:

- extend the 25 percent employee contribution rate through the end of Fiscal Year 2013-2014,
- provide for the use of ch. 175, F.S. premium tax funds to lower the actual employee contribution rate in Fiscal Year 2013-2014 from 25 percent to 13.1 percent,
- set the employee contribution rate at 13.1 percent effective October 1, 2014,
- clarify that employees are not entitled to a refund of contributions made from ch. 175, F.S., premium tax funds,
- clarify that after September 30, 2013, premium tax funds will be allocated to the employee shared fund,
- specify that members with over 10 years of credited service may elect to take a full refund of all contributions, without interest, in exchange for forfeiting all future benefits, including share benefits, that the member is entitled to,
- specify that members may designate a beneficiary to receive their remaining benefits in the event that they die under certain circumstances and leave no spouse, children or parents,
- change the amount of time that transferred leave obtained post retirement remains in the fund from one year, to no more than six months, with grandfather provisions for certain members, and
- change the actuarial assumed rate of investment return from 8.25 percent to 8 percent.

The City of West Palm Beach and the International Association of Firefighters Local 727 have agreed in collective bargaining to these benefit and funding changes.

According to the Economic Impact Statement, it is estimated that the City of West Palm Beach's costs for the fund will be reduced by \$1,647,968 in Fiscal Year 2014-2015.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Constitution: Governmental Unit Retirement and Pension Systems

Section 14, Art. X of the State Constitution provides that a governmental unit responsible for a retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide an increase in benefits to members or beneficiaries without concurrent provisions for funding the increase on a sound actuarial basis.

Florida Statutes: the Florida Protection of Public Employee Retirement Benefits Act

Part VII of ch. 112, F. S., the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of s. 14, Art. X of the State Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. The act is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees, which is funded in whole or in part by public funds.

Florida law provides that a unit of local government may not agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body, and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system, consistent with the actuarial review, and furnished a copy of such statement to the Division of Retirement, Department of Management Services.¹ The statement also is required to indicate whether the proposed changes are in compliance with s. 14, Art. X of the State Constitution and with s. 112.64, F.S., which relates to administration of funds and amortization of unfunded liability.

Pursuant to s. 11(a)(21), Art. III of the State Constitution, s. 112.67, F.S., prohibits special laws in conflict with the requirements of the Act.

Firefighter and Police Pensions: Chapters 175 and 185, F.S.

Chapters 175 and 185, F. S., respectively, provide the statutory authority for municipal and special fire control district firefighter pensions, and municipal police pensions. These acts were established by the Legislature to provide a "uniform retirement system" providing defined benefit plans for firefighters and police officers, and setting standards for operation and funding of these systems. Retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the retirement trust funds.

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive—access to premium tax revenues—to encourage the establishment of firefighter retirement plans by Florida cities. Fourteen years later, in 1953, the Legislature enacted ch. 185, F.S., which created a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.

Funding for these pension plans comes from four sources: net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the "premium tax"), employee contributions, other revenue sources, and mandatory payments by the city of any extra amount needed

¹ See s. 112.63, F.S.

to keep the plan solvent. To qualify for premium tax dollars, plans must meet requirements found in chs. 175 and 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the Division of Retirement in the Department of Management Services, but day-to-day operational control rests with local boards of trustees. Most Florida firefighters and municipal law enforcement officers participate in these plans.

The West Palm Beach Firefighters Pension Fund

The West Palm Beach Firefighters Pension Fund was created by the Florida Legislature in 1947.² Each firefighter employed by the Fire Department of the City of West Palm Beach is a pension fund participant. The fund has 192 active members, 70 deferred retirement option program participants, and 172 retirees and beneficiaries. The fund assets as of December 31, 2011, were \$134,637,681.93.³

Member Contribution Rates

The plan provides for member contributions at a rate of 25 percent from May 13, 2012 through September 30, 2013. During that period of time, ch. 175, F.S., premium tax funds were applied as member contributions to lower the actual employee contribution rate from 25 percent to 13.1 percent. Effective October 1, 2013, the employee contribution rate was lowered to 13.1 percent. Ch. 175, F.S., premium tax funds received after Sept. 30, 2013 are allocated to employee share accounts.

Refund of Contribution

Currently, the fund provides for the refund of contributions, without interest, to members (or beneficiaries) who leave the employ of the department or die with less than 10 years of credited service, and are not eligible for a pension, disability pension or beneficiary benefit. The act provides procedures for the refund of contributions to such members. The act does not provide for the refund of funds to members who leave the employ of the department with more than 10 years of credited service.

Distribution of Benefits Following the Death of a Member

A plan member's spouse, children or parents are entitled to certain benefits upon the death of a member under certain circumstances, including:

- the death of a member with five or more years of service, while in the employ of the service,
- the death of a member in the line of duty, regardless of years served, or
- the death of a retiree.

If a member dies under one of the applicable circumstances and leaves behind no spouse, children or parents, the member's remaining benefits, if any, pass to their estate.

Rollovers from Qualified Plans

Members who accumulate sick leave, vacation leave, or any other accumulated leave payable upon separation shall have the leave transferred to the fund up to amounts permitted by law, with additional amounts paid directly to the member. Amounts transferred into the fund remain invested in the fund for a period of one year.

Actuarial Assumptions

Presently, the fund assumes an investment rate of return of 8.25 percent.

Effect of Proposed Changes

² See, ch. 24981, L.O.F., 1947, as amended by ch. 2010-246, L.O.F.

³ January 20, 2012, e-mail from Bonni S. Jensen, pension fund attorney.

Member Contribution Rates

HB 931 revises the member contribution schedule, extending the 25 percent member contribution rate through the end of Fiscal Year 2013-2014. The bill provides for the use of ch. 175, F.S. premium tax funds to lower the actual employee contribution rate in Fiscal Year 2013-2014 from 25 percent to 13.1 percent. The bill sets the employee contribution rate to 13.1 percent effective October 1, 2014.

Under HB 931, employee contributions to the pension fund are as follows:

Fiscal Period	Required Employee Contribution	Contribution from Premium Tax Fund	Actual Employee Contribution Rate
May 13, 2012- Sept. 30, 2014 (Previously Sept. 30, 2013)	25%	11.9%	13.1%
Oct. 1, 2014 onward (Previously Oct. 1, 2013 onward)	13.1%	0%	13.1%

The bill clarifies that no amount of ch. 175, F.S., premium tax fund contributions are to be considered employee contributions for purposes of a refund of contributions. The bill clarifies that ch. 175, F.S., premium tax funds received after Sept. 30, 2014, shall be allocated to employee share accounts.

Refund of Contribution

HB 931 allows a member with over 10 years of credited service to request a refund of all contributions, without interest. A member that receives a refund forfeits all future benefits payable under the plan, including share account benefits.

Distribution of Benefits Following the Death of a Member

HB 931, revises the procedure for distribution of benefits following the death of:

- a plan member with five or more years of service, while in the employ of the service,
- a plan member in the line of duty, regardless of years served, or
- a retiree.

If such a member dies and leaves behind no eligible spouse, children or parents, then the member's remaining benefits shall be paid to the member's designated beneficiary, or in the event that no designated beneficiary exists, to the member's estate.

HB 931 also clarifies that the spouse, children, parents and other potential beneficiaries of vested deferred retiree members are eligible to receive the member's remaining benefits upon their death.

Rollovers from Qualified Plans

Effective after May 13, 2012, HB 931 requires members to take a lump sum distribution of certain transferred leave amounts within six months after termination of employment. The bill clarifies that certain members who reached retirement age before May 13, 2012, or had an earlier BackDROP date, must leave their transferred leave in the fund for one year.

Actuarial Assumptions

HB 931 revises the assumed investment rate of return from 8.25 percent to 8 percent. The bill states that due to changes in other assumptions, the City contribution shall not increase, and no change is necessary to other fund formulas.

The City of West Palm Beach and the International Association of Firefighters Local 727 have agreed in collective bargaining to these benefit and funding changes.

B. SECTION DIRECTORY:

Section 1: Amends ch. 24981, L.O.F., 1947, as amended by ch. 2012-260, L.O.F., relating to the West Palm Beach Firefighters Pension Fund.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 13, 2014

WHERE? *The Palm Beach Post*, a daily and Sunday newspaper published at West Palm Beach in Palm Beach County, FL.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, it is estimated that the City of West Palm Beach's costs for the fund will be reduced by \$1,647,968 in Fiscal Year 2014-2015.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the City of West Palm Beach, Palm Beach County; amending chapter 24981 (1947), Laws of Florida, as amended; extending the period in which funds received under chapter 175, F.S., shall be used to reduce employee contributions to the West Palm Beach Firefighters Pension Fund; clarifying that such funds are not refundable as employee contributions; authorizing vested members to request refund of contributions in lieu of a benefit; requiring payment of certain benefits to a designated beneficiary; clarifying requirement for certain members to take a lump sum distribution of their entire lump sum accumulated sick leave and vacation leave within a specified time after their termination of employment in certain circumstances; reducing actuarial assumed rate of return; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (3), paragraphs (i) and (j) of subsection (5), subsection (7), paragraph (b) of subsection (21), and paragraph (b) of subsection (22) of section 17 of chapter 24981 (1947), Laws of Florida, as amended, is amended to read:

Section 17. West Palm Beach Firefighters Pension Fund.—

27 (3) Sources of revenue.—The financing of the Fund shall
 28 consist of the following sources of revenue:

29 (a) Taxes of insurance companies.—The moneys returned to
 30 the City as provided by chapter 175, Florida Statutes, shall be
 31 used to fund the share account benefit described in paragraph
 32 (5)(j). The chapter 175 funds received in calendar years 2012,
 33 ~~and~~ 2013, and 2014 shall be utilized to reduce the employee
 34 contributions to 13.1 percent. No amount of the chapter 175
 35 funds is to be considered employee contributions for purposes of
 36 a refund of contributions as provided for in paragraph (5)(i).
 37 Effective beginning calendar year 2015 ~~2014~~, the chapter 175
 38 funds shall again be used in full to fund the share account
 39 benefits provided for in paragraph (5)(j). The City shall not
 40 opt out of participation in chapter 175, Florida Statutes, or
 41 any similar statutory enactment unless exigent circumstances
 42 exist, such as the bankruptcy of the City or changes or
 43 amendments to the statute regarding extra benefits by the
 44 Legislature. If any statutory changes are made by the
 45 Legislature, the City and the Board may renegotiate the impact
 46 of such changes, if necessary.

47 (b) Member contributions.—Effective May 13, 2012, the
 48 member shall contribute 25 percent of his or her salary to the
 49 Fund. The full amount of the chapter 175 funds received in
 50 calendar years 2012, ~~and~~ 2013, and 2014 shall be used to reduce
 51 the employee contributions to 13.1 percent. No amount of the
 52 chapter 175 funds is to be considered employee contributions for

53 purposes of a refund of contributions as provided for in
54 paragraph (5)(i). Effective October 1, 2014 ~~2013~~, the employee
55 contributions shall be 13.1 percent, which shall be deducted
56 each pay period from the salary of each member in the
57 Department, and the chapter 175 funds received in calendar year
58 2015 ~~2014~~ and thereafter shall once again be allocated to the
59 share accounts. If the chapter 175 funds are insufficient to
60 reduce the member's contributions to 13.1 percent, the city
61 shall make up the difference. All amounts of member
62 contributions that are deducted shall be immediately paid over
63 to the Pension Fund. For contributions made on or after May 13,
64 2012, any contribution amount over 11.1 percent is to be used to
65 purchase eligibility in the postretirement health insurance,
66 excluding the amounts of chapter 175 funds used to offset the
67 member contribution rate.

68 (5) Service pension.—

69 (i) Refund of contributions.—In the event a member leaves
70 the employ of the Department or dies with less than 10 years of
71 credited service, and no service pension, disability pension, or
72 beneficiary benefit is payable, the contributions made by him or
73 her to the Fund shall be refunded, without interest (less any
74 disability payments paid to the member), to the member or, in
75 the event of death, to the beneficiary or to the member's
76 estate. In the event a member leaves the employ of the
77 Department with more than 10 years of service, the member may
78 request a refund of contributions without interest instead of

79 receiving any future benefits, including the share account
 80 benefit, that may be payable under the plan.

81 (j) Chapter 175, Florida Statutes, share accounts.-

82 1. Individual member accounts.-A separate account shall be
 83 established and maintained in each member's name effective on or
 84 after October 1, 1988.

85 2. Share account funding.-

86 a. Each individual member account shall be credited with a
 87 pro rata share of all of the moneys received from chapter 175,
 88 Florida Statutes, tax revenues in June 1988 and thereafter. For
 89 the chapter 175 funds received in calendar years 2012, ~~and~~ 2013,
 90 and 2014, the full amount of the chapter 175 funds shall be used
 91 to reduce the employee contributions to 13.1 percent as provided
 92 for in subsection (3)(a). Effective October 1, 2014 ~~2013~~, the
 93 employee contributions shall be 13.1 percent and the chapter 175
 94 money received in calendar year 2015 ~~2014~~ and thereafter shall
 95 be allocated to the share accounts.

96 b. In addition, any forfeitures as provided in
 97 subparagraph 5. shall be credited to the individual member
 98 accounts in accordance with the formula set forth in
 99 subparagraph 3.

100 3. Annual allocation of accounts.-

101 a. Moneys shall be credited to each individual member
 102 account in an amount directly proportionate to the number of pay
 103 periods for which the member was paid compared to the total
 104 number of pay periods for which all members were paid, counting

105 the pay periods in the calendar year preceding the date for
106 which chapter 175, Florida Statutes, tax revenues were received.
107 Share account allocations made on and after October 1, 2004,
108 shall be made to each individual share account.

109 b. At the end of each fiscal quarter, each individual
110 account shall be adjusted to reflect the earnings or losses
111 resulting from investment, as well as reflecting costs, fees,
112 and expenses of administration.

113 c. Vested participants have the option to select one of
114 three methods to credit investment earnings to their account.
115 The method may be changed each year effective October 1;
116 however, the method must be elected prior to October 1. The
117 methods are:

118 (I) The investment earnings or losses credited to the
119 individual member accounts shall be in the same percentage as
120 are earned or lost by the total investment earnings or losses of
121 the Fund as a whole, unless the Board dedicates a separate
122 investment portfolio for chapter 175, Florida Statutes, share
123 accounts, in which case the investment earnings or losses shall
124 be measured by the investment earnings or losses of the separate
125 investment portfolio;

126 (II) A fixed annual rate of 8.25 percent for members who
127 reached normal retirement age on or before May 13, 2012, or
128 members that have a calculated BackDROP date of October 1, 2011,
129 or earlier. Effective May 13, 2012, the fixed rate is 4 percent
130 for members who retire on or after May 13, 2012; or

131 (III) A percentage of the share account assets to be
 132 credited with earnings or losses in accordance with sub-sub-
 133 subparagraph (I) and a corresponding percentage of the share
 134 account assets credited in accordance with sub-sub-subparagraph
 135 (II). The combined total percentage invested under this sub-sub-
 136 subparagraph must equal 100 percent.

137 d. Costs, fees, and expenses of administration shall be
 138 debited from the individual member accounts on a proportionate
 139 basis, taking the cost, fees, and expenses of administration of
 140 the Fund as a whole, multiplied by a fraction, the numerator of
 141 which is the total assets in all individual member accounts and
 142 the denominator of which is the total assets of the Fund as a
 143 whole. The proportionate share of the costs, fees, and expenses
 144 shall be debited from each individual member account on a pro
 145 rata basis in the same manner as chapter 175, Florida Statutes,
 146 tax revenues are credited to each individual member account
 147 (i.e., based on pay periods).

148 4. Eligibility for benefits.—Any member who terminates
 149 employment with the City, upon the member's filing an
 150 application with the Board, shall be entitled to 100 percent of
 151 the value of his or her individual member account, provided the
 152 member meets any of the following criteria:

153 a. The member is eligible to receive, and is receiving, a
 154 service pension as provided in this subsection;

155 b. The member has 5 or more years of credited service and
 156 is eligible to receive, and is receiving, either:

157 (I) A nonduty disability pension as provided in paragraph
 158 (6) (a); or

159 (II) Beneficiary benefits for nonduty death as provided in
 160 paragraph (7) (a); or

161 c. The member has any credited service and is eligible to
 162 receive, and is receiving, either:

163 (I) A duty disability pension as provided in paragraph
 164 (6) (c); or

165 (II) Beneficiary benefits for death in the line of duty as
 166 provided in paragraph (7) (b).

167 5. Forfeitures.—Any member who has less than 10 years of
 168 credited service and who is not eligible for payment of benefits
 169 after termination of employment with the City shall forfeit his
 170 or her individual member account. The amounts credited to said
 171 individual member account shall be redistributed to the other
 172 individual member accounts in the same manner as chapter 175,
 173 Florida Statutes, tax revenues are credited (i.e., based on pay
 174 periods). However, the assets shall first be used to ensure that
 175 the former member's refund of contributions has not actuarially
 176 adversely impacted the payment for the extra benefits. If there
 177 has been an adverse impact, the shortfall shall be made up first
 178 before the amounts are reallocated to active members.

179 6. Payment of benefits.—The normal form of benefit payment
 180 shall be a lump sum payment of the entire balance of the
 181 individual member account. Effective on or after May 13, 2012,
 182 members must take a lump sum distribution of their entire share

183 account balance within 6 months after their termination of
 184 employment. For members who reached normal retirement age on or
 185 before May 13, 2012, or who had a calculated BackDROP date of
 186 October 1, 2011, or earlier, the member may leave his or her
 187 money in the account until the latest day under subsection (18),
 188 choose a lump sum distribution; or, upon the written election of
 189 the member, upon a form prescribed by the Board, payment may be
 190 made either by:

191 a. Installments.—The account balance shall be paid out to
 192 the member in three equal payments paid over 3 years, the first
 193 payment to be made upon approval of the Board; or

194 b. Annuity.—The account balance shall be paid out in
 195 monthly installments over the lifetime of the member or until
 196 the entire balance is exhausted. The monthly amount paid shall
 197 be determined by the Fund's actuary in accordance with
 198 selections made by the member in a form provided by the Board.

199 7. Death of a member.—If a member dies and is eligible for
 200 benefits from the individual member account, the entire balance
 201 of the individual member account shall be paid in a lump sum to
 202 the beneficiaries designated in accordance with paragraph (h).
 203 If a member fails to designate a beneficiary or, if the
 204 beneficiary predeceases the member, the entire balance shall be
 205 paid in a lump sum in the following order:

206 a. To the spouse;

207 b. If there is no spouse or the spouse is not alive, to
 208 the member's surviving child or children on a pro rata basis;

209 c. If there are no children or no child is alive, to the
 210 member's parent or parents; or

211 d. If no parent is alive, to the estate of the member.

212 (7) Beneficiary benefits.—

213 (a) Death while in service; 5 years or more (nonduty).—In
 214 the event a member with 5 or more years of service credit dies
 215 while in the employ of the Department, and the Board finds his
 216 or her death to have occurred as the result of causes arising
 217 outside the performance of his or her duties as a firefighter in
 218 the employ of the City, the following applicable pensions shall
 219 be paid:

220 1. Surviving spouse's benefits.—The surviving spouse shall
 221 receive a pension equal to two-thirds of the pension the member
 222 would otherwise have been entitled to receive under paragraph
 223 (5)(a), as if the member had retired the day preceding the date
 224 of his or her death, notwithstanding that the member might not
 225 have met the age and service requirements for retirement as
 226 specified in subsection (5). Upon the surviving spouse's death,
 227 the pension shall terminate.

228 2. Benefits for children, surviving spouse, etc.—In the
 229 event the deceased member does not leave a surviving spouse, or
 230 if the surviving spouse shall die, and the member leaves an
 231 unmarried child or children under age 18, each such child shall
 232 receive a pension of an equal share of the pension to which said
 233 member's surviving spouse was or would have been entitled. Upon
 234 any such child's adoption, marriage, death, or attainment of age

235 18, the child's pension shall terminate and said child's pension
 236 shall be apportioned to the deceased member's remaining eligible
 237 children under age 18.

238 3. Benefits for dependent parents.—In the event a member
 239 dies and does not leave a surviving spouse or children eligible
 240 to receive a pension provided for in subparagraphs 1. and 2.,
 241 and the member leaves a parent or parents whom the Board finds
 242 to have been dependent upon the member for 50 percent or more of
 243 their financial support, each such parent shall receive a
 244 pension of an equal share of the pension to which the member's
 245 surviving spouse would have been entitled. Upon any such
 246 parent's remarriage or death, the parent's pension shall
 247 terminate.

248 4. Estate.—In the event a member dies and does not leave a
 249 surviving spouse, children, or parents eligible to receive a
 250 pension provided for in subparagraph 1., subparagraph 2., or
 251 subparagraph 3., then the benefits remaining, if any, shall be
 252 paid to the member's designated beneficiary. If there is no
 253 designated beneficiary, any remaining benefits shall be paid to
 254 the member's estate.

255 (b) Death in the line of duty.—In the event a member dies
 256 while in the employ of the Department, and the Board finds his
 257 or her death to be the natural and proximate result of causes
 258 arising out of and in the actual performance of duty as a
 259 firefighter in the employ of the City, the following applicable
 260 pensions shall be paid:

261 1. Surviving spouse's benefits.—The surviving spouse shall
262 receive a monthly pension equal to the greater of:

263 a. Sixty-six and two-thirds of the member's highest 12
264 months' salary or top step firefighter pay, whichever is
265 greater; or

266 b. The surviving spouse's share of the member's accrued
267 benefit. Upon the surviving spouse's death, the pension shall
268 terminate.

269 2. Benefits for children, surviving spouse, etc.—In the
270 event the deceased member does not leave a surviving spouse, or
271 if the surviving spouse shall die, and the member leaves an
272 unmarried child or children under age 18, each such child shall
273 receive a pension of an equal share of the pension to which the
274 member's surviving spouse was or would have been entitled. Upon
275 any such child's adoption, marriage, death, or attainment of age
276 18, the child's pension shall terminate and said child's pension
277 shall be apportioned to the deceased member's remaining eligible
278 children under age 18.

279 3. Benefits for dependent parents.—In the event a member
280 dies and does not leave a surviving spouse or children eligible
281 to receive a pension provided for in subparagraphs 1. and 2.,
282 and the member leaves a parent or parents whom the Board finds
283 to have been dependent upon the member for 50 percent or more of
284 their financial support, each such parent shall receive a
285 pension of an equal share of the pension to which said member's
286 surviving spouse would have been entitled. Upon any such

287 parent's remarriage or death, the parent's pension shall
288 terminate.

289 4. Estate.—In the event a member dies and does not leave a
290 surviving spouse, children, or parents eligible to receive a
291 pension provided for in subparagraph 1., subparagraph 2., or
292 subparagraph 3., then the benefits remaining, if any, shall be
293 paid to the member's designated beneficiary. If there is no
294 designated beneficiary, any remaining benefits shall be paid to
295 the member's estate.

296 (c) Death after retirement.—Upon the death of a retirant
297 or a vested deferred retirant, the following applicable pensions
298 shall be paid:

299 1. Surviving spouse's benefits.—The surviving spouse shall
300 receive a pension equal to three-fourths of the retirant's
301 pension at the time of his or her death. Upon the surviving
302 spouse's death, the pension shall terminate.

303 2. Benefits for children, surviving spouse, etc.—In the
304 event a deceased retirant does not leave a surviving spouse, or
305 if the surviving spouse shall die, and the retirant leaves an
306 unmarried child or children under age 18, each such child shall
307 receive a pension of an equal share of the pension to which the
308 retirant's surviving spouse was or would have been entitled.
309 Upon any such child's adoption, marriage, death, or attainment
310 of age 18, the child's pension shall terminate and said child's
311 pension shall be apportioned to the deceased retirant's
312 remaining eligible children under age 18.

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313 3. Benefits for dependent parents.—In the event a retirant
314 dies and does not leave a surviving spouse or children eligible
315 to receive a pension provided for in subparagraphs 1. and 2.,
316 and the retirant leaves a parent or parents whom the Board finds
317 to have been dependent upon the retirant for 50 percent or more
318 of their financial support, each such parent shall receive a
319 pension of an equal share of the pension to which the retirant's
320 surviving spouse would have been entitled. Upon any such
321 parent's remarriage or death, the parent's pension shall
322 terminate.

323 4. Estate.—In the event a retirant dies and does not leave
324 a surviving spouse, children, or parents eligible to receive a
325 pension provided for in subparagraph 1., subparagraph 2., or
326 subparagraph 3., then the benefits remaining, if any, shall be
327 paid to the member's designated beneficiary. If there is no
328 designated beneficiary, any remaining benefits shall be paid to
329 the retirant's estate.

330 (21) Rollovers from qualified plans.—

331 (b) Transfer of accumulated leave.—

332 1. Members eligible to receive accumulated sick leave,
333 accumulated vacation leave, or any other accumulated leave
334 payable upon separation shall have the leave transferred to the
335 Fund up to the amount permitted by law. Any additional amounts
336 shall be paid directly to the member. Members on whose behalf
337 leave has been transferred shall maintain the entire amount of
338 the transferred leave balance in the DROP or Share Account.

339 2. If a member on whose behalf the City makes a
 340 transferred leave balance to the Plan dies after retirement or
 341 other separation, then any person who would have received a
 342 death benefit had the member died in service immediately prior
 343 to the date of retirement or other separation shall be entitled
 344 to receive an amount equal to the transferred leave balance in a
 345 lump sum. In the case of a surviving spouse or former spouse, an
 346 election may be made to transfer the leave balance to an
 347 eligible retirement plan in lieu of the lump sum payment.
 348 Failure to make such an election by the surviving spouse or
 349 former spouse within 60 days after the member's death shall be
 350 deemed an election to receive the lump sum payment.

351 3. The Board, by rule, shall prescribe the method for
 352 implementing the provisions of this paragraph.

353 4. Effective on or after May 13, 2012, members must take a
 354 lump sum distribution of the amounts transferred under this
 355 section within 6 months after their termination of employment.
 356 For members who reached normal retirement age on or before May
 357 13, 2012, or who had a calculated BackDROP date of October 1,
 358 2011, or earlier, the member's transferred leave must remain
 359 invested in the Pension Fund for at least a period of not less
 360 than 1 year.

361 (22) Actuarial assumptions.—The following actuarial
 362 assumptions shall be used for all purposes in connection with
 363 this Fund, effective October 1, 1998:

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364 (b) The assumed investment rate of return shall be 8.25
365 percent. Effective October 1, 2014, the assumed investment rate
366 of return shall be 8 percent. Due to the other assumption
367 changes that were made at the same time as this reduction in the
368 assumed rate of return, the City did not have an increase in
369 City contributions as a result of the change of the assumed
370 investment rate of return. Therefore, there was no change
371 necessary to the 3-percent accrual factor in subparagraph
372 (5) (a) 2.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1143 Acme Improvement District, Palm Beach County
SPONSOR(S): Pafford
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

The Wellington Medical Arts District (Medical Arts District) is an ongoing development project centered around the Wellington Regional Medical Center. The goal of the Medical Arts District is to use the Medical Center to attract new medically related uses and offices to create 5,000 – 6,000 jobs in western Wellington.

In 2012, the legislature extended the boundaries of the Acme Improvement District (Acme) to include the Medical Arts District. At the same time, the legislature contracted the boundaries of the Lake Worth Drainage District to remove the Medical Arts District from its jurisdiction. The purpose of this district realignment was to allow the Village of Wellington to develop the Medical Arts District using the powers of Acme.

The boundary expansion description in the 2012 act contained several errors. The boundaries described in the 2012 act: omit southern portions of the intended district and the Wellington Regional Medical Center, erroneously include suburbs to the north of the intended district, and contains a boundary line gap of over 700 feet.

HB 1143 corrects the boundary description contained in ch. 2012-256, L.O.F., by including the southern portions of the district and the Wellington Regional Medical Center, excluding the suburbs to the north of the district, and closing the boundary line gap.

This bill will take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Wellington Medical Arts District

The northwest corner of State Road 7/U.S. 441 and Forest Hills Blvd. in Palm Beach County is the current home to the Wellington Regional Medical Center. In an effort to promote economic development and job creation in the area, the Village of Wellington is planning to create a dependent special district that will serve as “a premier wellness and healthcare treatment, medical education and research destination.”¹ This dependent special district will be known as the Wellington Medical Arts District and will cover approximately 212 acres, including the Wellington Regional Medical Center.

Acme Improvement District

The Acme Improvement District was created in 1953 as an independent special district with the responsibility of building and maintaining the drainage infrastructure within the district’s boundaries.² In 1995, the Florida Legislature incorporated the Village of Wellington.³ Acme was subsequently designated as a dependent special district of the village. In addition to providing and maintaining the district’s drainage infrastructure, Acme currently has the authority to provide for roads, parks, and utilities.⁴ At present, Acme borders the proposed Medical Arts District to the south and west.⁵

Lake Worth Drainage District

The Lake Worth Drainage District is an independent special district created by judicial decree in 1915. The Drainage District is tasked with building and maintaining the drainage infrastructure within its boundaries. It is currently funded by a special assessment made on a per-acre basis.

Expansion of Acme District

In 2012, the legislature passed ch. 2012-256, L.O.F., which removed the Medical Arts District from the Drainage District and placed it into Acme.⁶ This was done to allow the Village of Wellington and Acme to provide the needed infrastructure for the Medical Arts District. Because Acme has more general powers than Drainage District, placing the Medical Arts District into Acme allowed revenue bonds to be issued for improvements such as roads, utilities, and parks. This facilitated the immediate development of the Medical Arts District. The drainage services for the Medical Arts District continue to be provided by the Drainage District through a service agreement with Acme.

The boundaries passed by the 2012 legislature contained several errors. Due to the errors, the boundaries failed to include the Wellington Regional Medical Center, erroneously included portions of suburbs to the north of the intended district, and were drafted with a gap in the boundary line on the north border of the district.

¹ Letter to Representative Joseph Abruzzo from Jeff S. Kurtz, Attorney for Acme Improvement District (Sept. 29, 2011) (on file with Community & Military Affairs Subcommittee).

² Chapter 28557 (1953), L.O.F.

³ Chapter 95-496, L.O.F.

⁴ Chapter 2003-330, L.O.F.

⁵ See Map of Acme Improvement District, <http://www.wellingtonfl.gov/images/stories/eServices/docs/AcmeDistrict.pdf>.

⁶ Chapter 2012-256.

Effect of Proposed Changes

HB 1143 corrects the boundaries of the Medical Arts district. The revised boundaries fully encompass the intended district, include the Wellington Regional Medical Center, and omit the suburbs located to the north of the district.

The bill is effective upon becoming law.

B. SECTION DIRECTORY:

Section 1: Amends the boundaries of the extension of the Acme Improvement District contained in ch. 2012-256, L.O.F., to reflect the intended boundaries of the Medical Arts District.

Section 2: Provides that the bill will take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 1, 2013

WHERE? *The Palm Beach Post*, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, FL.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

**NOTICE OF
LOCAL LEGISLATION**

TO WHOM IT MAY CONCERN:
Notice is hereby given of the Acme Improvement District's intent to seek legislation before the 2014 Florida Legislature for passage of:

An act relating to the Acme Improvement District and the Lake Worth Drainage District, Palm Beach County; transferring land referred to as the "Wellington Medical Arts District" from the Lake Worth Drainage District to the Acme Improvement District; correcting a scrivener's error in the legal description of property transferred to the Acme Improvement District under chapter 2012-256, Laws of Florida; providing purposes; providing an effective date.

Acme Improvement District
12300 Forest Hill Blvd.

Wellington, FL 33414

PUB: The Palm Beach Post

12-17-2013 #162436

Signed [Signature]
In and for the State of Florida
Commission Expires Sept. 02, 2014

Sworn to and subscribed before 12/17/2013.

Who is personally known to me.

VILLAGE OF WELLINGTON

PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared Tiffany Everett, who on oath says that she is Call Center Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a Notice

was published in said newspaper on
First date of Publication 12/01/2013 and last date of
Publication 12/01/2013

Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach 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/he 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. Also published in Martin and St. Lucie Counties.

NOTICE
Ad ID: 343677
Ad Cost: 106.64

HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1143

SPONSOR(S): Rep. Mark Pafford

RELATING TO: Wellington Medical Arts District / ACME IMPROVEMENT DISTRICT
(Indicate Area Affected (City, County, or Special District) and Subject)

NAME OF DELEGATION: Palm Beach

CONTACT PERSON: Rachael Ondrus Merlan

PHONE NO.: (561) 818-8833 E-Mail: rmerlan@pbcgov.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: December 18, 2013

Location: Solid Waste Authority Auditorium, 7501 North Jog Road, West Palm Beach, FL 33412

(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 December 1, 2013

Where? Palm Beach Post County Palm Beach

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 []

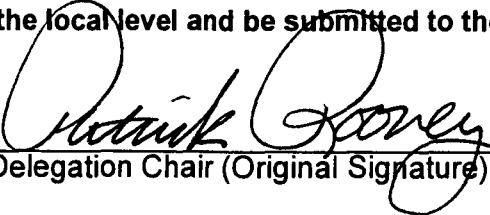
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

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)

1-15-14
Date

Rep. Patrick Rooney
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 1143
SPONSOR(S): Representative Mark Pafford
RELATING TO: Local Bill Correcting Scrivener's Error in the Legal Description Depicting Wellington Medical Arts District
[Indicate Area Affected (City, County or Special District) and Subject]
ACME IMPROVEMENT DISTRICT

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>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</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>0</u>	\$ <u>0</u>

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

Impact of proposal to result in no net new expenditures. The proposal is to transfer parcels from Lake Worth

Drainage District to Acme Improvement District (ACME) while maintaining LWDD drainage services to the

Medical Arts District. Eventual development of Medical Arts District creates options for tax exempt financing while not resulting in tax burden to residents.

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>0</u>	\$ <u>0</u>
State:	\$ <u>0</u>	\$ <u>0</u>
Federal:	\$ <u>0</u>	\$ <u>0</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.

The amendment is to incorporate the Wellington Medical Arts District into ACME, a dependent special district of Wellington. This legislation will not create any new districts or boards; proposed boundary changes serve to consolidate service delivery.

1. Advantages to Individuals:

This consolidation will promote economic development in Wellington for a premier wellness healthcare treatment, education and research destination. It will help create local and regional jobs, expand educational opportunities and facilitate infrastructure and services (including but not limited to roads, water, sewer, broadband) to support the Medical Arts District.

2. Advantages to Businesses:

Same as Above

3. Advantages to Government: Same as Above

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:

The eventual development of the Medical Arts District is projected to create approximately 6,000 jobs.

2. Impact on the Open Market for Employment:

The eventual development of the Medical Arts District is projected to create approximately 6,000 jobs.

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.

Jobs estimated based on potential development of Medical Arts District and potential investors willing to develop and/or relocate if the appropriate infrastructure is available.

PREPARED BY:

Bob Margolis

[Must be signed by Preparer]

Print preparer's name:

Bob Margolis

January 30, 2014

Date

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

President

REPRESENTING:

Acme Improvement District

PHONE:

561-791-4086

E-MAIL ADDRESS:

rmargolis@wellingtonfl.gov

1 A bill to be entitled

2 An act relating to the Acme Improvement District, Palm
3 Beach County; amending chapter 2012-256, Laws of
4 Florida; clarifying boundaries; providing an effective
5 date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Section 1 of chapter 2012-256, Laws of Florida,
10 is amended to read:

11 Section 1. Extension of Acme Improvement District
12 boundaries.—The lands commonly known as the "Wellington Medical
13 Arts District," more particularly described below, shall be
14 added to the territorial limits of the Acme Improvement
15 District, a dependent district of the Village of Wellington,
16 existing in Palm Beach County, as codified under chapter 2003-
17 330, Laws of Florida, and shall be removed from the territorial
18 limits of the Lake Worth Drainage District, a corporation under
19 the drainage laws of the state, existing in Palm Beach County,
20 as codified under chapter 98-525, Laws of Florida. The purpose
21 of the transfer of property from the Lake Worth Drainage
22 District to the Acme Improvement District is to facilitate the
23 development of the Wellington Medical Arts District as a
24 premiere wellness, health care treatment, medical education, and
25 research destination. The achievement of this development will
26 create local and regional jobs and greatly expand educational

27 | opportunities in the area. The inclusion of these lands within
 28 | the Acme Improvement District will create the opportunity to
 29 | enhance and expedite the delivery of infrastructure and services
 30 | to the Wellington Medical Arts District. The Wellington Medical
 31 | Arts District is more particularly described as follows:
 32 | A parcel of land being a portion of Block 18, Palm Beach County
 33 | Farms Company Plat No. 3 as recorded in Plat Book 2, Pages 45 to
 34 | 54 and lying with Section 12, Township 44 South, Range 41 East,
 35 | Palm Beach County, Florida,
 36 | Being more particularly described as follows:

37 |
 38 | A PARCEL OF LAND BEING A PORTION OF BLOCK 18, PALM
 39 | BEACH FARMS COMPANY PLAT NO.3 AS RECORDED IN PLAT BOOK
 40 | 2, PAGES 45 TO 54 AND LYING WITHIN SECTION 12,
 41 | TOWNSHIP 44 SOUTH, RANGE 41 EAST, PALM BEACH COUNTY,
 42 | FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS
 43 | FOLLOWS:
 44 | COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 12,
 45 | THENCE RUN ALONG THE NORTHERLY LINE OF SAID SECTION
 46 | 12, N87°54'23"W A DISTANCE OF 235.29 FEET TO A POINT
 47 | ON THE WESTERLY LINE OF STATE ROAD NO.7 (U.S. 441);
 48 | SAID LINE ALSO BEING THE EASTERLY LINE OF THE PLAT OF
 49 | BLACK DIAMOND PHASE 1 AS RECORDED IN PLAT BOOK 94,
 50 | PAGE 83; THENCE, ALONG SAID WESTERLY RIGHT-OF-WAY
 51 | LINE, S01°38'03"W A DISTANCE OF 329.81 FEET; THENCE
 52 | CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE,

53 S01°38'02"W A DISTANCE OF 7.18 FEET TO THE POINT OF
 54 BEGINNING;
 55 THENCE, CONTINUING ALONG WESTERLY RIGHT-OF-WAY LINE,
 56 S01°38'03"W A DISTANCE OF 3012.52 FEET; THENCE
 57 N88°51'26"E A DISTANCE OF 2.66 FEET; THENCE
 58 S01°30'22"W A DISTANCE OF 1021.08 FEET; THENCE
 59 S03°47'21"W A DISTANCE OF 896.86 FEET TO POINT ON A
 60 CURVE CONCAVE TO THE NORTH, AND HAVING A RADIAL
 61 BEARING OF N03°40'40"E, AND A RADIUS OF 5665.58 FEET
 62 AND BEING THE NORTHERLY RIGHT-OF-WAY LINE OF FOREST
 63 HILL BOULEVARD (VARYING WIDTH RIGHT-OF-WAY); THENCE
 64 WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF
 65 03°02'00" A DISTANCE OF 299.95 FEET TO THE POINT OF
 66 TANGENCY; THENCE CONTINUING ALONG SAID NON-TANGENT
 67 NORTHERLY RIGHT-OF-WAY LINE, N82°09'24"W A DISTANCE OF
 68 400.00 FEET; THENCE N80°50'46"W A DISTANCE OF 15.45
 69 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF WAY LINE,
 70 N01°15'00"W A DISTANCE OF 1125.81 FEET; THENCE
 71 S88°59'28"W A DISTANCE OF 1583.23 FEET; THENCE
 72 N01°31'07"E A DISTANCE OF 1371.99 FEET TO THE SOUTH
 73 LINE OF TRACT 10, SAID BLOCK 18, THENCE ALONG SAID
 74 SOUTHERLY LINE, S88°59'11"W A DISTANCE OF 26.92 FEET
 75 TO THE SOUTHWESTERLY CORNER OF SAID TRACT 10; THENCE
 76 ALONG THE WESTERLY LINE OF SAID TRACT 10, N01°28'33"E
 77 A DISTANCE OF 661.12 FEET TO THE NORTHWESTERLY CORNER
 78 OF SAID TRACT 10; THENCE, ALONG THE NORTHERLY LINE OF

79 SAID TRACT 10, N88°59'36"E A DISTANCE OF 27.42 FEET;
 80 THENCE N01°31'07"E A DISTANCE OF 1346.19 FEET TO A
 81 POINT ON THE SOUTHERLY LINE OF THE PLAT OF BLACK
 82 DIAMOND PHASE 1, AS RECORDED IN PLAT BOOK 94, PAGE 83,
 83 THENCE ALONG THE BOUNDARY OF SAID PLAT OF BLACK
 84 DIAMOND PHASE 1, THE FOLLOWING COURSES, N88°51'26"E A
 85 DISTANCE OF 1680.81 FEET; THENCE N01°19'46"W A
 86 DISTANCE OF 343.52 FEET; THENCE S89°12'13"E A DISTANCE
 87 OF 725.10 FEET TO THE POINT OF BEGINNING.
 88 CONTAINING 211.561 ACRES
 89
 90 ~~COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 12,~~
 91 ~~THENCE RUN ALONG THE NORTHERLY LINE OF SAID SECTION~~
 92 ~~12, N87°54'23"W A DISTANCE OF 235.29 FEET TO A POINT~~
 93 ~~ON THE WESTERLY LINE OF STATE ROAD NO. 7 (U.S. 441);~~
 94 ~~SAID LINE ALSO BEING THE EASTERLY LINE OF THE PLAT OF~~
 95 ~~BLACK DIAMOND PHASE 1 AS RECORDED IN PLAT BOOK 94,~~
 96 ~~PAGE 63; THENCE, ALONG SAID WESTERLY RIGHT-OF-WAY~~
 97 ~~LINE, S01°38'03"W A DISTANCE OF 329.81 FEET; THENCE~~
 98 ~~CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE,~~
 99 ~~S01°38'02"W A DISTANCE OF 7.18 FEET TO THE POINT OF~~
 100 ~~BEGINNING.~~
 101 ~~THENCE, CONTINUING ALONG WESTERLY RIGHT-OF-WAY LINE,~~
 102 ~~S01°38'03"W A DISTANCE OF 3012.52 FEET; THENCE~~
 103 ~~N88°51'26"E A DISTANCE OF 2.66 FEET; THENCE~~
 104 ~~S03°47'21"W A DISTANCE OF 896.86 FEET TO POINT ON A~~

105 ~~CURVE CONCAVE TO THE NORTH, AND HAVING A RADIAL~~
 106 ~~BEARING OF N33°40'40"E, AND A RADIUS OF 5665.58 FEET~~
 107 ~~AND BEING THE NORTHERLY RIGHT-OF-WAY LINE OF FOREST~~
 108 ~~HILL BOULEVARD (VARYING WIDTH RIGHT-OF-WAY); THENCE~~
 109 ~~ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°20'00"~~
 110 ~~A DISTANCE OF 299.95 FEET TO THE POINT OF TANGENCY;~~
 111 ~~THENCE CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY~~
 112 ~~LINE, N82°09'24"W A DISTANCE OF 400.00 FEET; THENCE~~
 113 ~~LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE, N01°15'00"W~~
 114 ~~A DISTANCE OF 1125.81 FEET; THENCE S88°59'28"W A~~
 115 ~~DISTANCE OF 1583.23 FEET; THENCE N01°31'07"E A~~
 116 ~~DISTANCE OF 1371.99 FEET TO THE SOUTH LINE OF TRACT~~
 117 ~~10, SAID BLOCK 18, THENCE ALONG SAID SOUTHERLY LINE,~~
 118 ~~S88°59'11"W A DISTANCE OF 26.92 FEET TO THE~~
 119 ~~SOUTHWESTERLY CORNER OF SAID TRACT 10; THENCE ALONG~~
 120 ~~THE WESTERLY LINE OF SAID TRACT 10, N01°28'33"W A~~
 121 ~~DISTANCE OF 661.12 FEET TO THE NORTHWESTERLY CORNER OF~~
 122 ~~SAID TRACT 10; THENCE, ALONG THE NORTHERLY LINE OF~~
 123 ~~SAID TRACT 10, N88°59'36"E A DISTANCE OF 27.42 FEET;~~
 124 ~~THENCE N01°31'07"E A DISTANCE OF 1346.19 FEET TO A~~
 125 ~~POINT ON THE SOUTHERLY LINE OF THE PLAT OF BLACK~~
 126 ~~DIAMOND PHASE 1, AS RECORDED IN PLAT BOOK 94, PAGE 83,~~
 127 ~~THENCE ALONG THE BOUNDARY OF SAID PLAT OF BLACK~~
 128 ~~DIAMOND PHASE 1, THE FOLLOWING COURSES, N88°51'26"E A~~
 129 ~~DISTANCE OF 1709.24 FEET; THENCE N01°19'46"W A~~

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2014

130 ~~DISTANCE OF 343.52 FEET; THENCE N89°12'13"W A DISTANCE~~
131 ~~OF 725.10 FEET TO THE POINT OF BEGINNING.~~
132 ~~WHICH INCLUDES THE TWO (2) 25 FEET LAKE WORTH DRAINAGE~~
133 ~~DISTRICT RIGHTS OF WAYS AS RECORDED IN PLAT BOOK 2,~~
134 ~~PAGES 45-54, AND SPECIFICALLY EXCLUDES THE LAKE WORTH~~
135 ~~DRAINAGE DISTRICT S-5 CANAL AS RECORDED IN OFFICIAL~~
136 ~~RECORD BOOK 9813, PAGE 1513.~~
137 ~~CONTAINING 211.561 ACRES.~~
138 ~~AND TRACTS: TRACT "C-1," TRACT "L-1," TRACT "P-2," AND~~
139 ~~TRACT "C-13" OF THE BLACK DIAMOND PHASE 1 PLAT AS~~
140 ~~RECORDED IN PLAT BOOK 83, PAGE 94 WITH SAID ADDITIONAL~~
141 ~~ACREAGE OF 11.33 ACRES (MORE OR LESS).~~
142 ~~PROVIDING FOR A TOTAL MEDICAL ARTS DISTRICT ACREAGE OF~~
143 ~~222.891 ACRES (MORE OR LESS).~~
144
145 Section 2. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1143 (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 Pafford offered the following:

4
5 **Amendment**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 1 of chapter 2012-256, Laws of Florida,
8 is amended to read:

9 Section 1. Extension of Acme Improvement District
10 boundaries.—The lands commonly known as the "Wellington Medical
11 Arts District," more particularly described below, shall be
12 added to the territorial limits of the Acme Improvement
13 District, a dependent district of the Village of Wellington,
14 existing in Palm Beach County, as codified under chapter 2003-
15 330, Laws of Florida, and shall be removed from the territorial
16 limits of the Lake Worth Drainage District, a corporation under
17 the drainage laws of the state, existing in Palm Beach County,

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1143 (2014)

Amendment No.

18 as codified under chapter 98-525, Laws of Florida. The purpose
19 of the transfer of property from the Lake Worth Drainage
20 District to the Acme Improvement District is to facilitate the
21 development of the Wellington Medical Arts District as a
22 premiere wellness, health care treatment, medical education, and
23 research destination. The achievement of this development will
24 create local and regional jobs and greatly expand educational
25 opportunities in the area. The inclusion of these lands within
26 the Acme Improvement District will create the opportunity to
27 enhance and expedite the delivery of infrastructure and services
28 to the Wellington Medical Arts District. The Wellington Medical
29 Arts District is more particularly described as follows:

30 A parcel of land being a portion of Block 18, The Palm Beach
31 County Farms Company Plat No. 3 as recorded in Plat Book 2,
32 Pages 45 through ~~to~~ 54, all of Venra Development, LLC, as
33 recorded in Plat Book 97, Pages 179 and 180, all of Wellington
34 MUPD, as recorded in Plat Book 101, pages 132 and 133, and all
35 of Wellington Reserve Office Park, as recorded in Plat Book 103,
36 Pages 178 through 180, all according to the plats thereof as
37 recorded in the public records of Palm Beach County, Florida,
38 and lying within Section 12, Township 44 South, Range 41 East,
39 Palm Beach County, Florida, Being more particularly described as
40 follows:

41
42 PARCEL 1
43

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1143 (2014)

Amendment No.

44 COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 12,
45 THENCE NORTH 87° 53' 57" WEST ALONG THE NORTH LINE OF
46 SECTION 12, A DISTANCE OF 235.27 FEET; THENCE SOUTH 01° 38'
47 27" WEST ALONG A LINE LYING 240.00 FEET WEST OF (AS
48 MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE BASELINE
49 OF SURVEY FOR STATE ROAD 7 (US 441) ACCORDING TO THE
50 FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP
51 SECTION 93210-2519, SAID PARALLEL LINE BEING THE WEST
52 RIGHT-OF-WAY LINE OF SAID STATE ROAD 7, AND THE EAST LINE
53 OF BLACK DIAMOND PHASE 1, ACCORDING TO THE PLAT THEREOF, AS
54 RECORDED IN PLAT BOOK 94, PAGES 83 THROUGH 91, PUBLIC
55 RECORDS OF PALM BEACH COUNTY, FLORIDA, A DISTANCE OF 329.79
56 FEET; THENCE CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE
57 SOUTH 01° 38' 26" WEST, A DISTANCE OF 7.18 FEET TO THE
58 POINT OF BEGINNING; SAID POINT BEING THE SOUTHEAST CORNER
59 OF TRACT C-1, OF SAID BLACK DIAMOND - PHASE 1; THENCE
60 CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE OF STATE ROAD
61 7 FOR THE FOLLOWING FIVE COURSES, SOUTH 01° 38' 26" WEST, A
62 DISTANCE OF 1992.65 FEET; THENCE SOUTH 01° 38' 18" WEST, A
63 DISTANCE OF 1015.08 FEET; THENCE NORTH 89° 01' 51" EAST
64 ALONG THE NORTH LINE OF TRACT 20, BLOCK 18, OF SAID PALM
65 BEACH FARMS CO. PLAT NO. 3, A DISTANCE OF 2.66 FEET TO A
66 POINT ON A LINE LYING 240.00 FEET WEST OF (AS MEASURED AT
67 RIGHT ANGLES TO) AND PARALLEL WITH THE EAST LINE OF SAID
68 SECTION 12; THENCE SOUTH 01° 30' 47" WEST ALONG SAID
69 PARALLEL LINE, A DISTANCE OF 1026.20 FEET; THENCE SOUTH 03°

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1143 (2014)

Amendment No.

70 48' 15" WEST, A DISTANCE OF 896.51 FEET TO A POINT OF
71 INTERSECTION WITH THE NORTHERLY RIGHT-OF-WAY LINE OF FOREST
72 HILL BOULEVARD, SAID POINT BEING ON A CURVE CONCAVE TO THE
73 NORTH, HAVING A RADIAL BEARING OF NORTH 03° 41' 07" EAST, A
74 RADIUS OF 5665.58 FEET; THENCE WESTERLY ALONG THE ARC OF
75 SAID CURVE THROUGH A CENTRAL ANGLE OF 03°02'00", AN ARC
76 DISTANCE OF 299.95 FEET TO A POINT OF TANGENCY; THENCE
77 CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF FOREST
78 HILL BOULEVARD FOR THE NEXT TWO COURSES NORTH 82° 08' 55"
79 WEST, A DISTANCE OF 400.07 FEET; THENCE NORTH 80° 52' 41"
80 WEST, A DISTANCE OF 4.48 FEET TO THE EAST RIGHT-OF-WAY LINE
81 OF LAKE WORTH DRAINAGE DISTRICT S-5 CANAL AS RECORDED IN
82 OFFICIAL RECORD BOOK 6813 AT PAGE 1513 OF SAID PUBLIC
83 RECORDS, SAID EAST RIGHT-OF-WAY LINE LYING 255.91 FEET WEST
84 OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE
85 EAST LINE OF TRACTS 27 AND 22, BLOCK 18; THENCE NORTH 01°
86 19' 04" WEST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE
87 OF 1129.11 FEET TO A POINT LYING ON THE NORTH LINE OF SAID
88 TRACT 22, BLOCK 18; THENCE SOUTH 89° 04' 17" WEST ALONG THE
89 NORTH LINE OF TRACTS 22, 23 AND 24, BLOCK 18, SAID NORTH
90 LINE ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF LAKE WORTH
91 DRAINAGE DISTRICT S-5 CANAL AS RECORDED IN OFFICIAL RECORD
92 BOOK 6813 AT PAGE 1513 OF SAID PUBLIC RECORDS, A DISTANCE
93 OF 1561.60 FEET TO A POINT ON A LINE LYING 26.36 FEET EAST
94 OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE
95 WEST LINE OF TRACTS 17 AND 16, BLOCK 18; THENCE ALONG SAID

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1143 (2014)

Amendment No.

96 PARALLEL LINE AND EAST RIGHT-OF-WAY LINE OF SAID S-5 CANAL
97 FOR THE FOLLOWING SEVEN COURSES, NORTH 01° 27' 57" EAST, A
98 DISTANCE OF 1344.77 FEET TO THE NORTH LINE OF SAID TRACT
99 16, BLOCK 18; THENCE SOUTH 88° 59' 24" WEST ALONG SAID
100 NORTH LINE AND WESTERLY EXTENSION THEREOF, A DISTANCE OF
101 53.29 FEET TO THE WEST LINE OF SAID BLOCK 18; THENCE NORTH
102 01° 25' 21" EAST ALONG SAID WEST LINE OF BLOCK 18, A
103 DISTANCE OF 684.83 FEET; THENCE NORTH 88° 56' 58" EAST
104 ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF TRACT 9
105 AND THE SOUTH LINE OF TRACT 9 , BLOCK 18, DISTANCE OF 42.44
106 FEET; THENCE NORTH 01° 27' 57" EAST ALONG A LINE LYING
107 15.00 FEET EAST OF (AS MEASURED AT RIGHT ANGLES TO) AND
108 PARALLEL WITH THE WEST LINE OF SAID TRACT 9, BLOCK 18, A
109 DISTANCE OF 672.37 FEET TO THE CENTERLINE OF THE PLATTED 25
110 FOOT ROAD, DYKE AND DITCH RESERVATION LYING BETWEEN TRACTS
111 4 AND 9, OF SAID BLOCK 18; THENCE NORTH 88° 54' 32" EAST
112 ALONG SAID CENTERLINE, A DISTANCE OF 11.37 FEET; THENCE
113 NORTH 01° 27' 57" EAST ALONG A LINE LYING 26.36 FEET EAST
114 OF (AS MEASURED AT RIGHT ANGLES TO) AND PARALLEL WITH THE
115 WEST LINE OF TRACT 4, BLOCK 18, A DISTANCE OF 672.38 FEET
116 TO THE NORTH LINE OF SAID TRACT 4, BLOCK 18, SAID NORTH
117 LINE ALSO BEING THE SOUTH LINE OF TRACT C-1, OF SAID BLACK
118 DIAMOND - PHASE 1; THENCE NORTH 88° 52' 06" EAST ALONG THE
119 SOUTH LINE OF TRACTS C-1 AND P-2 OF SAID BLACK DIAMOND -
120 PHASE 1 , A DISTANCE OF 1653.68 FEET TO THE SOUTHEAST
121 CORNER SAID TRACT P-2; THENCE NORTH 01° 19' 04" WEST ALONG

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1143 (2014)

Amendment No.

122 THE EAST LINE OF TRACTS P-2 AND C-1, A DISTANCE OF 345.30
123 FEET TO THE SOUTH LINE OF SAID TRACT C-1; THENCE SOUTH 89°
124 10' 35" EAST ALONG THE SOUTH LINE OF TRACT C-2, A DISTANCE
125 OF 725.10 FEET TO THE POINT OF BEGINNING.

126
127 CONTAINING 209.53 ACRES, MORE OR LESS

128
129 BEARINGS SHOWN HEREON ARE REFERENCED TO GRID BEARINGS BASED
130 ON FLORIDA STATE PLANE EAST ZONE, NORTH AMERICAN DATUM OF
131 1927, AS DETERMINED AND ACCORDING TO THE FLORIDA
132 DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP FOR STATE
133 ROAD 7, (US 441) SECTION 93210-2519, THE EAST LINE OF
134 SECTION 12 BEARS NORTH 01° 30' 47" EAST AND ALL OTHER
135 BEARING ARE RELATIVE THERETO.

136
137 TOGETHER WITH:

138
139 PARCEL 2

140
141 BEING ALL OF TRACT C-1, TRACT L-1, TRACT P-2 AND TRACT C-
142 13, BLACK DIAMOND - PHASE 1, ACCORDING TO THE PLAT THEREOF,
143 AS RECORDED IN PLAT BOOK 94, PAGES 83 THROUGH 91, OF THE
144 PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

145
146 CONTAINING 5.82 ACRES, MORE OR LESS

147

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1143 (2014)

Amendment No.

148 TOTAL SERVICE AREA OF PARCEL 1 AND PARCEL 2 CONTAIN 215.35
149 ACRES, MORE OR LESS.

150
151 ~~COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 12,~~
152 ~~THENCE RUN ALONG THE NORTHERLY LINE OF SAID SECTION~~
153 ~~12, N87°54'23"W A DISTANCE OF 235.29 FEET TO A POINT~~
154 ~~ON THE WESTERLY LINE OF STATE ROAD NO. 7 (U.S. 441);~~
155 ~~SAID LINE ALSO BEING THE EASTERLY LINE OF THE PLAT OF~~
156 ~~BLACK DIAMOND PHASE 1 AS RECORDED IN PLAT BOOK 94,~~
157 ~~PAGE 63; THENCE, ALONG SAID WESTERLY RIGHT-OF-WAY~~
158 ~~LINE, S01°38'03"W A DISTANCE OF 329.81 FEET; THENCE~~
159 ~~CONTINUING ALONG SAID WESTERLY RIGHT-OF-WAY LINE,~~
160 ~~S01°38'02"W A DISTANCE OF 7.18 FEET TO THE POINT OF~~
161 ~~BEGINNING.~~
162 ~~THENCE, CONTINUING ALONG WESTERLY RIGHT-OF-WAY LINE,~~
163 ~~S01°38'03"W A DISTANCE OF 3012.52 FEET; THENCE~~
164 ~~N88°51'26"E A DISTANCE OF 2.66 FEET; THENCE~~
165 ~~S03°47'21"W A DISTANCE OF 896.86 FEET TO POINT ON A~~
166 ~~CURVE CONCAVE TO THE NORTH, AND HAVING A RADIAL~~
167 ~~BEARING OF N33°40'40"E, AND A RADIUS OF 5665.58 FEET~~
168 ~~AND BEING THE NORTHERLY RIGHT-OF-WAY LINE OF FOREST~~
169 ~~HILL BOULEVARD (VARYING WIDTH RIGHT-OF-WAY); THENCE~~
170 ~~ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 03°20'00"~~
171 ~~A DISTANCE OF 299.95 FEET TO THE POINT OF TANGENCY;~~
172 ~~THENCE CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY~~
173 ~~LINE, N82°09'24"W A DISTANCE OF 400.00 FEET; THENCE~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1143 (2014)

Amendment No.

174 LEAVING SAID NORTHERLY RIGHT-OF WAY LINE, ~~N01°15'00"W~~
175 A DISTANCE OF ~~1125.81 FEET; THENCE S88°59'28"W A~~
176 DISTANCE OF ~~1583.23 FEET; THENCE N01°31'07"E A~~
177 DISTANCE OF ~~1371.99 FEET TO THE SOUTH LINE OF TRACT~~
178 ~~10, SAID BLOCK 18, THENCE ALONG SAID SOUTHERLY LINE,~~
179 ~~S88°59'11"W A DISTANCE OF 26.92 FEET TO THE~~
180 ~~SOUTHWESTERLY CORNER OF SAID TRACT 10; THENCE ALONG~~
181 ~~THE WESTERLY LINE OF SAID TRACT 10, N01°28'33"W A~~
182 ~~DISTANCE OF 661.12 FEET TO THE NORTHWESTERLY CORNER OF~~
183 ~~SAID TRACT 10; THENCE, ALONG THE NORTHERLY LINE OF~~
184 ~~SAID TRACT 10, N88°59'36"E A DISTANCE OF 27.42 FEET;~~
185 ~~THENCE N01°31'07"E A DISTANCE OF 1346.19 FEET TO A~~
186 ~~POINT ON THE SOUTHERLY LINE OF THE PLAT OF BLACK~~
187 ~~DIAMOND PHASE 1, AS RECORDED IN PLAT BOOK 94, PAGE 83,~~
188 ~~THENCE ALONG THE BOUNDARY OF SAID PLAT OF BLACK~~
189 ~~DIAMOND PHASE 1, THE FOLLOWING COURSES, N88°51'26"E A~~
190 ~~DISTANCE OF 1709.24 FEET; THENCE N01°19'46"W A~~
191 ~~DISTANCE OF 343.52 FEET; THENCE N89°12'13"W A DISTANCE~~
192 ~~OF 725.10 FEET TO THE POINT OF BEGINNING.~~
193 ~~WHICH INCLUDES THE TWO (2) 25 FEET LAKE WORTH DRAINAGE~~
194 ~~DISTRICT RIGHTS-OF-WAYS AS RECORDED IN PLAT BOOK 2,~~
195 ~~PAGES 45-54, AND SPECIFICALLY EXCLUDES THE LAKE WORTH~~
196 ~~DRAINAGE DISTRICT S-5 CANAL AS RECORDED IN OFFICIAL~~
197 ~~RECORD BOOK 9813, PAGE 1513.~~
198 ~~CONTAINING 211.561 ACRES.~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1143 (2014)


Amendment No.

199 ~~AND TRACTS: TRACT "C-1," TRACT "L-1," TRACT "P-2," AND~~
200 ~~TRACT "C-13" OF THE BLACK DIAMOND PHASE 1 PLAT AS~~
201 ~~RECORDED IN PLAT BOOK 83, PAGE 94 WITH SAID ADDITIONAL~~
202 ~~ACREAGE OF 11.33 ACRES (MORE OR LESS).~~
203 ~~PROVIDING FOR A TOTAL MEDICAL ARTS DISTRICT ACREAGE OF~~
204 ~~222.891 ACRES (MORE OR LESS).~~

205
206 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1145 West Palm Beach Police Pension Fund
SPONSOR(S): Kerner
TIED BILLS: IDEN./SIM. BILLS:

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

SUMMARY ANALYSIS

The West Palm Beach Police Pension Fund was created by the Florida Legislature in 1947. Each police officer employed by the City of West Palm Beach Police Department is a pension fund participant.

The bill changes the employee contribution rate to the fund:

- from 18 percent to 11 percent for Fiscal Year 2012-2013,
- from 11 percent to 20 percent for Fiscal Year 2013-2014, and
- sets the rate at 11 percent for Fiscal Year 2014-2015 and onward.

The bill provides for the use of ch. 185, F.S., tax funds to lower the actual employee contribution rate in Fiscal Year 2013-2014 from 20 percent to 11 percent, and requires the city to provide funding if the tax funds are not enough to lower the actual rate to 11 percent. The bill clarifies that contributions from ch. 185, F.S., tax funds are not employee contributions for contribution refund purposes.

These changes are necessary to reflect a collective bargaining agreement between the City of West Palm Beach and the Palm Beach County Police Benevolent Association.

According to the Economic Impact Statement, the bill reduces annual costs to the City of West Palm Beach for the pension fund by \$1,067,596 in Fiscal Year 2014-2015.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

State Constitution: Governmental Unit Retirement and Pension Systems

Section 14, Art. X of the State Constitution provides that a governmental unit responsible for a retirement or pension system supported wholly or partially by public pension funds may not, after January 1, 1977, provide an increase in benefits to members or beneficiaries without concurrent provisions for funding the increase on a sound actuarial basis.

Florida Statutes: the Florida Protection of Public Employee Retirement Benefits Act

Part VII of ch. 112, F. S., the "Florida Protection of Public Employee Retirement Benefits Act," was adopted by the Legislature to implement the provisions of s. 14, Art. X of the State Constitution. This law establishes minimum standards for operating and funding public employee retirement systems and plans. The act is applicable to all units of state, county, special district and municipal governments participating in or operating a retirement system for public employees, which is funded in whole or in part by public funds.

Florida law provides that a unit of local government may not agree to a proposed change in retirement benefits unless the administrator of the system, prior to adoption of the change by the governing body, and prior to the last public hearing thereon, has issued a statement of the actuarial impact of the proposed change upon the local retirement system, consistent with the actuarial review, and furnished a copy of such statement to the Division of Retirement, Department of Management Services.¹ The statement also is required to indicate whether the proposed changes are in compliance with s. 14, Art. X of the State Constitution and with s. 112.64, F.S., which relates to administration of funds and amortization of unfunded liability.

Pursuant to s. 11(a)(21), Art. III of the State Constitution, s. 112.67, F.S., prohibits special laws in conflict with the requirements of the Act.

Firefighter and Police Pensions: Chapters 175 and 185, F.S.

Chapters 175 and 185, F. S., respectively, provide the statutory authority for municipal and special fire control district firefighter pensions, and municipal police pensions. These acts were established by the Legislature to provide a "uniform retirement system" providing defined benefit plans for firefighters and police officers, and setting standards for operation and funding of these systems. Retirement systems or plans are to be managed, administered, operated and funded in such a manner as to maximize the protection of the retirement trust funds.

Chapter 175, F.S., was originally enacted in 1939 to provide an incentive—access to premium tax revenues—to encourage the establishment of firefighter retirement plans by Florida cities. Fourteen years later, in 1953, the Legislature enacted ch. 185, F.S., which created a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.

Funding for these pension plans comes from four sources: net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the "premium tax"), employee contributions, other revenue sources, and mandatory payments by the city of any extra amount needed to keep the plan solvent. To qualify for premium tax dollars, plans must meet requirements found in chs. 175 and 185, F.S. Responsibility for overseeing and monitoring these plans is assigned to the

¹ See s. 112.63, F.S.
STORAGE NAME: h1145.LFAC
DATE: 3/18/2014

Division of Retirement in the Department of Management Services, but day-to-day operational control rests with local boards of trustees. Most Florida firefighters and municipal law enforcement officers participate in these plans.

The West Palm Beach Police Pension Fund

The West Palm Beach Police Pension Fund was created by the Florida Legislature in 1947.² Each police officer employed by the City of West Palm Beach Police Department is a pension fund participant. As of September 30, 2013, the pension fund had 217 active members, 139 deferred retirement option program participants,³ and 262 retirees and beneficiaries. The fund has assets in excess of \$238,000,000.⁴

Effective October 1, 2011, the member contribution rate was increased from 11 to 18 percent, and then returned to 11 percent on October 1, 2013, using the state premium tax dollars received in 2011 and 2012 to fund this “extra benefit.” Pursuant to s. 185.35, F.S., premium tax dollars are used to pay for “extra benefits,” i.e., benefits in addition to or greater than those provided to general employees of the municipality and in addition to those in existence for police officers on March 12, 1999.⁵ This procedure (as well as the other reductions in benefits) was designed to allow the City of West Palm Beach the full use of the state premium tax funds for 2011 and 2012 to help reduce the city’s contribution requirements and improve the stability of the plan.⁶ State premium tax funds received in 2013 reverted back to the supplemental share plan⁷ for the benefit of the police officers.

Under current law, the employee contributions to the pension fund are as follows:

Fiscal Year	Required Employee Contribution Rate	Contribution from Premium Tax Funds and City	Actual Employee Contribution Rate
2011-2012	18%	7%	11%
2012-2013	18%	7%	11%
2013-2014 and onward	11%	0%	11%

Effect of Proposed Changes

HB 1145 amends ch. 24981 (1947), L.O.F., as amended by ch. 2012-259, L.O.F., relating to the West Palm Beach Police Pension Fund to reflect changes to the collective bargaining agreement between the City of West Palm Beach and the Palm Beach County Police Benevolent Association.

The bill changes the member contribution rates as follows:

- Fiscal Year 2012-2013 is changed from 18 percent to 11 percent,
- Fiscal Year 2013-2014 is changed from 11 percent to 20 percent, and
- Fiscal Year 2014-2015 is set at 11 percent.

The bill requires the city to use ch. 185, F.S., tax funds from years 2011, 2012, and 2014 to reduce the actual employee contribution rate from 20 percent to 11 percent for Fiscal Year 2013-2014. This will allow the City of West Palm Beach to maximize ch. 185, F.S., tax funds received in years 2011, 2012,

² See, ch. 24981 (1947), L.O.F., as amended by ch. 2010-245, L.O.F.

³ A deferred retirement option program allows an employee to elect to defer receipt of retirement benefits while continuing employment with his or her employer while the deferred monthly benefits accrue, plus interest, for a specified period of time.

⁴ <http://wpbppf.com/>, last visited on March 17, 2014.

⁵ Section 185.35(2)(b), F.S.

⁶ See, Substantive Bill Analysis for HB 1301, Department of Management Services, January 11, 2012 (on file with the Government Operations Subcommittee).

⁷ Pursuant to s. 185.02(15), F.S., a “supplemental plan” means a plan to which deposits of the premium tax moneys are made to provide extra benefits for police officers.

2014. If the ch. 185, F.S., tax funds are not enough to reduce the employee contribution from 20 percent to 11 percent, the city must provide funding for any shortfall. Tax funds received in years 2013 and 2015 onward will continue to be allocated to the supplemental share plan for the benefit of police officers, along with any remaining funds from years 2011, 2012 and 2014.

Under HB 1145, employee contributions to the pension fund are as follows:

Fiscal Year	Required Employee Contribution Rate	Contribution from Premium Tax Funds and City	Actual Employee Contribution Rate
2011-2012	18%	7%	11%
2012-2013	11%	0%	11%
2013-2014	20%	9%	11%
2014-2015 and onward	11%	0%	11%

The bill clarifies that ch. 185, F.S., funds received in 2013 and 2015 and beyond will be allocated to employee share accounts. The bill states that no amount of ch. 185, F.S., tax funds are to be considered employee contributions for the purposes of a refund of contributions.

B. SECTION DIRECTORY:

Section 1: Amends ss. 11 and 19 of ch. 24981 (1947), L.O.F., as amended by ch. 2012-259, L.O.F., relating to the West Palm Beach Police Pension Fund.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 13, 2014

WHERE? *The Palm Beach Post*, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, FL.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, the bill reduces costs to the City of West Palm Beach for the pension plan by \$1,067,596 for Fiscal Year 2014-2015.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

PERRY & JENSEN LLC

**NOTICE OF INTENTION TO
SEEK ENACTMENT OF SPECIAL LAW**

The Board of Trustees of the City of West Palm Beach Police Pension Fund, Florida, does hereby give notice of its intention to seek the enactment of a special law during the 2014 session of the Florida Legislature relating to the City of West Palm Beach Police Pension Fund:

A bill to be entitled
An act relating to the City of West Palm Beach, Palm Beach County; amending chapter 24981 (1947), Laws of Florida, as amended; relating to the West Palm Beach Police Pension Fund; revising funding of share accounts, member contributions and refunds; providing an effective date.

BY ORDER OF THE BOARD
OF TRUSTEES,
TROY MARCHESE, SECRETARY
PUB: The Palm Beach Post
1-13/2014 #181058

PROOF OF PUBLICATION

STATE OF FLORIDA
COUNTY OF PALM BEACH

Before the undersigned authority personally appeared Angela Pace, who on oath says that she is Call Center Legal Advertising Representative of The Palm Beach Post, a daily and Sunday newspaper, published at West Palm Beach in Palm Beach County, Florida; that the attached copy of advertising for a Notice

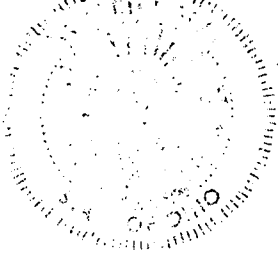
was published in said newspaper on
First date of Publication 01/13/2014 and last date of
Publication 01/13/2014

Affiant further says that the said The Post is a newspaper published at West Palm Beach, in said Palm Beach County, Florida, and that the said newspaper has heretofore been continuously published in said Palm Beach County, Florida, daily and Sunday and has been entered as second class mail matter at the post office in West Palm Beach, in said Palm Beach 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/he 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. Also published in Martin and St. Lucie Counties.

Signed

Angela Pace
April D. Emberton

Sworn to and subscribed before 01/17/2014.
Who is personally known to me.



APRIL D. EMBERTON
NOTARY PUBLIC
STATE OF OHIO
Comm. Expires
October 01, 2018

NOTICE OF INTENTION
Ad ID: 376912
Ad Cost: 99.76

HOUSE OF REPRESENTATIVES

2014 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1145

SPONSOR(S): Rep. Dave Kerner

RELATING TO: City of West Palm Beach Police Pension Fund
[Indicate Area Affected (City, County, or Special District) and Subject]

NAME OF DELEGATION: Palm Beach

CONTACT PERSON: Rachael Ondrus Merlan

PHONE NO.: (561) 818-8833 E-Mail: rmerlan@pbcgov.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: December 18, 2013

Location: Solid Waste Authority Auditorium, 7501 North Jog Road, West Palm Beach, FL 33412

(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 January 13, 2014

Where? Palm Beach Post County Palm Beach

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 []

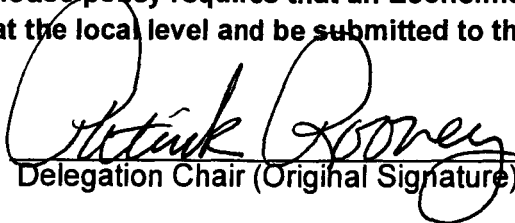
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

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)

1-15-14
Date

Rep. Patrick Rooney
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 1145
SPONSOR(S): Representative Dave Kerner
RELATING TO: City of West Palm Beach/West Palm Beach Police Pension Fund
(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>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>1,067,596</u>	\$ <u>0</u>

*Estimated Revenues from increased member contributions to offset city pension contribution and change in assumptions

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>40,000 approx</u>	\$ <u>0</u>

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

Estimation of Pension Fund Attorney and Actuary costs to have Special Act
considered for passage

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:	\$ _____	\$ _____
State: 185 Chapter Money	\$ <u>1,067,596</u>	\$ <u>0</u>
Federal:	\$ _____	\$ _____

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: Reduces cost of pension plan to the
municipality

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: Benefit reduction to Share Account

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:

May make City less competitive for hiring

2. Impact on the Open Market for Employment:

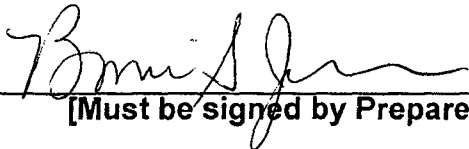
May make City less competitive for hiring

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.

Actuarial Impact Statement prepared by actuary for the pension fund

PREPARED BY:


[Must be signed by Preparer]

Print preparer's name:

Bonni S. Jensen

1/30/14
Date

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

General Counsel

REPRESENTING:

Board of Trustees of the West Palm Beach Police Pension Fund

PHONE:

561-686-6550

E-MAIL ADDRESS:

bsjensen@perryjensenlaw.com

1 A bill to be entitled
 2 An act relating to the City of West Palm Beach, Palm
 3 Beach County; amending chapter 24981 (1947), Laws of
 4 Florida, as amended, relating to the West Palm Beach
 5 Police Pension Fund; revising funding of share
 6 accounts, member contributions, and refunds; providing
 7 an effective date.

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

10
 11 Section 1. Paragraph (b) of subsection (11) and subsection
 12 (19) of section 16 of chapter 24981 (1947), Laws of Florida, as
 13 amended, are amended to read:

14 Section 16. West Palm Beach Police Pension Fund.—

15 (11) Chapter 185 share accounts.—

16 (b) Share account funding.—

17 1. Chapter 185 moneys.—Each individual member account
 18 shall be credited with the moneys received from chapter 185,
 19 Florida Statutes, tax revenues in June 1988 and thereafter. Of
 20 the Chapter 185 moneys received in calendar years 2011, and
 21 2012, and 2014, the full amount will be used to reduce the
 22 employee contributions to 11 percent as provided for in
 23 subparagraph (19)(a)1. This is for calendar years 2011, and
 24 2012, and 2014 only. Effective for the fiscal year ending
 25 September 30, 2013, and beginning again October 1, 2014 ~~2013~~,
 26 the employee contribution will ~~once again~~ be 11 percent, and all

27 of the Chapter 185 moneys received in calendar years ~~year~~ 2013
 28 and 2015 and each calendar year thereafter and thereafter will
 29 ~~once again~~ be allocated to the share accounts.

30 2. Forfeitures.—In addition, any forfeitures as provided
 31 in paragraph (e) shall be credited to the individual member
 32 accounts in accordance with the formula set forth in paragraph
 33 (c).

34 (19) Member's contributions; refunds.—

35 (a) Member's contributions.—

36 1. The member shall contribute 7 percent of his or her
 37 salary to the Fund. Effective the first full payroll period
 38 after January 1, 2005, the member shall contribute 9 percent of
 39 his or her salary to the Fund, which shall be deducted each pay
 40 period from the salary of each member in the Department.
 41 Effective the first full payroll period after January 1, 2006,
 42 the member shall contribute 10 percent of his or her salary to
 43 the Fund, which shall be deducted each pay period from the
 44 salary of each member in the Department. Effective the first
 45 full payroll period after January 1, 2007, the member shall
 46 contribute 11 percent of his or her salary to the Fund, which
 47 shall be deducted each pay period from the salary of each member
 48 in the Department. All amounts of member contributions that are
 49 deducted shall be immediately paid over to the Pension Fund. Any
 50 contribution amount over 7 percent is to be used to purchase
 51 eligibility for participation in the postretirement health
 52 insurance benefits. Effective October 1, 2011, the employee

53 | contributions will be 18 percent and effective October 1, 2013,
 54 | the employee contribution will be 20 percent. Of the Chapter 185
 55 | moneys received in calendar years 2011, ~~and~~ 2012, and 2014, the
 56 | full amount will be used to reduce the employee contributions to
 57 | 11 percent. Effective for the fiscal year ending September 30,
 58 | 2013, and beginning again October 1, 2014 ~~2013,~~ the employee
 59 | contributions will ~~once again~~ be 11 percent, and the Chapter 185
 60 | moneys received in calendar years year 2013 and 2015 and each
 61 | calendar year thereafter will ~~once again~~ be allocated to the
 62 | share accounts. Should the Chapter 185 moneys received be
 63 | insufficient to reduce the member's contributions to 11 percent,
 64 | then the City will make up the difference. No amount of the
 65 | Chapter 185 money is to be considered employee contributions for
 66 | purposes of a refund of contributions as provided for in
 67 | paragraph (19) (b).

68 | 2. The City shall cause the contributions provided for in
 69 | subparagraph 1. to be deducted from the compensation of each
 70 | member on each payroll, for each pay period, so long as he or
 71 | she remains a member of the Fund. The member's contributions
 72 | provided for herein shall be made, notwithstanding that the
 73 | minimum compensation provided by law for any member is thereby
 74 | changed. Each member shall be deemed to consent and agree to the
 75 | deductions made and provided for herein. Payment of
 76 | compensation, less said deductions, shall be a full and complete
 77 | discharge and acquittance of all claims and demands whatsoever
 78 | for the services rendered by him or her during the period

79 covered by such payment, except as to benefits provided by this
 80 act. When deducted, each of said contributions shall be paid
 81 into the Fund and credited to the individual member from whose
 82 compensation said deduction was made.

83 3. In addition to the contribution deducted from the
 84 compensation of a member, as hereinbefore provided, a member
 85 shall deposit in the Fund, by a single contribution or by an
 86 increased rate of contribution, as approved by the Board of
 87 Trustees, the amount of previously withdrawn member
 88 contributions not repaid to the Fund, together with regular
 89 interest from the date of withdrawal to the date of repayment.
 90 In no case shall any member be given credit for service rendered
 91 prior to the date he withdrew his aggregate contributions until
 92 he or she repays to the member's deposit account all amounts due
 93 the account by such member.

94 (b) Refund of member's contributions.-

95 1. Should any member cease to be employed by the City as a
 96 police officer and not be entitled to a pension payable from the
 97 Fund, upon application to and approval by the Board, he or she
 98 shall be paid the aggregate contributions standing to his or her
 99 credit in the Fund, without interest, less any benefits paid to
 100 him or her. In accordance with paragraph (2)(q), a member who
 101 has ceased to be employed by the City as a police officer may
 102 elect to voluntarily leave his or her contributions in the
 103 member's deposit account for a period of up to 5 years, pending
 104 the possibility of being rehired by the Department. If the

105 member is not reemployed at the expiration of 5 years following
 106 the date the member ceased to be employed by the City as a
 107 police officer, all contributions remaining in the member's
 108 deposit account shall be refunded without interest. No amount of
 109 the Chapter 185 money is to be considered employee contributions
 110 for purposes of a refund of contributions as provided for in
 111 this paragraph.

112 2. Upon the death of a member, if no pension becomes
 113 payable on account of his or her death, the aggregate
 114 contributions standing to the member's credit in the Fund at the
 115 time of death shall be paid to his or her designated
 116 beneficiary. If there be no such designated person surviving the
 117 member, his or her aggregate contributions shall be paid to his
 118 or her estate in accordance with subsection (17).

119 3. Repayments of refunds of a member's aggregate
 120 contributions, in accordance with subsection (6) and as provided
 121 in this paragraph, may be made in bimonthly installments
 122 according to such rules and regulations as the Board of Trustees
 123 shall from time to time adopt.

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1145 (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 Kerner offered the following:

4

5 **Amendment**

6 Remove line 28 and insert:

7 and 2015 and each calendar year ~~and~~ thereafter will

8

9 Remove line 58 and insert:

10 2013, and beginning again October 1, 2014 ~~2013~~, and each fiscal
11 year thereafter, the employee

12

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1297 Lealman Special Fire Control District, Pinellas County
SPONSOR(S): Peters
TIED BILLS: **IDEN./SIM. BILLS:**

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

SUMMARY ANALYSIS

Currently, ch. 2000-426, L.O.F. provides that if a municipality annexes unincorporated territory within district boundaries before July 1, 2016, the district will continue as the sole provider of fire and rescue services for the annexed area. A municipality may levy any applicable taxes, assessments, or fees on the annexed territory, but is required to pay the district an amount equal to the amount of taxes, assessments, or fees that would have been collected by the district. These payments continue in perpetuity unless the district is relieved of all fire, rescue or emergency medical service responsibilities in the annexed territory.

HB 1297 removes the sunset provision of July 1, 2016, as provided in ch. 2000-426, L.O.F., the special act dealing with the Lealman Special Fire Control District in Pinellas County.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background Information

Chapter 191, F.S., the "Independent Special Fire Control District Act"

An "independent special fire control district" is defined as an independent special district¹ created by a special law or general law of local application, providing fire suppression and related activities within the jurisdictional boundaries of the district.²

Chapter 191, F.S., the "Independent Special Fire Control District Act," provides general and special powers for fire control districts, and addresses district creation, expansion and merger, and funding mechanisms. Section 191.002, F.S., sets forth the act's purpose, which is to:

- provide standards, direction and procedures concerning district operations and governance;
- provide greater uniformity in operations and authority;
- provide greater uniformity in financing authority without hampering the efficiency and effectiveness of currently authorized and implemented methods and procedures of raising revenue;
- improve communication and coordination between special fire control districts and other local governments with respect to short-range and long-range planning to meet the demands for service delivery while maintaining fiscal responsibility; and
- provide uniform procedures for electing members of district governing boards to ensure greater accountability to the public.

Unless otherwise exempted by special or general law, this 1997 act requires each district to comply with its provisions. The act further provides that it is the intent of the Legislature that the act supersedes all special acts or general laws of local application provisions that contain the charter of a district and which address the same subjects as the act, except where such laws address district boundaries and geographical subdistricts for the election of governing board members. Chapter 191, F.S., also does not repeal any authorizations providing for the levying of ad valorem taxes, special assessments, non-ad valorem assessments, impact fees, or other charges.

District Funding Mechanisms

Section 191.009, F.S., authorizes special fire control districts to levy ad valorem taxes, special assessments, user charges and impact fees.

Ad Valorem Taxes

An elected board may levy ad valorem taxes on all taxable property in the district to construct, operate and maintain district facilities and services, to pay the principal of, and interest on, general obligation bonds of the district, and to provide for any sinking or other funds established in connection with such bonds. An ad valorem tax levied by the board may not exceed 3.75 mills unless a higher amount has been previously authorized by law, subject to a referendum as required by the State Constitution and the act. The levy of ad valorem taxes must be approved by referendum called by the board when the proposed levy of ad valorem taxes exceeds the amount authorized by prior special act, general law of

¹ See, s. 189.403, F.S., for a definition of "independent special district."

² Section 191.003(5), F.S. The term does not include a municipality, a county, a dependent special district as defined in s. 189.403, F.S., a district providing primarily emergency medical services, a community development district established under ch. 190, F.S., or any other multiple-power district performing fire suppression and related services in addition to other services.

local application, or county ordinance approved by referendum. The tax is assessed, levied and collected in the same manner as county taxes.

Non-Ad Valorem Assessments

A district also may levy non-ad valorem assessments to construct, operate and maintain district facilities and services. The rate of such assessments must be fixed by resolution of the board pursuant to statutory procedures. Non-ad valorem assessment rates set by the board may exceed the maximum rates established by special act, county ordinance, the previous year's resolution, or referendum in an amount not to exceed the average annual growth rate in Florida personal income over the previous five years. Proposed non-ad valorem assessment increases which exceed the rate set the previous fiscal year or the rate previously set by special act or county ordinance, whichever is more recent, by more than the average annual growth rate in Florida personal income over the last five years, or the first-time levy of non-ad valorem assessments in a district, must be approved by referendum.

User Charges

A district may provide a reasonable schedule of user charges for the following services:

- special emergency services, including firefighting occurring in structures outside the district;
- fighting fires occurring in or at refuse dumps or as a result of an illegal burn;
- responding to or assisting or mitigating emergencies that could threaten the health and safety of persons, property or the environment, to which the district has been called, including a charge for responding to false alarms; and
- inspecting structures, plans and equipment to determine compliance with fire safety standards.

Impact Fees

If the general purpose local government has not adopted an impact fee for fire services which is distributed to the district for construction within its jurisdictional boundaries, a district may establish a schedule of impact fees to pay for the cost of new facilities and equipment. A district also may enter into agreements with general purpose local governments to share the revenues from fire protection impact fees.

Independent special fire control districts also are authorized to issue various types of bonds, including general obligation bonds, assessment bonds, revenue bonds, notes, bond anticipation notes or other evidences of indebtedness.³

Municipal Annexation within an Independent Special District

Chapter 171, F.S., the "Municipal Annexation or Contraction Act," contemplates a municipality's annexation of property within the jurisdictional boundaries of an independent special district.⁴ If the municipality elects to assume the special district's service responsibilities, the municipality and the district may enter into an interlocal agreement which provides for the orderly transfer of service responsibilities. This agreement also must address the prevention of loss of any district revenues which may be detrimental to the continued operations of the district, and the status and rights of any adversely affected employees.⁵

If the municipality and the district are unable to enter into an interlocal agreement, the district remains the service provider in the annexed area for a period of four years. During the four-year period, the

³ See, s. 191.012, F.S.

⁴ See, s. 171.093, F.S.

⁵ If the municipality elects to assume the district's responsibilities pursuant to an interlocal agreement, the district's boundaries contract to exclude the annexed area at the time and in the manner as provided in the agreement.

municipality is required to pay the district an amount equal to the ad valorem taxes or assessments that would have been collected had the property remained in the district.⁶ By the end of the four-year period, or any mutually agreed-upon extension, the municipality and the district are required to enter into an agreement for the equitable distribution of the district's property and associated indebtedness, or the matter proceeds to circuit court.

During the four-year period, or any mutually agreed upon extension, district service and capital expenditures within the annexed area must be rationally related to the annexed area's service needs. Service and capital expenditures within the annexed area also must be rationally related to the percentage of district revenue received on behalf of the residents of the annexed area when compared to the district's total revenue. A capital expenditure greater than \$25,000 cannot be made by the district for use primarily within the annexed area without the express consent of the municipality.

If the municipality elects not to assume the district's responsibilities, the district remains the service provider for the annexed area, the geographical boundaries of the district continue to include the annexed area, and the district may continue to levy ad valorem taxes and assessments on the real property located within the annexed area.

Pinellas County

Pinellas County residents receive fire protection and emergency medical services through a complex system requiring cooperation between 14 municipalities and four independent special fire districts (East Tarpon Lake, Lealman, Palm Harbor and Pinellas Suncoast Fire and Rescue District). This system evolved over time as the county became more densely populated and developed.⁷ Ad valorem taxes levied on property are the primary funding source for these local government services, which had an estimated countywide cost of \$210.9 million in Fiscal Year 2008-2009.⁸

The Office of Program Policy Analysis & Government Accountability (OPPGA) report presented to the Joint Legislative Auditing Committee on March 8, 2010, recommended that Pinellas County would benefit from the establishment of a broad-based planning entity to oversee a more coordinated approach to planning for fire protection and emergency medical services, and the creation of a system for reporting and tracking related financial information.

The Lealman Special Fire Control District

The Lealman Special Control Fire District was created by the Legislature in 2000. Pending referendum approval, ch. 2000-426, L.O.F, established geographic boundaries and an elected governing board for the district, provided the powers of the district, and authorized district ad valorem taxing authority of up to 10 mills. On November 7, 2000, district electors approved creation of the district.

The district serves an unincorporated area between St. Petersburg and Pinellas Park,⁹ which consists of approximately 11 square miles and less than 50,000 residents, and presently employs 50 full-time personnel including staff and firefighters.

Lealman is located in a relatively low-income area of unincorporated Pinellas County, and relies on commercial property within its boundaries to support its tax base. Since 2000, neighboring cities have

⁶ If the municipality elects to assume the district's responsibilities and the municipality and the district are unable to enter into an interlocal agreement, and the district continues to remain the service provider in the annexed area, the geographical boundaries of the district contract to exclude the annexed area on the effective date of the beginning of the four-year period. The district may not levy ad valorem taxes on the annexed property in the calendar year in which its boundaries contract, but may assess user charges and impact fees within the area while it remains the service provider.

⁷ Office of Program Policy Analysis & Government Accountability, February 2010, Report No. 10-25.

⁸ *Id.* One of the independent special fire districts, Pinellas Suncoast Fire and Rescue District, receives its funding from a fire services assessment.

⁹ Seminole is on the west end, and Kenneth City lies in the middle of the fire control district.

selectively annexed the most tax-desirable properties in the community, such as industrial parks, restaurants, car dealerships and other businesses, and thus shifted approximately \$400,000 per year in fire taxes onto remaining district residents. As a direct result of the annexations, the district must levy a high millage rate.¹⁰

In 2002-2003, the district's millage rate was 5.32 mills, and in 2004-2005, the rate was 4.99. The district's millage rates and total revenues for the past six years were as follows:

<u>Year</u>	<u>Millage Rate</u>	<u>Total Revenues</u>
2005-2006	4.70	\$6,381,506
2006-2007	4.30	\$6,956,070
2007-2008	3.69	\$7,458,324
2008-2009	3.98	\$6,785,325
2009-2010	4.48	\$6,912,441
2010-2011	4.48	\$5,891,206
2011-2012	4.48	\$5,170,101
2012-2013	4.48	Not reported yet

Thus, although the current district millage rate is less than it was in 2002, it has increased since Fiscal Year 2008-2009, while district revenues have correspondingly decreased¹¹. The average Pinellas County fire service millage rate has increased from 2.40 in 2002 to 2.72 in 2011, with the highest rates levied by Lealman.

Recently, the drop in property values has reduced annexation pressure from the cities. However, it is assumed that annexation activity will increase along with property values. Another problem associated with annexation is the fact that the original fire control district, Lealman Fire/Rescue Company, entered into a 1990 countywide mutual aid agreement under which the closest fire unit goes to a fire or accident regardless of the jurisdiction. This agreement requires Lealman to respond to events in areas that have been annexed from the district and from which it receives no tax revenues.¹²

The original charter for the district provided that property within its boundaries annexed by a municipality would be treated as lying within the corporate boundaries of the municipality, and no longer subject to a levy of ad valorem taxes by the district. This act also provided that the property was excluded from the district effective the next January 1 following annexation.¹³

The charter was amended in 2002¹⁴ by the Legislature effective January 1, 2003, to protect the district from annexation in that it provided that the district would continue to provide services to any annexed area and continue as the sole taxing authority (although a municipality or fire control district that annexed district land could collect the tax and pay the district for such services at its annually adopted standard rate). These provisions were scheduled to essentially revert to original charter language effective January 1, 2008.¹⁵

¹⁰ Chris Lyon, Lewis, Longman & Walker, P.A, attorney for the district.

¹¹ Local Government Financial Reports, available at <https://apps.fldfs.com/LocalGov/Reports/default.aspx>.

¹² It is noted that, pursuant to Section 9 of this agreement, a party may withdraw upon 90 days written notice.

¹³ Chapter 2000-426, L.O.F.

¹⁴ Also, this year, the Pinellas County Planning Department issued a "Lealman Incorporation Feasibility Study," responding to requests from Lealman residents to the Board of County Commissioners, to determine the feasibility of incorporating Lealman. The residents wanted to preserve the integrity of their community, and to protect the tax base of the special fire control district. Taxable values in Lealman were found to be significantly lower (approximately one-half) than those in the rest of the unincorporated county. The study found that if Lealman were to incorporate, the new government would have to look at other revenue sources for basic operating expenses that ad valorem revenues would not cover. The report estimated that if Lealman were to incorporate, taxes and fees would increase significantly, between 3.6 and 68.6 percent.

¹⁵ Chapter 2002-352, L.O.F.

In 2007, the Legislature created the Lealman Special Fire Control District Task Force to review the foregoing provisions governing district land annexation, and consider whether the future repeal of those changes should be rescinded. The Legislature also amended the district charter to reflect original charter language effective July 1, 2008, rather than January 1 of that year.¹⁶ The Task Force issued a report to the Pinellas County Legislative Delegation on October 29, 2007, which recommended that the most productive way to move forward was to pursue interlocal agreements between the various parties covering the issues of annexation and reimbursement for fire services.

Lealman entered into a settlement agreement with the City of Pinellas Park dated February 7, 2007, resolving *Lealman Special Fire Control District v. City of St. Petersburg and City of Pinellas Park*, which provides that the city will not annex property within the district for a period of 10 years.¹⁷

Additionally, Lealman entered into an interlocal agreement with the City of Seminole on November 13, 2007, which provides that the city will not annex within the district for a period of 15 years.

On August 13, 2010, Lealman filed a two-count petition against the Town of Kenneth City. *Lealman Special Fire Control District v. Town of Kenneth City*, Case No. 10-000046AP-88B, was assigned to the appellate division of the Sixth Judicial Circuit in Pinellas County. The actions filed by the district sought to quash the town's annexation of 16 properties that were formerly within the district's boundaries on grounds that the annexations violated applicable laws. Specifically, the district alleged that the town's annexations failed to comply with procedural requirements; created enclaves, pockets or finger areas; failed to result in a reasonable, compact, urban municipal boundary; and deprived the district of revenue and increased the tax burden on the district's remaining taxpayers as the district continues to be obligated under existing mutual aid agreements to respond to many of the annexed properties. Additionally, the district sought to compel the town to comply with the provisions in ch.171, F.S. Specifically, the district requested the court compel the town to coordinate with the district on the orderly transition of fire and rescue services within the annexed properties, and pay the district its lost ad valorem revenue for fire district services for a four-year period pursuant to s. 171.093, F.S.¹⁸

The action in this Court was stayed for the parties to complete the conflict resolution procedure. The parties completed mediation and reached an impasse in the dispute resolution process, and an Order Lifting Stay was entered on February 21, 2013.

In August 2013, Accordingly, the Sixth Judicial Circuit granted the petition to challenge the Town of Kenneth's voluntary annexation of 16 parcels within the District's jurisdictional boundaries. Accordingly, the court held the Town did not observe the essential requirements of law when it approved the annexation ordinances.¹⁹

The City of St. Petersburg does not propose to annex property within the district.²⁰

In 2012, the Legislature passed HB 1033 which amended ch. 2000-426, L.O.F., the charter for the Lealman Fire Control District in Pinellas County. The amended charter now provides that, notwithstanding s. 171. 093, F.S., if a municipality annexes unincorporated territory within the

¹⁶ Chapter 2007-288, L.O.F.

¹⁷ A later settlement stipulation executed by the parties on May 21, 2008, appears to make this moratorium effective until May 21, 2016.

¹⁸ A letter provided to the legislature dated March 15, 2010, from the Town of Kenneth City Major, Teresa Zemaitis, indicated that the town had a contract with Lealman for fire services, after closing its own volunteer fire department almost 15 years earlier. During this time, Lealman was the first responder and the surrounding fire districts would assist as per the mutual aid agreement. When Kenneth City annexed approximately 20 properties worth approximately \$17,000 annually in ad valorem taxes, Lealman cancelled the contract, which was worth over \$200,000 annually for the next five years. The town currently is under contract with Pinellas Park for fire services, and has reopened its fire station in the center of town. If Kenneth City is to grow, i.e., annex, it must do so into the district, which surrounds the town.

¹⁹ *Lealman Special Fire Control Dist. v. Town of Kenneth City*, No. 10-000046AP-88B (Fla. 6th Cir. App. Ct. 2013).

²⁰ Chris Lyon, Lewis, Longman & Walker, P.A.

boundaries of the district before July 1, 2016, the district will continue as the sole provider of fire and rescue services for the annexed area. A municipality may levy any applicable taxes, assessments, or fees on the annexed territory, but is required to pay the district an amount equal to the amount of taxes, assessments, or fees that would have been collected by the district, using the millage rate as of the effective date of the bill, or any lower rate that may be levied by the district. The payments continue in perpetuity unless the district is relieved of all fire, rescue or emergency medical service responsibility in the annexed territory. If litigation is required to enforce these provisions, the prevailing party is entitled to an award of attorney fees and costs.

The language, in effect, creates an exception to s. 171.093, F.S., in that, a municipality may not elect to provide fire and rescue services to any district property it annexes before July 1, 2016, and must make payments for these services to the district in perpetuity, unless the district agrees otherwise. The new amended charter was expected to discourage annexation within the boundaries of the Lealman Fire Control District, and thus prevent further erosion of the district's ad valorem tax base. The four-year sunset date (July 1, 2016) for the bill's requirements was intended to coincide with the expiration of the settlement agreement between the district and the City of Pinellas Park,²¹ and has no other significance.

Effect of Proposed Changes

HB 1297 removes the sunset provision of July 1, 2016, as provided in ch. 2000-426, L.O.F.

B. SECTION DIRECTORY:

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 29, 2014

WHERE? *Tampa Bay Times*, a daily newspaper of general circulation, published in St. Petersburg, Pinellas County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

²¹ January 11, 2012, e-mail from Chris Lyon.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Rep. Peters
HB 1297

Tampa Bay Times

Published Daily

St. Petersburg, Pinellas County, Florida

STATE OF FLORIDA
COUNTY OF Pinellas

} s.s.

Before the undersigned authority personally appeared **B. Harr** who on oath says that he/she is **Legal Clerk** of the *Tampa Bay Times* a daily newspaper published at St. Petersburg, in Pinellas County, Florida; that the attached copy of advertisement, being a **Legal Notice** in the matter **RE: NOTICE OF INTENT TO SEEK LEGISLATION** was published in said newspaper in the issues of **Neighborhood Times Mid-Pinellas**, 1/29/2014.

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

B. Harr

Signature of Affiant

Sworn to and subscribed before me
this 29th day of **January A.D.2014**

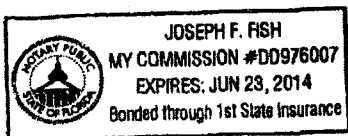
Joseph F. Fish

Signature of Notary Public

Personally known or produced identification

Type of identification produced _____

LEGAL NOTICE
LEALMAN SPECIAL FIRE CONTROL DISTRICT
NOTICE OF INTENT TO SEEK LEGISLATION
The Lealman Special Fire Control District, Pinellas County, Florida, hereby gives notice pursuant to Article III, Section 10 of the Florida Constitution and Section 11.02, <i>Florida Statutes</i> , of its intent to seek legislation before the 2014 Florida Legislature. The legislation amends a provision relating to a sunset date in the district's special act and provides an effective date.
1/29/2014 103173-01



HOUSE OF REPRESENTATIVES
2014 LOCAL BILL CERTIFICATION FORM

BILL #: HB 1297
SPONSOR(S): Rep. Peters
RELATING TO: Lealman Special Fire Control District, Pinellas County
[Indicate Area Affected (City, County, or Special District) and Subject]
NAME OF DELEGATION: Pinellas
CONTACT PERSON: Chris Lyon
PHONE NO.: (850) 222-5702 **E-Mail:** chlyon@lw-law.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: January 27, 2014
Location: Gos A. Stavros Institute, Largo, FL

(3) Was this bill formally approved by a majority of the delegation members?
YES NO

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

Has this constitutional notice requirement been met?

Notice published: YES NO DATE January 29, 2014

Where? Tampa Bay Times County Pinellas

Referendum in lieu of publication: YES NO

Date of Referendum _____

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

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

YES [] NO [X] NOT APPLICABLE []

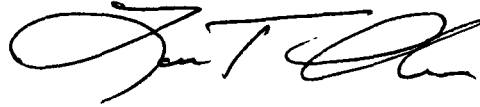
(2) Does this bill change the authorized ad valorem millage rate for an existing special district?

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)

11 March 2014

Date

Harry Ahern

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 1297
SPONSOR(S): Rep. Peters
RELATING TO: Leahon Special Fire Control District, Pinellas 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>0</u>	\$ <u>0</u>
Revenue increase due to bill:	\$ <u>0</u>	\$ <u>0</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>0</u>	\$ <u>0</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>0</u>	\$ <u>0</u>
State:	\$ <u>0</u>	\$ <u>0</u>
Federal:	\$ <u>0</u>	\$ <u>0</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: Allows district residents to receive five rescue services without millage increases associated with annexation.
2. Advantages to Businesses: Same as 1.
3. Advantages to Government: Stabilizes the district's tax base allowing for better planning & budgeting.

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. The bill has no impact on private sector competition.

2. Impact on the Open Market for Employment:
None. The bill has no impact on 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.

Conferences with legal and financial representatives of the district and
review of the proposed legislation and budgets.

PREPARED BY:


[Must be signed by Preparer]

Print preparer's name:

KATHLEEN QUINN LITTON

2/26/14
Date

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

Chairperson

REPRESENTING:

Lealman Special Fire Control District

PHONE:

727-526-5650

E-MAIL ADDRESS:

klitton@lealmanfire.com

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A bill to be entitled
An act relating to the Lealman Special Fire Control
District, Pinellas County; amending chapter 2000-426,
Laws of Florida, as amended; providing for future
annexation of certain unincorporated territory;
providing an effective date.

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

Section 1. Section 11 of section 1 of chapter 2000-426,
Laws of Florida, as amended by chapter 2012-251, Laws of
Florida, is amended to read:

Section 11. Annexation of territories by municipalities.—

(1) For the purposes and requirements of this Act, after
the annexation by a municipality of any unincorporated area
within the Lealman Special Fire Control District, the annexed
area shall be treated as lying within the corporate boundaries
of the annexing municipality and shall not be subject to a levy
of the ad valorem tax that is authorized by this Act.

(2) Notwithstanding section 171.093, Florida Statutes, if
a municipality annexes any unincorporated territory situated
within the defined boundaries of the District from the effective
date of this Act ~~until July 1, 2016~~, the District shall continue
as the primary provider of fire, rescue, and emergency medical
services for the annexed territory. Any municipality that
annexes such territory may levy any applicable taxes,

HB 1297

2014

27 assessments, or fees on the annexed territory but must, by May 1
28 of each subsequent year after such annexation, pay the District
29 for its services in an amount equal to the amount of taxes,
30 assessments, or fees which would have been collected by the
31 District from the annexed territory during that year had the
32 territory not been annexed, using the millage rate in effect on
33 the effective date of this act, or any lower rate that may be
34 levied by the District. Such payments shall continue in
35 perpetuity unless the District is relieved of all fire, rescue,
36 or emergency medical service responsibility in the annexed
37 territory, with the exception of an isolated response to a local
38 or areawide disaster, such as a hazardous material incident,
39 tornado, hurricane, or major fire. If litigation is required to
40 enforce the provisions of this Act, the prevailing party shall
41 be entitled to an award of attorney fees and costs. ~~This~~
42 ~~subsection shall not apply to annexations of unincorporated~~
43 ~~territory situated within the defined boundaries of the District~~
44 ~~after July 1, 2016.~~

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